

PORTFOLIO COMMITTEE NO. 7 - PLANNING AND ENVIRONMENT

Wednesday 4 March 2020

Examination of proposed expenditure for the portfolio area

LOCAL GOVERNMENT

UNCORRECTED

The Committee met at 09:30

MEMBERS

The Hon. Mark Pearson (Acting Chair)

The Hon. Mark Buttigieg (Acting Deputy Chair)

The Hon. Catherine Cusack

Mr Justin Field

The Hon. Ben Franklin

The Hon. Shayne Mallard

The Hon. Peter Primrose

The Hon. Penny Sharpe

Mr David Shoebridge

PRESENT

The Hon. Shelley Hancock, *The Minister for Local Government*

CORRECTIONS TO TRANSCRIPT OF COMMITTEE PROCEEDINGS

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

**Budget Estimates secretariat
Room 812
Parliament House
Macquarie Street
SYDNEY NSW 2000**

The ACTING CHAIR: Welcome, Minister. Welcome, Mr Hurst and Ms Gibbs. I am chairing today because Ms Faehrmann is not well. Mr Buttigieg has been appointed as Deputy Chair today. Welcome to the public hearing for the inquiry into Budget Estimates 2019-2020. Before I commence, I acknowledge the Gadigal people, who are the traditional custodians of this land. I also pay respect to the Elders past and present of the Eora nation and extend that respect to other Aboriginals present. I welcome Minister Hancock and accompanying officials to the hearing. Today the Committee will examine the proposed expenditure for the portfolio of Local Government. 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 and record Committee members and witnesses, people in the gallery should not be the primary focus of any photography or filming. I also remind media representatives that you must take responsibility for what you publish about the Committee's proceedings. The guidelines for the broadcast of proceedings are available from the secretariat.

All witnesses in budget estimates have a right to procedural fairness according to the procedural fairness resolution adopted by the House in 2018. There may be some questions that a witness could only answer if they had more time or with certain documents to hand. In these circumstances, witnesses are advised that they can take the question on notice, but must provide an answer within 21 days. Any messages from advisers or member's 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. Transcripts of this hearing will be available on the web as soon as possible. Finally, I ask everybody to please turn their mobile phones to silent or off.

Correct me if I am wrong, but as all witnesses here for this hearing have previously been sworn at an earlier budget estimates hearing before the Committee, no witnesses are required to be sworn in today. The hearing today will be conducted from 9.30 a.m. to 11.30 a.m. with the Minister, then with departmental witnesses from 11.40 a.m. to 12.40 p.m. and 1.40 p.m. to 4.20 p.m. with a 10 minute break from 2.40 p.m. to 2.50 p.m. I declare the proposed expenditure for the portfolio of Local Government open for examination. As there is no provision for any witness to make an opening statement before the Committee commences questioning, we will begin with questions from the Opposition.

TIM HURST, Deputy Secretary, Local Government, Planning and Policy, Department of Planning, Industry and Environment, on former oath

JANE GIBB, Director, Planning and Risk, Department of Planning, Industry and Environment, on former oath

The Hon. PETER PRIMROSE: Minister Hancock, on 2 October 2019 you told ABC Radio Newcastle regarding Stockton erosion that:

There are a whole lot of options on the table. I want them all looked at and estimated before the end of the year and then a solution found.

What long-term solution did you find before the end of 2019 to this issue?

Mrs SHELLEY HANCOCK: As you are aware, it is an extremely complex issue, the issue of Stockton Beach. It is vulnerable to coastal erosion and wave action and over decades that beach has been severely affected. I did visit Stockton Beach and had a look at the effects of the erosion on Stockton Beach last year, on 30 September. We witnessed the results of erosion on the pre-school, which is in the vicinity of Stockton Beach, also the potential for erosion along the foreshore, especially with respect to the caravan park and kiosk. Following that meeting, I declared Stockton Beach a significant open coastal location. We still continue to work with Newcastle council. I announced two grants at that time totalling \$247,500 for Newcastle council for emergency sandbagging works and also for the demolition of the pre-school. It is a long game. As you would see, there had been further erosion with a further storm event. As a result of that, there are continuing grants that have been applied for, not on my desk but have been dealt with by my agency.

In respect of Newcastle council itself, I have issued them with a directive, because at the time when I made the comment I fully expected that with the help of my agency we would be working with council on a coastal management program. As you know, a coastal management program will indicate medium long-term solutions for areas such as Stockton Beach. Without that, we could really make no further decisions in respect of long-term solutions, whether that is a seawall for the sandbagging, use of offshore sand mining under different legislation, under the Deputy Premier's purview. We are continuing to work along those lines. For the reason that I was becoming frustrated about Newcastle council and their lack of a coastal management program, I issued that directive. I am quite optimistic that that will be occurring around June. That will provide some direction about what we all do with Stockton Beach.

The Hon. PETER PRIMROSE: If I could just clarify, you indicated you would have a solution by the end of 2019. Did you have a solution by the end of 2019?

Mrs SHELLEY HANCOCK: You need to understand that in many ways this is up to council, to provide their directions and their solutions.

The Hon. PETER PRIMROSE: Minister, it was your statement. It is a very simple question: Did you have a solution, as you promised in your statement of 2 October?

Mrs SHELLEY HANCOCK: I was optimistic that council would come along with their coastal management program.

The Hon. PETER PRIMROSE: But did you have a solution by the end of 2019?

Mrs SHELLEY HANCOCK: What we have done is worked towards a number of programs and grants for Newcastle council to provide a solution to many of the issues.

The Hon. PETER PRIMROSE: So you did not have a solution?

Mrs SHELLEY HANCOCK: Our solution is to provide almost a million dollars' worth of funding to Newcastle council.

The Hon. PETER PRIMROSE: I am just trying to clarify. You made a simple statement on 2 October that by the end of the year you would have a solution. Is it the case that you failed to have a solution by the end of the year?

Mrs SHELLEY HANCOCK: Not at all. We found a number of solutions to a number of problems.

The Hon. PETER PRIMROSE: Will you list what those solutions are?

Mrs SHELLEY HANCOCK: Certainly. Beach nourishment at the southern part of Stockton Beach, \$175,000—approved. Planned retreat and demolition of the former North Stockton Surf Lifesaving Club, \$32,000. Emergency sandbagging works at the end of Griffith Avenue and Stone Street, Stockton, \$215,000. Dune

management and revegetation at Stockton Beach and Bar Beach, \$100,000, and the preparation of the coastal management program, which we are assisting council with, \$147,000. I do not think that is not providing a solution. The total of that funding is \$835,000. I do not think you could possibly suggest we have not been finding solutions.

The Hon. PETER PRIMROSE: Have you determined the \$498,000 application for coastal protection works at the south end of Griffith Avenue and Stone Street, Stockton?

Mrs SHELLEY HANCOCK: This is an issue, the \$498,000 to which you are eluding, which has not been successful. It was not my decision as to whether it was successful or not, I have to say that. The proposed works to which you refer were not listed in the coastal zone management plan. It is ineligible for funding under the guidelines. However, two of the other applications, one has been partly successful and one successful.

The Hon. PETER PRIMROSE: Will you tell us about the \$240,000 application for beach nourishment along the southern part of Stockton Beach?

The Hon. CATHERINE CUSACK: She just did.

Mrs SHELLEY HANCOCK: I did. That is part of a wider application and is a staged application, as I understand it, and \$175,000 of that has been awarded. The remaining \$240,000 could be made available in a second stage. However, we think that with the recent erosion that has occurred, it might be more prudent to see what council and the Department of Environment and Primary Industries [DEPI] wish to do about that.

The Hon. PETER PRIMROSE: How many grant applications are outstanding?

Mrs SHELLEY HANCOCK: None.

The Hon. PETER PRIMROSE: No grant applications at this stage are outstanding?

Mrs SHELLEY HANCOCK: No.

The Hon. PETER PRIMROSE: Why has funding for the maintenance of the Mitchell Street seawall, which is an asset that was 100 per cent funded by the Government, been refused?

The Hon. CATHERINE CUSACK: Point of order: The Minister has explained in very simple terms the role of the council and the role of the Government and the role of the coastal management plan. The member's questions are just repeating information that he has already asked about and the Minister has given very detailed responses to his questions.

The Hon. PETER PRIMROSE: To the point of order: I am asking specific questions—

The Hon. CATHERINE CUSACK: This is the third time you have asked about that.

The Hon. PETER PRIMROSE: I can use my time as I wish. The Minister can respond as she wishes.

The ACTING CHAIR: I think the question is more specific than the former questions, so I will allow it.

Mrs SHELLEY HANCOCK: I will ask Ms Gibbs to elucidate.

Ms GIBBS: Could you repeat the question, please, Mr Primrose?

The Hon. PETER PRIMROSE: Why has funding for maintenance of the Mitchell Street seawall, which is an asset that was 100 per cent funded by the New South Wales Government, been refused?

Ms GIBBS: No specific funding has been sought by the City of Newcastle council for the maintenance of the Mitchell Street seawall. The arrangement when that structure was originally constructed in 1989-90 was that the asset owner would become the Newcastle council, and indeed I understand that it is on the asset register for Newcastle council. My information is that the council has sought information about the maintenance and has received a quote in the vicinity of \$3 million to \$4 million for basically the reconstruction of that work. No funding has been applied for for that reconstruction. If you are referring to the grant application for the \$498,000, which was at the northern end, that is not related to the maintenance of the seawall, it is actually an extension, proposing a completely different construction method which was not canvassed as part of the Coastal Zone Management Plan that was certified in August 2018.

Mrs SHELLEY HANCOCK: To which I referred earlier. It was unsuccessful.

The Hon. PETER PRIMROSE: In question time on 26 February this year you said:

We have also spent something like \$2 million assisting the council with various projects as a result of erosion at Stockton Beach.

Newcastle council has said that you have only provided \$740,000 in grant funding. Can you please tell us what is the case with the remaining \$1.2 million that the council says it has not received?

Mrs SHELLEY HANCOCK: Since 2011 almost \$1.9 million in grants from the Coastal and Estuary Grants Program have been made available to the City of Newcastle—almost \$1.9 million. Not specifically for Stockton, that is \$835,000 and the remainder for Newcastle city council for other projects.

The Hon. PETER PRIMROSE: You indicated that \$2 million would be provided to the council.

Mrs SHELLEY HANCOCK: Would be?

The Hon. PETER PRIMROSE: Yes, would be.

Mrs SHELLEY HANCOCK: I am saying it has been. That is, \$1.9 million has been made available to Newcastle city council since 2011.

The Hon. MARK BUTTIGIEG: So Newcastle council saying that it has only received \$740,000 is a mistruth. Is that what you are saying?

Mrs SHELLEY HANCOCK: You are probably not including the recent \$140,000, Mr Buttigieg, that has been granted. That was for additional staff resourcing. That had not been decided at the time that the questions were asked in question time. Since then \$140,000 in funding for additional staff resourcing to assist with the development of the Newcastle Coastal Management Program has been granted. That would be the discrepancy in the funding.

The Hon. PETER PRIMROSE: So it is clear, I was wondering, Minister, if you could please take on notice to give us a specific breakdown of that \$2 million, just so that we have it in writing.

Mrs SHELLEY HANCOCK: I can take that on notice.

The Hon. PETER PRIMROSE: If you have it here—

Mrs SHELLEY HANCOCK: I can take it on notice.

The Hon. PETER PRIMROSE: What additional resources are available to Newcastle council to enable it to fast-track the completion of its coastal management program by 30 June 2020, as per your directive?

Mrs SHELLEY HANCOCK: Sorry, can you repeat that?

The Hon. PETER PRIMROSE: What additional resources are available to Newcastle council to enable it to fast-track the completion of its coastal management program—

Mrs SHELLEY HANCOCK: They are the resources to which I just referred, I think—\$140,000 for the completion of the coastal management program. That is to assist council, and we do assist councils with similar amounts for completion of coastal management programs because it is so vital that they do complete those programs. They give a direction not only for the council itself but also to the community about what they want to do in the medium and long term in terms of erosion or water quality issues, or other issues that are faced by many of our coastal councils.

The Hon. PETER PRIMROSE: Do you believe the resources that have been made available will allow the coastal management plan to be completed by your 30 June deadline?

Mrs SHELLEY HANCOCK: That is what council requested, Mr Primrose.

The Hon. PETER PRIMROSE: Do you believe that it is sufficient?

Mrs SHELLEY HANCOCK: If council requested that amount of money, I imagine it has taken into account what it needs, and we have granted that.

The Hon. PETER PRIMROSE: Your agency, presumably, assesses whether or not it believes this is adequate. Has it made such an assessment?

Mrs SHELLEY HANCOCK: The council requested that amount of money and has been granted that amount of money for that specific program. What do you want me to say to them? "Do you need some more?" That is what they asked for. I presume that that is what they think they will need.

The Hon. PETER PRIMROSE: You have already indicated that there are other grants that you have decided were not appropriate.

Mrs SHELLEY HANCOCK: I do not decide these grants. I do not determine whether these grants are successful or not; that is an independent process, independent from my decision-making. If the council wishes to come back to me or come back to my agency with another application, I will consider it, or my agency will consider it.

The Hon. PETER PRIMROSE: Can you tell us whether offshore sand can be processed without the Stockton plan being completed?

Mrs SHELLEY HANCOCK: That is a separate matter; that is under a separate piece of legislation.

The Hon. PETER PRIMROSE: Yes.

Mrs SHELLEY HANCOCK: You could ask questions of the Deputy Premier because he administers that Act. That is offshore mining and once the sand is offshore it becomes mining. I believe that the Deputy Premier is visiting Stockton in the near future, perhaps next week, to talk about that very issue, because it has been raised but there is a bit of division in the community about whether that sand, the offshore sand, should be used. There may be environmental consequences of using that sand. That is why it has its own piece of legislation where all of those matters would be taken into consideration before granting a mining licence.

The Hon. PETER PRIMROSE: Have the fast-track provisions as set out in the NSW Coastal Management Manual been waived for Newcastle council as per your directive to complete its Stockton coastal management plan by 30 June of this year?

Mrs SHELLEY HANCOCK: Ms Gibbs can answer that, please.

Ms GIBBS: The fast-tracking provisions set out conditions that could be met for councils to make a decision themselves about fast tracking and whether it would be appropriate. In the case of Stockton Beach there is a long history of studies in that area and the environmental and technical constraints that operate in that area are very well understood. In terms of fast-tracking, and I think council is well on to this, there is a lot of interest in the community around the issues at Stockton and really, in terms of fast-tracking, the Minister's issuing of a direction to the council really was in response to the community asking that things be done more quickly and having, I guess, a sense of urgency around the need to find a solution.

The Hon. PETER PRIMROSE: Have they been waived?

Ms GIBBS: Fast-tracking—

The Hon. CATHERINE CUSACK: Has what been waived?

Ms GIBBS: I am not sure that I understand the premise of your question, sorry.

The Hon. PETER PRIMROSE: I thought you were just trying to answer it, sorry.

The Hon. CATHERINE CUSACK: You don't know what they are asking, do you?

The ACTING CHAIR: If you want to take a point of order, take a point of order, but no comments please.

The Hon. CATHERINE CUSACK: Sorry, but he clearly doesn't. He doesn't know what he is asking has been waived.

The Hon. PETER PRIMROSE: It is going to be a very long day if the Hon. Catherine Cusack insists on trying to respond to every question that I am trying to ask the Minister.

The ACTING CHAIR: If you want to interject, it has to be only by point of order.

The Hon. PETER PRIMROSE: Are the fast-track provisions as set out in the NSW Coastal Management Manual been waived for Newcastle council as part of your directive to complete the Stockton coastal management plan by 30 June?

Ms GIBBS: I think what you might mean is, are council able to use the fast-track provisions?

The Hon. PETER PRIMROSE: Yes.

Ms GIBBS: There is no need really to waive the fast-tracking provisions as the guidance in the Coastal Management Manual, particularly in Part B, is not mandatory. It is guidance. The compulsory parts of the coastal management program that need to be met are the parts that are set out in the legislation in the Coastal Management Act 2016.

The Hon. MARK BUTTIGIEG: Minister, I might just ask you, in respect of a bill introduced into the upper House, your position on property developers and real estate agents becoming representatives on council. Can I ask you first, as Minister, what your views are on that issue?

Mrs SHELLEY HANCOCK: I think that we none of us want to see the kind of behaviour that has occurred in the past with property developers, in particular—not so much real estate agents—who get themselves elected to councils to line their own pockets. Nobody wants to see that. I am aware that the Labor Opposition in 2017 introduced a bill, which was somewhat flawed, I think, because it did not actually ban property developers or real estate agents. It allowed them to run, but if they were successful they had to step down from their occupations. So there were a number of loopholes. The Government will provide a response to that particular bill—the new bill that was introduced in the upper House last week.

The Hon. MARK BUTTIGIEG: So you accept, Minister—

Mrs SHELLEY HANCOCK: I have not finished my answer yet.

The Hon. MARK BUTTIGIEG: Sorry to interrupt.

Mrs SHELLEY HANCOCK: Go for it.

The Hon. MARK BUTTIGIEG: I just want to get it clear. You do accept that there is a clear conflict of interest for—

The Hon. BEN FRANKLIN: Point of order—

Mrs SHELLEY HANCOCK: I did not say that at all.

The Hon. MARK BUTTIGIEG: That is why I am trying to tease it out.

Mrs SHELLEY HANCOCK: If you would let me finish—

The Hon. BEN FRANKLIN: I would hope that at the beginning of the day, which will be quite a long day, we could perhaps set up some parameters that when the witness is answering a question, we can let the witness answer before the next question is asked.

The ACTING CHAIR: As long as it is not just taking up time for the sake of it.

The Hon. BEN FRANKLIN: No, I think it was directly relevant to the question.

The ACTING CHAIR: I agree that the interruption was not appropriate. Minister, if you want to finish answering that question before we move on to any elucidation.

Mrs SHELLEY HANCOCK: Thank you very much, Mr Chair. The point I was making is that we do not want to see repeat instances that we have seen with property developers who get themselves elected to council with the express view of lining their own pockets. Nobody wants to see a repetition of that. My personal view is that if we go down the line of banning certain groups of people, we may run into constitutional problems. That was obviously an issue that was raised last time when the Labor Opposition raised a bill, but we will respond to the bill. I think what is most important is that we implement the integrity measures that we have—to take the sugar off the table, I suppose—in terms of making it very difficult for property developers to be in a position to make decisions on their own development. We have done that since 2015. Maybe Mr Hurst can talk about the kind of measures that we have introduced, because we have made it much harder for property developers now to be in a position to make a profit, especially with independent planning panels such as Independent Hearing and Assessment Panels [IHAPs]. Mr Hurst could talk about that.

Mr HURST: Sure. There are increased transparency requirements. When a property developer or a close associate stands for election to councils, they have to declare that they are a property developer and allow voters to make the choice at that point in time.

The Hon. MARK BUTTIGIEG: Can I ask you, Mr Hurst, just on a follow-up on that: How long has that requirement been in place?

Mr HURST: That was introduced in 2015 and was applicable at the last local government elections.

The Hon. MARK BUTTIGIEG: Who monitors that?

Mr HURST: The NSW Electoral Commission has the responsibility for investigating any complaints about those who may have provided an incorrect declaration as part of nominating for council.

The Hon. MARK BUTTIGIEG: Are you in a position to give us a feel for the volume of complaints and what has come out of those sort of complaints?

Mr HURST: No. That is a question for the Electoral Commissioner.

The Hon. PETER PRIMROSE: I would have thought that might have been of some interest to the Office of Local Government.

The Hon. MARK BUTTIGIEG: I just wanted to explore, because the Minister seemed to provide a contradictory answer there. When I rudely, apparently, interjected—

Mrs SHELLEY HANCOCK: Not that rude.

The Hon. MARK BUTTIGIEG: —and asked if you believe that there was a conflict of interest for developers and real estate agents being elected to public office, you said, "I did not say that." What did you mean when, on the one hand, you are saying that you do not want people to be benefiting from having the dual role of being developers or real estate agents and being on council, and when I asked you if there is a conflict you said, "I did not say that." Is there a conflict or not?

Mrs SHELLEY HANCOCK: As I will repeat to you, there does not have to be a conflict. I talked about events in the past which bring all of local government into disrepute, quite frankly. It is a very small minority of property developers and real estate agents. I do not think we should necessarily regard them as an enemy species because they are property developers or real estate agents. They are entitled to have a voice around the table, in my view—this is my view—in local government. Maybe we could start to ban other groups of people—maybe teachers; they are subversives.

The Hon. PETER PRIMROSE: Maybe we should stop them from making political donations.

The ACTING CHAIR: Minister, in 2016 Liverpool council, along with several other local councils, took over the existing Liverpool pound. At the time it was run by the private contractor Renbury Farm. Is the Minister aware of the reason for council's decision to take over the running of the pound from Renbury Farm?

Mrs SHELLEY HANCOCK: These are matters for council. This is not a matter for the Minister for Local Government. It is a matter for council and the reason they made that decision is a matter for them to answer. I would suggest that you write to council and they will give you that information. I do not know.

The ACTING CHAIR: You do not know the answer?

Mrs SHELLEY HANCOCK: No.

The ACTING CHAIR: Could you take it on notice?

Mrs SHELLEY HANCOCK: Certainly. I can take it on notice.

The ACTING CHAIR: I have been advised that over \$20 million of public money was spent on the Renbury Farm site to upgrade the facilities for the impounded animals. Does the Minister know how much public money was spent on refurbishing the former Renbury Farm shelter for use as a local government pound?

Mrs SHELLEY HANCOCK: Again, that is a question for council. That is a question for council. Councils are independent bodies. They make their own decisions under law. I have no jurisdictions under the decisions they make about these matters. That is a question for council. Whether we like some of the decisions of council or not, they are decisions for them to make.

The ACTING CHAIR: But, Minister, you have to be aware that at the end of the day they are under your wing.

Mrs SHELLEY HANCOCK: Yes.

The ACTING CHAIR: Therefore, the possible consequences of any decision that a council makes—you are also in a line of responsibility.

Mrs SHELLEY HANCOCK: Absolutely. That is why we have the Office of Local Government to monitor various activities in terms of—

The ACTING CHAIR: So you are saying you want to take that question on notice?

Mrs SHELLEY HANCOCK: Certainly. We can ascertain that information for you.

The ACTING CHAIR: Can you explain the reason for the decision of Liverpool council to close the pound on 19 March, with the transfer of animals to Blacktown pound?

Mrs SHELLEY HANCOCK: I think we will take all of those questions, because they are interrelated, on notice. We can find that information for you.

The ACTING CHAIR: I will then put the rest of the questions, because it is clear and I can understand why you would not have specificity of the answers. I will place the rest of the questions on notice.

Mrs SHELLEY HANCOCK: Yes, thank you.

Mr JUSTIN FIELD: Minister, can you outline to the Committee your role in administering—or authorising, if you have any of those powers—grants under the New South Wales Government's Coastal and Estuary Grants Program and the recently established bushfire-affected coastal waterways grants program?

Mrs SHELLEY HANCOCK: I do not play a role in granting of any applications. That is done as an independent process. My role is to announce those grants becoming available for bushfire-affected councils. I have no role in approving or refusing.

Mr JUSTIN FIELD: You have no role in administration of them at all or in establishing the guidelines?

Mrs SHELLEY HANCOCK: No.

Mr JUSTIN FIELD: But you are responsible for the Coastal Management Act.

Mrs SHELLEY HANCOCK: Correct.

Mr JUSTIN FIELD: The grants program is one of the key ways in which the Coastal Management Act's principle objectives are being delivered.

Mrs SHELLEY HANCOCK: Correct.

Mr JUSTIN FIELD: What is your relationship to the staff who receive, assess and determine those grants?

Mrs SHELLEY HANCOCK: What do you mean, what is my relationship to the staff?

Mr JUSTIN FIELD: As the Minister responsible for the Act, this is a grants program delivering the objectives of the Act. Which Minister is accountable for the grants that are awarded and for actions taken under those grants?

Mrs SHELLEY HANCOCK: All I can say to you is that the grants are assessed independently of me.

Mr JUSTIN FIELD: Who by?

Mrs SHELLEY HANCOCK: Ms Gibbs?

Ms GIBBS: The usual process for the coastal and estuaries grants is to establish a State assessment panel, which meets some matter of weeks after the grant applications are normally received. The independent assessment panel is comprised of people not from the department, but the department provides the secretariat, provides the applications to them, sets the dates for meetings and that sort of thing.

Mr JUSTIN FIELD: Which Minister would be responsible for ensuring the administration of those grants and ultimately the delivery of the outcomes for which those grants were awarded? I think there are five grants.

Ms GIBBS: The grants scheme is complementary to the legislation. The Minister's responsibility is to administer the legislation—the Coastal Management Act. As the department, we provide a number of support mechanisms to councils to assist them. Grants is one. We provide considerable technical assistance.

Mr JUSTIN FIELD: I appreciate that, Ms Gibbs. There must be a Minister in the New South Wales Government who is responsible, ultimately, for decisions taken to award grants and also to ensure that the works that are approved under those grants are delivered. I am asking which Minister is ultimately responsible for that grant program.

Ms GIBBS: The decision to award grants is taken by the department.

Mr JUSTIN FIELD: I understand that, Ms Gibbs. There must be a Minister within this Government who is ultimately responsible for this grants program.

Ms GIBBS: The practice in the grants is that the grants are received by the department, they are assessed by the independent panel and once the decision is made about which grants are to be awarded, the Minister is given the opportunity to make a media statement about the release of the grants.

Mr JUSTIN FIELD: Minister Hancock?

Ms GIBBS: Yes.

Mr JUSTIN FIELD: For all intents and purposes, the only Minister in the New South Wales Government who has any role—in any shape or form—or responsibilities around this grants program is Minister Hancock as the Minister responsible for the Coastal Management Act?

Ms GIBBS: The funding for the grants program comes from the Climate Change Fund.

Mr JUSTIN FIELD: Yes. Are you telling me it is the environment Minister who is responsible for the coastal waterways grants program?

Ms GIBBS: The coastal grants program—

Mr JUSTIN FIELD: Who would I write a letter to if I thought someone was not doing the work for which money was provided under that grant program? Which Minister would I contact?

Ms GIBBS: I would say Minister Hancock.

Mr JUSTIN FIELD: I am glad we established that. Minister, on 7 February you posted to the Lake Conjola (& surrounds) Notice Board Facebook page a post relating to the opening of Lake Conjola. In addition to other comments, your post reads, "I have made it clear that it is up to council to make an application to the New South Wales Government. \$5 million has been made available for immediate works with the New South Wales Government, able to pay 100 per cent of the proposed approved works." Minister, a reader of that post may have got the impression that \$5 million had been set aside for Lake Conjola. Can you confirm that the \$5 million funding under the bushfire-affected coastal waterways program is a statewide allocation and not a Shoalhaven or Lake Conjola specific funding pool?

Mrs SHELLEY HANCOCK: I can confirm that, yes.

Mr JUSTIN FIELD: Also on 7 February you wrote the Shoalhaven council CEO a letter of support for an application by the council to the bushfire-affected coastal waterways grants program. The application is for \$2.35 million, which is 46.7 per cent of the statewide funding pool. How can you justify publicly backing a single application to a grant funding program that you seem to be responsible for, from a council in your own electorate, that represents almost 50 per cent of the funding available?

Mrs SHELLEY HANCOCK: As a local member I was asked to write a letter of support and so I did. That does not assume that I make any decision regarding that funding, Mr Field.

Mr JUSTIN FIELD: I am not suggesting that.

Mrs SHELLEY HANCOCK: That was just explained by Ms Gibbs about the funding process and if somebody misread something that I wrote on the Lake Conjola Facebook page about the \$5 million and misunderstood, I think the fact that you read that out made it very clear that this was not an amount just for Lake Conjola. That was misinterpreted.

Mr JUSTIN FIELD: Indeed, that is exactly the role of this Committee, to ensure that views are made clear about how these things are done. What do you think other coastal communities will make of the Minister ultimately responsible for that grants program supporting an application from a council in her own electorate for half the entire funding pool?

Mrs SHELLEY HANCOCK: Can I just talk to you about Lake Conjola, Mr Field?

Mr JUSTIN FIELD: Minister, I do know Lake Conjola.

Mrs SHELLEY HANCOCK: Do you? And so do I, probably better than you do.

Mr JUSTIN FIELD: I understand that.

Mrs SHELLEY HANCOCK: Let me tell you this: I have been the local member there now, the member for South Coast, since 2003. I have never seen a community more shattered than it is at the moment.

Mr JUSTIN FIELD: Minister, no-one is—

Mrs SHELLEY HANCOCK: Are you going to interrupt me on this?

The Hon. CATHERINE CUSACK: Point of order: Can you call the member to order? The Minister is giving an answer that everybody is entitled to hear.

The Hon. PETER PRIMROSE: To a question that hasn't been asked.

The Hon. CATHERINE CUSACK: It addresses the question.

Mrs SHELLEY HANCOCK: Because you don't support Lake Conjola. I am sorry about that.

The Hon. CATHERINE CUSACK: She is entitled to complete her answer.

Mr JUSTIN FIELD: To the point of order: My question is related to a grant program. I live seven kilometres from there, Minister. I understand the impact on that community. That is not the question asked.

The Hon. CATHERINE CUSACK: Address the point of order. The point of order relates to your interrupting the Minister when she is giving information to this Committee.

Mr JUSTIN FIELD: I am entitled to ask the question.

The Hon. CATHERINE CUSACK: You are, and she is entitled to give an answer.

Mr JUSTIN FIELD: That is related to the question.

The ACTING CHAIR: Order!

The Hon. CATHERINE CUSACK: That is not up to you.

The ACTING CHAIR: That is the end of it. I will now make a ruling. Minister, you were going into an area that was not in the main part of the question that Mr Field has asked. I understand that both you and Mr Field had terrible experiences, coming from living in that area. The Committee recognises that, but this inquiry is to tease out and address specificities, which Mr Field is trying to get to. Please listen to the question and answer the question.

Mrs SHELLEY HANCOCK: What was the question?

Mr JUSTIN FIELD: I think you have answered the last one.

Mrs SHELLEY HANCOCK: What is the other question? Or have you got nothing else to say about Lake Conjola?

Mr JUSTIN FIELD: Minister, to be eligible to apply under the bushfire-affected coastal waterways grants, the waterway needed to be impacted by a bushfire in the 2019-20 financial year to trigger the emergency works to be conducted. Given the application by council, which you supported by your letter, is to modify the licence granted by the New South Wales Government in June 2019, how can it be said that these works relate to the summer bushfires?

Mrs SHELLEY HANCOCK: Before, as you would know Mr Field, the lake was artificially opened after the lake level rose to two metres, the effect of the bushfire was to flush a lot of bushfire material, waste material, ash, burnt material into Lake Conjola, leading to serious water quality issues. The community has been very concerned that should that happen again, and if there is a more permanent opening of Lake Conjola, that that could happen once again. Again, I stress to you that I do not determine the applications. There are 31 other councils and those funding applications are about to come to an end.

Mr JUSTIN FIELD: Did you write letters of support for the other applications from the 31 councils?

Mrs SHELLEY HANCOCK: I am not the local member for the other 31 councils. I am a local member of Parliament. I have seen the devastation—I am sorry, Mr Pearson, I am straying into other fields—in Lake Conjola. I was asked to write a letter of support. As the local member, I did so.

Mr JUSTIN FIELD: Thank you, Minister.

Mrs SHELLEY HANCOCK: And I will continue to support my community.

Mr JUSTIN FIELD: I am sure you do. I do not doubt that at all, Minister.

Mrs SHELLEY HANCOCK: I think you do.

Mr JUSTIN FIELD: No, I do not. I have questions about the administration of this grants program.

Mrs SHELLEY HANCOCK: I think they have been answered, Mr Field.

Mr JUSTIN FIELD: Minister, as you know, the flood in February triggered the council's emergency plans to open the lake and the mechanical opening was conducted. Now that there has been an opening and the

lake has been drained—it is still open today; I was down there on the weekend—surely that would no longer make an application for the opening of the lake under the bushfire-affected coastal waterways eligible for funding.

Mrs SHELLEY HANCOCK: That is a matter for the assessment panel.

Mr JUSTIN FIELD: Would you not agree that it no longer meets the eligibility requirement?

Mrs SHELLEY HANCOCK: That is a matter for the assessment panel, as I just said to you and reiterate again. It is a matter for the assessment panel under the guidelines.

Mr JUSTIN FIELD: Ms Gibbs, under the guidelines there is only a few eligibility criteria. The fact that that has now happened would make that grant application ineligible for funding under the bushfire-affected coastal waterways grants?

Ms GIBBS: The applications under that program remain open until 10 March. I am a not member of the assessment panel but we will obviously be providing all of the relevant information, including what is happening in the intervening period, to the assessment panel to make a decision about that and all the other applications that have been received.

Mr JUSTIN FIELD: You would have had a role in drafting the guidelines, I assume?

Ms GIBBS: We have a separate unit that deals with grants administration and I am not part of that unit.

Mr JUSTIN FIELD: What is the name of that unit? Whose jurisdiction does that unit fall under?

Ms GIBBS: It is within the Environment, Energy and Science part of the Department of Planning, Industry and Environment.

Mr JUSTIN FIELD: So Minister Kean's office is responsible for the eligibility criteria for that grant program?

Ms GIBBS: No. Within the Department of Planning, Industry and Environment there are a series of divisions. The majority of people in the directorate that I am in, which is called Environment, Energy and Science, support Minister Kean but we provide support to Minister Hancock on coastal management issues because they are related to other environmental issues.

Mr JUSTIN FIELD: If I was to raise a concern about the eligibility criteria for a grant, which Minister would I write to?

Ms GIBBS: I think we answered that question and I indicated it would be Minister Hancock.

Mrs SHELLEY HANCOCK: So you would not support that grant application then, Mr Field?

Mr JUSTIN FIELD: I am making the case that—

Mrs SHELLEY HANCOCK: Clearly you are not supportive.

The ACTING CHAIR: Minister, you cannot ask questions.

Mrs SHELLEY HANCOCK: Thought I might try though.

Mr JUSTIN FIELD: I think I have made it pretty clear through my line of questioning that there are questions about that. Minister, do you accept that maintaining a permanent opening of Lake Conjola or any of the State's intermittent closing and opening lakes and lagoons [ICOLLS] would be against New South Wales Government policy and the principles of the Coastal Management Act?

Mrs SHELLEY HANCOCK: There is a great deal of dissent in Lake Conjola community about its status as being an ICOLL, Mr Field. I am sure you are aware of this.

Mr JUSTIN FIELD: Do you not accept that it is an ICOLL? I am aware, but do you not accept it as the Minister responsible for the Coastal Management Act and ICOLLS?

Mrs SHELLEY HANCOCK: I can have an opinion. Its status is an ICOLL, yes, but I think you would be aware—if you know anything about Lake Conjola—that the amount of sand built up at the entrance means that it will never be a naturally opening lake whilst ever that amount of sand is at the entrance. Therefore, it will not intermittently close and open as it has done in the past. That leads to serious water quality issues in Lake Conjola and serious water quality issues leads to concern and stress within the Lake Conjola community about their lake.

Mr JUSTIN FIELD: Which is why, is it not, that under the coastal waterways grants program in the middle of 2019 a grant was awarded to review the interim management regime for Lake Conjola and develop a coastal management plan for Lake Conjola?

Mrs SHELLEY HANCOCK: Yes. A coastal management program, you mean?

Mr JUSTIN FIELD: That is right. We understand there is contention and we understand there is contention from the management regime to which a grant has been awarded. Work is being done, no?

Mrs SHELLEY HANCOCK: Correct.

Mr JUSTIN FIELD: Minister, the Shoalhaven council motion that ultimately led to that application—I believe you might have even spoken at the council meeting—calls for an application to be made to deliver on a plan for a stable, long-term opening for Lake Conjola. How is a stable, long-term opening consistent with the New South Wales Government's policies with regard to the management of intermittently closed and open lakes and lagoons [ICOLLS] given that is how it is regarded by State Government policy?

Mrs SHELLEY HANCOCK: I think I just answered that question about ICOLLS. Ms Gibbs, would you like to add some further information? I do not want to keep repeating myself.

Mr JUSTIN FIELD: Just to confirm, it is State Government policy not to permanently open ICOLLS, correct?

Mrs SHELLEY HANCOCK: No specific policy not to open ICOLLS. Check your notes.

Mr JUSTIN FIELD: I will go to the policy documents on the Government website, Minister. The only policy information available on the management of ICOLLS is on the Primary Industries website. It talks about the management of coastal lakes and lagoons. These are the management policies and guidelines for the management of ICOLLS. I am assuming this is not a department only but a government-wide policy given that they make most of the decisions around this. It says:

The Department supports minimal interference with ICOLL entrance barriers and advocates natural processes being allowed to operate to the greatest extent possible.

In fact, even the Shoalhaven City Council's Lake Conjola management document says:

The long-term goal of the NSW Government is, as far as possible, to progressively allow ICOLL entrances to return to their natural processes.

How is a stable, long-term opening of Lake Conjola consistent with State Government policy?

Mrs SHELLEY HANCOCK: I think I have answered the question in terms of the particular circumstances at the entrance of Lake Conjola preventing an intermittent closing and opening of Lake Conjola, meaning that the community there are concerned about water quality in Lake Conjola because of the inability of the lake to open artificially. Last year the lake was opened, also artificially. It closed within, I think, seven weeks. But there is a concern about the sand build-up. There was a lot of contention about where the opening should have been in the past—should it be in the northern end or the southern end—or what actions have been taken. And I am telling you—I am trying to answer.

Mr JUSTIN FIELD: The council has got a grant to review that plan.

Mrs SHELLEY HANCOCK: Well, that is good.

Mr JUSTIN FIELD: Then I do not understand why, as the Minister responsible for administering those grants for which council has been given a grant to review this—

The Hon. CATHERINE CUSACK: Point of order—

Mr JUSTIN FIELD: —you have now supported a separate application?

The Hon. CATHERINE CUSACK: The Minister has told the member many times that she is not responsible for the grants. She is responsible for guidelines and legislation, but not the grants. The member keeps repeatedly asserting that she is in charge of the grants.

The Hon. PETER PRIMROSE: That is not a point of order.

Mr JUSTIN FIELD: To the point of order: We go the exact opposite.

The ACTING CHAIR: I can understand the point of order but it is not something for us to determine. It is up to the Minister to make that clear if that is the case, even if that is for each question. Mr Field, can ask the question.

Mr JUSTIN FIELD: Minister, you will be aware that in addition to your letter of support for the council decision, a letter from the Premier to a member of the Conjola community has been attached to the application as an indication of her support for the application.

Mrs SHELLEY HANCOCK: I am aware that there was a letter from the Premier saying there should be no barriers to opening the lake, as was the case last year.

Mr JUSTIN FIELD: Do you acknowledge that the letter was drafted well ahead of the council motion and that it does not relate to the motion itself or the proposal to make a grant application under the bushfire-affected coastal waterways grants?

Mrs SHELLEY HANCOCK: Do you mean the Premier's letter?

Mr JUSTIN FIELD: Yes.

Mrs SHELLEY HANCOCK: You would have to ask the Premier that question. If you are trying to make inferences about when the letter was written and why, then you direct that question to the Premier.

The Hon. MARK BUTTIGIEG: Minister, if I could just take you back to the issue we were discussing earlier regarding developers on council, I want to clarify because in your answer you seem to proffer the view that we did not necessarily have to have a ban because the declaration of potential conflict of interest, perceived or otherwise, is probably enough to filter out these problems. Am I paraphrasing what you said correctly?

Mrs SHELLEY HANCOCK: I do not think I said that it is probably enough to filter out problems. We can anticipate there may be problems in the future with property developers getting themselves elected to councils with a view to making a profit. What I did say is that in taking the sugar off the table and their decision about making powers being removed, in some councils in particular I think there is not so much of an incentive to run for election. I think Mr Hurst did run through some of those issues before.

The Hon. MARK BUTTIGIEG: When I asked Mr Hurst how many investigations or how many declarations had been made, he said he was not privy to any of those. This has been in since 2015. We have had situations which have been made public in the media where clearly declarations of conflict have not been working, and I can take you to some of those. Is it not about time that we bit the bullet on this stuff and stop it at the source?

Mrs SHELLEY HANCOCK: I think, Mr Buttigieg, if we are aware of any conflicts of interest not being declared then that should be referred to the Electoral Commission. I think Mr Hurst said that. If people have concerns about the activities or actions of councillors, that should be referred to the Electoral Commissioner. They are required to publicly disclose and appropriately manage their conflict of interest.

The Hon. MARK BUTTIGIEG: Can I ask you, if we just go down that path, when did the Office of Local Government launch an investigation into Strathfield mayor Antoine Doueihi and his alleged failure to declare interest in at least 11 companies?

Mrs SHELLEY HANCOCK: Do you want to answer this, Mr Hurst, please?

Mr HURST: The structure of the Local Government Act provides a clear separation between the Minister, who is responsible for actions against a council as a whole, and the Office of Local Government, which investigates matters of councillor misconduct and also failure to properly manage their conflicts of interest. You would appreciate that while these matters are underway we need to be careful of the opportunity to provide people with the chance to respond to allegations, to properly investigate them, and also to go through procedural fairness. What that means is that while any of these matters are underway the office has a policy of not commenting on any matters that may or may not be under investigation.

The Hon. MARK BUTTIGIEG: But I did not ask you to comment on matters which may or may not be under investigation. I asked you, when did the investigation start?

Mr HURST: I cannot confirm that there is an investigation. It is a matter that we have a policy of not commenting on to allow any such allegations to be dealt with appropriately under the code of conduct and the procedures, to provide procedural fairness and the opportunity for those who are involved to have their say, and ultimately for a report to be prepared and actions to be taken.

The Hon. MARK BUTTIGIEG: There was the subject of media commentary in *The Daily Telegraph* as recently as February this year about an investigation underfoot, so the public is well aware of this. There is a

clear allegation of a failure to declare an interest and the Office of Local Government is unable to tell us whether or not there is an investigation afoot, what the findings might be or when those findings will be released. On the other hand, Minister, you are telling me that there is no problem with the current system because as long as people declare it that will take the sugar off the table?

Mr HURST: The allegations have been made publicly, yes. I can confirm that those allegations have been repeated in the newspaper. Everyone is entitled to have any allegations dealt with appropriately in the process that the code of conduct and the procedures provide for. You can understand that speculating about the outcome of an investigation that may or may not be underway, or timeframes or actions, is clearly not appropriate and that everyone should have the ability to have allegations against them dealt with in the same way.

The Hon. MARK BUTTIGIEG: With all due respect, I think the public would think it was inappropriate for these allegations to be made and have no information about even an investigation being underfoot. Our information is that the investigation started in December 2018. Do you want to throw any light on that? Do you have concerns about this allegation, concerns about the perception of conflict? We have been through this before with Auburn council. There has been a bill introduced by the New South Wales Opposition which was rejected by your colleagues in the upper House. We want to know where you stand on it. We have got council elections coming up in September and it is a real problem out there in the public eye. They want their elected representatives to be free from conflicts of interest.

Mrs SHELLEY HANCOCK: I understand that and the Government will formulate its response to your bill in due course.

The Hon. MARK BUTTIGIEG: Can you give us an undertaking—

Mrs SHELLEY HANCOCK: I have given my views on property developers.

The Hon. MARK BUTTIGIEG: Can you give us an undertaking that we will have a direction from the Government prior to the upcoming council elections, because people want to know about this in the lead-up to that democratic process?

Mrs SHELLEY HANCOCK: What sort of an undertaking would you require, strengthening guidelines or strengthening the code of conduct?

The Hon. MARK BUTTIGIEG: Do you intend to take a proactive approach and ban developers and real estate agents from being elected to local council?

Mrs SHELLEY HANCOCK: As I said, that is the substance of the Opposition's legislation and the Government will formulate a response. In respect of strengthening the guidelines, we are at the moment examining code of conduct provisions with a view to strengthening code of conduct provisions, because that has been an issue for a number of councils who believe that code of conduct is not working. So I have asked for various options to be put before me in respect of strengthening the code of conduct.

The Hon. MARK BUTTIGIEG: Can you understand, Minister, that this is not a follow-up?

Mrs SHELLEY HANCOCK: Excuse me. So that the public, and I think you are referring to the public—

The Hon. MARK BUTTIGIEG: Yes.

Mrs SHELLEY HANCOCK: —can have confidence in their elected representatives and in the system of local government in New South Wales, which is what I am aiming to do as Minister.

The Hon. MARK BUTTIGIEG: My intuition is that you are genuine about this and you probably are concerned and do want to do something about it. I put to you that there is a view out there that code of conducts and guidelines and voluntary opt-ins do not cut it with this. Given the corruption scandals that we have seen from both sides of politics over many years, people want a very high threshold and a low bar of tolerance on this. Do you accept that?

Mrs SHELLEY HANCOCK: I certainly accept that that would be the public's perception and they will have the opportunity in September to make a judgement on who they vote for.

The Hon. MARK BUTTIGIEG: But they may not be availed of conflicts because the system is allowing these people to get on council and then not comply with the code of conduct. As Mr Hurst illustrated, there is no monitoring or check back system. It is not working.

Mr HURST: That is not what I said. The processes under the Act do contemplate that people, where allegations are made against them, have the opportunity for those allegations to be aired fairly and to have appropriate procedural fairness in that process. I do not think that is a correct characterisation of the way that the code of conduct operates.

The Hon. MARK BUTTIGIEG: Minister, you will not give an undertaking that property developers and real estate agents will be banned from seeking public office prior to the next election. You will not give that undertaking, is that what I am hearing?

Mrs SHELLEY HANCOCK: As I have said to you, the Government will formulate a response to the Opposition's legislation in due course. That will be the Government's response. In respect of the local government elections in September, that will be a reflection of the Government's response, in respect of candidates.

The Hon. MARK BUTTIGIEG: To answer my specific question, you are not in a position to give an undertaking on that now?

Mrs SHELLEY HANCOCK: I am not going to pre-empt what the Government's response will be to the Opposition's legislation.

The Hon. MARK BUTTIGIEG: When will that response be formulated and delivered?

Mrs SHELLEY HANCOCK: That will be up to the Government.

The Hon. MARK BUTTIGIEG: You do not think, given the conversation we have just had, and I think you agree there is an issue out there, that that should be delivered well before the September elections?

Mrs SHELLEY HANCOCK: Again, that is a matter for the Government, not me as an individual.

The Hon. MARK BUTTIGIEG: With all due respect, Minister, you are the responsible Minister in that Government. You had your colleague, the Hon. Don Harwin, in another hearing under estimates saying it is your responsibility. Are you going to take responsibility for this or not?

Mrs SHELLEY HANCOCK: As I have said and I will repeat again, it will be a government response. I cannot respond as an individual Minister to a piece of legislation that comes before the House. There will be a number of Ministers involved in a response, including the Premier.

The Hon. MARK BUTTIGIEG: Presumably, as a responsible Minister though, you will take a position to your Cabinet and advocate. I imagine in respect of how Cabinet works, that carries a fair bit of weight.

The Hon. CATHERINE CUSACK: Point of order: The member knows not to be questions about the Cabinet process. The member is fully aware—

The Hon. MARK BUTTIGIEG: To the point of order—

The ACTING CHAIR: Let us finish listening to Ms Cusack.

The Hon. CATHERINE CUSACK: The member is asking questions that are out of order in relation to the Cabinet process.

The Hon. MARK BUTTIGIEG: To the point of order: The Minister was responding saying that it would be a whole-of-government response—in other words, she had to consult her colleagues. I was asking her whether or not as the responsible Minister she carries a disproportionate weight in putting forward a policy like this to Cabinet, under the Cabinet system of government. It is a directly relevant question.

The ACTING CHAIR: The question is acceptable. It is not really asking questions relating to Cabinet confidentiality.

Mrs SHELLEY HANCOCK: I think what you are asking me is something that is going to occur in the future and is somewhat hypothetical at this stage as to what the response might be or may be or the discussions which will occur around it. I do not want to get into a hypothetical discussion on what the Government's response will be. What I can say to you is to a great extent political parties can themselves start to regulate these kinds of activities throughout their pre-selection process, whether that is The Greens or Labor or One Nation or Shooters, Fishers and Farmers or the Liberal Party or National Party. If they have concerns about property—

The Hon. MARK BUTTIGIEG: We do, Minister.

Mrs SHELLEY HANCOCK: If they have concerns about property developers or real estate agents, they can pre-empt the election of those people to local government themselves by their pre-selection process. As I have said to you at the beginning of this discussion, if we start to ban certain groups of people from running for

local government, where do we stop? There has been legal advice in the past about this being completely opposing the right of political communication under the Constitution. We do not want these things to be opposed under the Constitution. We want to find better ways of regulating behaviour of councillors rather than having the Constitution being used as a way of opposing a piece of legislation perhaps.

The Hon. MARK BUTTIGIEG: It is the Government's view that there is a constitutional impediment to banning property—

Mrs SHELLEY HANCOCK: No, I did not say that. You asked me for my personal opinions and I am giving them to you. I am giving them to you as honestly as I can. If we do want to ban a certain class of people, we do not want it to run into a constitutional issue where banning certain groups of people becomes unconstitutional and therefore open to High Court proceedings. We want to actually—

The Hon. MARK BUTTIGIEG: Is that the Government's advice, that it is unconstitutional?

Mrs SHELLEY HANCOCK: You asked me for my opinion. I am not going to give you the Government's advice, because the Government has not formulated a response to your bill yet. That will be in due course. There will be responses and there will be speeches in the Chamber about that. I imagine that debate has begun in your Chamber, I do not know. Has it?

The Hon. SHAYNE MALLARD: Only the second read.

Mrs SHELLEY HANCOCK: Let us not anticipate what others might say in response.

The Hon. MARK BUTTIGIEG: The problem with have, Minister, is that you are the responsible Minister and the public is looking for leadership on this. We have impending local government elections in September.

The Hon. SHAYNE MALLARD: Point of order—

The Hon. MARK BUTTIGIEG: I am asking you for the Government's position.

The Hon. SHAYNE MALLARD: This is the same question being reworded a different way every time. The Minister has really answered this as thoroughly and sincerely, as she has indicated. I think it is time to move on.

The ACTING CHAIR: I tend to agree with the point of order. We need to move on. The Opposition has 5½ minutes left.

The Hon. PETER PRIMROSE: If I could just ask two remaining questions on the issue of developers. We could talk about legislation continually, but we will do that at some point in the future. Taking up your point where you mention teachers as a class, possibly—

Mrs SHELLEY HANCOCK: I was being flippant and facetious, given that that was my former occupation.

The Hon. PETER PRIMROSE: I understand that.

Mrs SHELLEY HANCOCK: On many occasions teachers have been accused of being subversive, so I was making a point.

The Hon. PETER PRIMROSE: Unlike social workers, my former occupation.

Mrs SHELLEY HANCOCK: We would not ban nurses or doctors I presume, either.

The Hon. PETER PRIMROSE: Why would the Government not require teachers or social workers to actually put in a declaration in the same way that they require developers and real estate agents to do so?

Mrs SHELLEY HANCOCK: I think for the obvious point that property developers may seek to make a profit. Teachers are hardly likely to be there to make a profit. But that is not all property developers. Let us not classify all property developers as evil. Some people who have been elected to councils that I am aware of are not there to line their own pockets, and they may have a genuine knowledge of their electorate.

The Hon. PETER PRIMROSE: Minister, in the same way that we do not ban teachers from making electoral donations, you would not include—and neither would I suggest you include—teachers in requiring a declaration, but you would accept that our Parliament has accepted that property developers and real estate agents, as a group of people, as a class of people, are in a unique position?

The Hon. BEN FRANKLIN: Not real estate agents.

Mrs SHELLEY HANCOCK: Not real estate agents, no.

The ACTING CHAIR: The Minister can answer the question.

Mrs SHELLEY HANCOCK: I do not think real estate agents would be in a particular class, no.

The Hon. PETER PRIMROSE: Okay, only developers. The Electoral Commission, and I have confirmed this, actually does not check or review the accuracy of declarations. The declarations are made and they are available if the public wishes to view them. Do you think that is a satisfactory mechanism to ensure the type of local government you want to see in New South Wales?

Mrs SHELLEY HANCOCK: Just repeat that question, sorry, Mr Primrose. They are not required to check. What was the second part of the question, if you do not mind?

The Hon. PETER PRIMROSE: Yes, they are not required to check or review.

Mrs SHELLEY HANCOCK: Yes.

The Hon. PETER PRIMROSE: Given that there are no checks or reviews as to the accuracy of whether people have in fact made a correct declaration, that could lead to people who have not made a correct declaration to stand as candidates. Is that lack of checking and confirmation something that you believe is satisfactory in that it may lead to people who have not made a valid declaration actually standing and then winning a spot on the council?

Mrs SHELLEY HANCOCK: Mr Hurst might answer that more technically, because it is a good question.

Mr HURST: The legislation makes it quite clear that compliance and enforcement is undertaken by the Electoral Commissioner. I do not know that we should be speculating on how the Electoral Commissioner chooses to resource or undertake that activity, but I do know that people can complain to the Electoral Commissioner if they are concerned about the declaration that anyone has made on their candidate forms that are provided to the Electoral Commissioner.

The Hon. PETER PRIMROSE: Thank you, I am well aware of that because I in fact have spoken on it on a number of occasions, but I am asking you, as the Minister for Local Government, given that there are no checks, given that there are no reviews, given that there are no requirements for anyone in Government to actually check whether these declarations are accurate, could the failure to do that lead to people being elected to local councils in New South Wales that neither you nor I would want to see?

Mrs SHELLEY HANCOCK: I have not said that there is any group of people that I do not necessarily want to be elected to local government at this stage. That is the premise of your bill. You do not agree that real estate agents or property developers should be elected to local Government. I have not said that at this stage. I have not said that.

The Hon. MARK BUTTIGIEG: Your position, Minister, is that in principle developers and real estate agents should be able to be elected to council?

Mrs SHELLEY HANCOCK: As I have said, and I will repeat again, there will be a government response to your legislation debated in the upper House and in the lower House.

The Hon. MARK BUTTIGIEG: Can I ask you what your view is of the Mayor of Strathfield Council who, according to this article in *The Daily Telegraph*, was actually appointed mayor after being referred to a breach of a declaration of conflict?

Mrs SHELLEY HANCOCK: I think Mr Hurst has talked about our ability or inability to discuss that matter.

The Hon. MARK BUTTIGIEG: You do not have a view on that? You have a Liberal mayor of a major local government council in Sydney who has a clear perception of conflict out in the public domain and you do not have a view on it as the Minister for Local Government?

Mrs SHELLEY HANCOCK: I may have a view, but I am saying, as Mr Hurst said also, that this is a matter possibly under investigation and it would be inappropriate for me to comment on that.

The Hon. MARK BUTTIGIEG: Can you see how people—

The Hon. CATHERINE CUSACK: Point of order: The Minister has given the same answer three times now. Can I ask that we move on?

The ACTING CHAIR: I am listening acutely to see if it is a new question or a question seeking elucidation.

The Hon. CATHERINE CUSACK: He is making speeches.

The Hon. MARK BUTTIGIEG: As the responsible Minister, I am trying to elicit what her view is on her portfolio on a key matter of public interest, and apparently she has not got one.

The Hon. CATHERINE CUSACK: You are repeating the same question. I ask that further questions on that be ruled out of order. He is just rephrasing the same question and using it to make statements.

The Hon. PETER PRIMROSE: Under what standing order? Points of order require a standing order.

The Hon. CATHERINE CUSACK: Tedious repetition is the standing order.

Mrs SHELLEY HANCOCK: I was about to say that. I remember the standing order used in the lower House. I am sorry, I do not have anything further to add, Mr Chair.

The ACTING CHAIR: Did you wish to add to your answer?

Mrs SHELLEY HANCOCK: I do not have anything further to add.

The Hon. PETER PRIMROSE: Tedious failure to answer is also a problem.

Mrs SHELLEY HANCOCK: No need to be rude, Mr Primrose.

The ACTING CHAIR: Minister, are you aware that under the Prevention of Cruelty to Animals Act it is unlawful to kill an animal unjustifiably and unreasonably?

Mrs SHELLEY HANCOCK: Yes. Are we getting towards euthanasia here?

The ACTING CHAIR: Yes, we are.

Mrs SHELLEY HANCOCK: Yes. Therefore, the definitions around "unjustifiably" are probably a grey area.

The ACTING CHAIR: Of course, that has always got to be determined by a court.

Mrs SHELLEY HANCOCK: Yes.

The ACTING CHAIR: Even though I know you are not the Minister responsible for the Prevention of Cruelty to Animals Act, you are the Minister responsible for the Companion Animals Act.

Mrs SHELLEY HANCOCK: Yes, indeed.

The ACTING CHAIR: And obviously we grapple with these Acts where they may cross over each other.

Mrs SHELLEY HANCOCK: Yes.

The ACTING CHAIR: The Liverpool pound, which is a no-kill facility, which means they have a policy of not killing an animal unless it is to be euthanased for the reasons of its own health and wellbeing—

Mrs SHELLEY HANCOCK: Injuries, et cetera, yes.

The ACTING CHAIR: Euthanasia as a treatment, yes.

Mrs SHELLEY HANCOCK: Yes.

The ACTING CHAIR: Therefore, a no-kill facility, the Liverpool pound can house 150 dogs and 200 cats, but Blacktown pound can only hold 72 dogs and 50 cats, so there is likely to be a significant increase in the number of animals in the Liverpool area that will be killed due to the pressure on the holding facilities because it is now merging with Blacktown. Surely this cannot meet the spirit of section 64 (5) of the Companion Animals Act for which you are responsible. That section states:

Before destroying a seized or surrendered animal it is the duty of the council concerned to consider whether there is an alternative action to that of destroying the animal ... to adopt any such alternative

Are you concerned that the pound merging of Liverpool and Blacktown could well mean that many more dogs and cats will be killed, not euthanased?

Mrs SHELLEY HANCOCK: I would always be concerned about cats and dogs being killed rather than euthanased, but there is a grey area. In terms of the merging of those pounds, that is entirely a matter for

those councils to determine for those facilities, but I would be concerned about animals being killed. Let us put this into perspective. There has been a significant reduction in the rates of euthanasia across New South Wales. That is because there has been a concerted campaign to ensure that we have the adopt, not shop, half-price registration, so councils advertise from their pounds and various facilities throughout New South Wales as an incentive to actually adopt some of these surrendered animals. The euthanasia rates have dropped quite remarkably for cats and dogs—up to 30 per cent—so those policies are working.

The ACTING CHAIR: The question is, if those policies have been working—and I agree with you that the euthanasia-killing numbers have reduced dramatically over the last couple of years—would such a merge of council pounds not be of concern to you, just looking at the basic numbers and the work that has to go in to rehoming an animal as opposed to killing it, and is it not possible for you to intervene if you have grave concerns, the weight of which are enough to make you concerned or at least find out if more animals are going to be killed as a consequence of that pound merge?

Mrs SHELLEY HANCOCK: Again, and I know I repeat this line ad nauseam to some of you, but these are decisions that councils make. If communities are concerned about the activities within their council pounds and/or the merger of their pounds, they need to address those to their CEOs and ask those questions to determine what is happening.

The ACTING CHAIR: At the end of the day, Minister, if an animal is being protected by the power, directly or indirectly, of the Companion Animals Act, then that animal is under your watch. Correct?

Mrs SHELLEY HANCOCK: That is correct.

The ACTING CHAIR: If such a situation is being proposed or has occurred, would you not want to ensure that that standard that you are talking about is upheld?

Mrs SHELLEY HANCOCK: Yes.

The ACTING CHAIR: I understand that you are saying that the councils are responsible for these decisions. But as we talked about earlier, if, at the end of the day, a Minister has to answer for this, it is you.

Mrs SHELLEY HANCOCK: Yes. I will say this to you: I am genuinely concerned about responsible pet ownership. What I have done is reconvened the Responsible Pet Ownership Reference Group and the individuals on that particular group are many and varied. They will make recommendations to me and they will seek the views of the wider community on issues such as those that you are raising. The Responsible Pet Ownership Reference Group is going to be an invaluable tool for me as the Minister to assess some of the issues that are being directed to that committee. They include the Australian Institute of Local Government Rangers—that is an important participant—the Australian Veterinary Association [AVA] New South Wales, Hunter animal care services, the Pet Industry Association of Australia, Sutherland Shire Council, animal care and management and veterinary in Sydney, the Cat Protection Society of NSW, Dogs NSW and the Veterinary Practitioners Board of NSW. That membership is broad and diverse and they are discussing matters of a wide range of issues.

If the community has concern about any of the issues that you are raising today, it should be directed to that group, which will report directly to me. I can say no more about that. We are doing everything we can to reduce rates of euthanasia, to encourage responsible pet ownership and to encourage desexing of animals. We have an animal welfare discussion paper out on exhibition now, which can canvass the views of the community in relation to what you are raising as well. But I think you are talking about future concerns and what might happen. It is possibly hypothetical, so let us wait and see. Again, it is up to the council to make those decisions in terms of their own pound facilities. It is not up to me to make those decisions and override them. If there are concerns from the community, they can certainly raise them with the Responsible Pet Ownership Reference Group.

The ACTING CHAIR: Do you think the situation might be such that you might want to write to Blacktown council and ask for a report on the numbers of animals that are being killed versus euthanased? Would you be willing to do that?

Mrs SHELLEY HANCOCK: Those figures are reported and published. They are publicly reported. There is not much point in my writing if they are publicly available for you or me or anyone else. We can use those figures, obviously, to determine if there are issues to which you are alluding.

Mr JUSTIN FIELD: Minister, I would like to return to this letter from the Premier to a Lake Conjola resident, which has been attached to the Shoalhaven council's application as we discussed before. The letter says that the Premier "was advised the New South Wales Government issued council with a short-term licence to manually open Lake Conjola at any time" and that council's previous policy "did not permit inundation at levels

below one metre". However, this was amended and the current licence has no trigger level and "there are currently no barriers to council opening the lake at any time that it sees fit". I think you indicated before you are aware of that letter from the Premier?

Mrs SHELLEY HANCOCK: I think that you could ask the Premier about her letter, not ask me about her letter.

Mr JUSTIN FIELD: I will, but it has been part of the public discussion and I am sure you are aware of it. It has been widely circulated within the Lake Conjola community seemingly as a justification of the application. Did you provide the advice to the Premier about the licence rankings?

Mrs SHELLEY HANCOCK: No.

Mr JUSTIN FIELD: I am trying to understand where that advice came from. Minister, do you acknowledge that, in fact, council's Interim Entrance Management Policy has not actually been amended as part of that licence, but rather that was a short-term licence to allow an opening that was outside of that policy in a specific instance, and that council did act in accordance with that licence and back in July 2019 manually opened the lake? Do you acknowledge that the council did act on that licence?

Mrs SHELLEY HANCOCK: It had to apply to the Minister, clearly, because it was acting outside the licence. I think it was open to 0.9—I think the terms of the licence opening is one metre.

Mr JUSTIN FIELD: That is right. But you acknowledge that council received a licence and acted on it and manually opened the lake? That is my question.

Mrs SHELLEY HANCOCK: They asked for a variation. It was a variation of the licence, so it had to go to three Ministers and three agencies.

Mr JUSTIN FIELD: That is right.

Mrs SHELLEY HANCOCK: Not me.

Mr JUSTIN FIELD: Do you acknowledge that that licence did not amend the council's policy? It was a licence to allow an opening outside the policy.

Mrs SHELLEY HANCOCK: I would say that would be the case, yes.

Mr JUSTIN FIELD: Thank you. Minister, you therefore seem to acknowledge that the Premier's letter was either incorrectly informed or it was poorly drafted, in that it suggested that council's policy was amended and it could, at any time, take actions to open the lake.

Mrs SHELLEY HANCOCK: I think the licence covered a 12-month period. Perhaps that is what she was alluding to. But, again, can you direct your questions to the Premier relating to her letter?

Mr JUSTIN FIELD: I am directing my questions to the Minister responsible for the Coastal Management Act.

Mrs SHELLEY HANCOCK: I am not responsible for the wording of the Premier's letters, Mr Field. Please do not ask me that question again.

Mr JUSTIN FIELD: Is it your contention, Minister, that that licence enabled the council to open the lake multiple times within that licence period, and not to act on it and open it as they did when they were granted the licence? I think this is a critical issue.

Mrs SHELLEY HANCOCK: I am sorry, can you just clarify the question, please? That was not very clear. Your wording was not very clear.

Mr JUSTIN FIELD: Is it your contention that the licence that was granted by the lands Minister, Melinda Pavey—

Mrs SHELLEY HANCOCK: Last year?

Mr JUSTIN FIELD: —last year for council to do a manual opening of the lake was a licence that allowed them to open it as many times as they chose to within that one year?

Mrs SHELLEY HANCOCK: That could be open to interpretation.

Mr JUSTIN FIELD: Is that your understanding of it?

Mrs SHELLEY HANCOCK: Yes.

Mr JUSTIN FIELD: Okay, because it seems that that is not council's understanding of it. That is quite critical to the public concern here, because council opened the lake and reported to the Minister, saying, "Thank you for issuing the licence. We undertook the works. We closed the site and left the site." It seems that their understanding is they were issued the licence to open the lake, they opened it, they did the work and they closed the site—matter complete.

Mrs SHELLEY HANCOCK: Right.

The ACTING CHAIR: Is that a question?

Mrs SHELLEY HANCOCK: Is that a question or a statement? Council decided to do what they did.

[*The Minister withdrew to attend a division.*]

The ACTING CHAIR: We will adjourn until the Minister returns.

Mr JUSTIN FIELD: I am happy to continue with Ms Gibbs. Ms Gibbs, can you confirm how the independent body that makes the grant decisions around coastal waterways grants is decided on? Who is on that panel?

Ms GIBBS: I would have to take the exact membership on notice. I just point out that the Coastal and Estuary Grants Program is considered annually, and so there is a standing State assessment panel with membership made up of people from academia, other government agencies and non-government organisations who have relevant expertise in relation to coastal and estuary grants. Because the grants for the bushfire-affected coastal waterways program have not yet closed—applications remain open until 10 March—no assessment panel has been convened yet because we need to make sure we have got all the applications. But we will obviously be drawing from a pool of relevant experts in terms of assessing that.

Mr JUSTIN FIELD: Who makes the decision about who is on that panel?

Ms GIBBS: Within the department, we make that decision. We have a separate grants unit that also administers the grants for the new Environmental Trust. They are very experienced in grant administration and they assess all grants on the same basis. There are many independent panels that assess grants on different topic areas.

Mr JUSTIN FIELD: Is there any ministerial sign-off—either Minister Hancock or another—about who sits on that panel?

Ms GIBBS: No.

Mr JUSTIN FIELD: Is it a consideration at all for the panel as to whether or not the local member or other members of Parliament support a particular grant application?

Ms GIBBS: There is no requirement for any applications to contain letters of support. It really is a matter for applications to be assessed on their merit and that they stand alone. The fact that there are letters of support would be noted but does not carry any additional weight. It is not one of the assessment criteria, for example.

Mr JUSTIN FIELD: Is it common for grant applications to come with the support of the local member?

Ms GIBBS: It is not uncommon. It does not happen in every single grant application but it would happen. It is not unheard of.

Mr JUSTIN FIELD: Is it the department, whether it is that grant unit that you talked about or within your organisation, that puts together recommendations to the grant panel about any merits of particular applications or do they just get the applications as is and go through that assessment process themselves?

Ms GIBBS: There is generally an assessment done within the grants unit to make sure that the applications are complete, that they make sense, that the information that has been asked for is there, that the application form is complete—that sort of information. It is a matter for the assessment panel to review the sort of technical merit of individual applications and then to make recommendations to a delegate who would typically be a senior person within our organisation, I think in the case for the bushfire-affected coastal waterways it will be the Coordinator General for Environment, Energy and Science within the Department of Planning, Industry and Environment.

Mr JUSTIN FIELD: And would the department make recommendations or make comment on what they put forward to the panel as to whether or not they thought the eligibility criteria had been met?

Ms GIBBS: Generally there would be some preliminary assessments around the eligibility of the application based on the assessment criteria and the assessment criteria are determined prior to any assessment of individual applications occurring.

Mr JUSTIN FIELD: Would you, in putting forward information about particular applications of the panel, note letters of support? For instance, that there was a letter of support from the local member or the Minister administering the Coastal Management Act? Would the panel see that or would it be blind to that even though it is not a consideration under the grant application process?

Ms GIBBS: The panel would receive all the information that was provided as part of the application, but the letters of support do not form a part of the assessment process in its own right because it is not one of the assessment criteria.

Mr JUSTIN FIELD: Why would you provide that information if it was not relevant to the application?

Ms GIBBS: In the event that somebody said, "I submitted an application that contained X, Y and Z attachments", was that information available at the time?"

Mr JUSTIN FIELD: Is it possible at all for this Minister or another Minister to reach into the grant awarding process to have a look at which grants are being considered? We are seeing publicly issues around the administration of grants, not necessarily this Government but at the Federal level, and there is significant ministerial oversight. Is there any ministerial oversight with regards to the Coastal and Estuary Grants Program or the bushfire-affected coastal waterways grant funding?

Ms GIBBS: No, not in the way that you are suggesting has occurred in the Federal Government.

Mr JUSTIN FIELD: Okay, that seems a little bit clarified. Does the Minister get a copy of the grants that are intended to be awarded before they are awarded?

Ms GIBBS: No.

Mr JUSTIN FIELD: Can she request that?

Ms GIBBS: She can request all sorts of things. We would make a decision about whether we would provide that information.

Mr JUSTIN FIELD: Has she requested it in the past?

Ms GIBBS: No.

Mr JUSTIN FIELD: If she did request it, is there any reason that you would not provide it? Are there any rules that would limit your ability to provide that information?

Ms GIBBS: We would generally not provide information about grants that had not been assessed or been through an assessment process to the Minister prior to that process being complete.

Mr JUSTIN FIELD: I just want to understand the process because that is not spelt out anywhere, Mr Hurst, in any of the documentation around it. The guidelines are there but there is no information about who assesses these or how they are assessed, for your information.

The ACTING CHAIR: If the Minister was to request documentation even before it was a final assessment and conclusions were made, surely the Minister would have the power to compel you to provide those documents, correct?

Ms GIBBS: The Minister generally would not compel us to provide documents.

The ACTING CHAIR: I understand that is not what she does. My question is: She has that power, does she not?

Mr HURST: I do not know that there is a legislative power that would allow for that. I think there would be some discussions about whether or not it was appropriate, because it is appropriate and it is here we are talking about, rather than necessarily whether people have the power to do so or not in legislation.

The ACTING CHAIR: Obviously it is a question that needs to be answered. Can you take that on notice, please?

Ms GIBBS: I think Mr Hurst has just answered it.

The ACTING CHAIR: The answer is that it is not clear. I am seeking clarification.

Mr HURST: About whether there is a legislative requirement for the Department to provide material to the Minister?

The ACTING CHAIR: Or a policy requirement.

Mr JUSTIN FIELD: I am comfortable with what you have said about that process. I would like to move on to around the administration of the previous grants that had been awarded. I think Shoalhaven Council has been awarded five grants over the last two funding cycles from the coastal and waterways grant program. It seems like a large number, though I am not sure if the quantum are that high in comparison to the overall grants. One of those was for the development of a coastal management program for Lake Conjola. Can the council sign off on the coastal management program themselves or do they develop it and get signed off by the Minister administering the Coastal Management Act?

Ms GIBBS: The Coastal Management Act 2016 sets out the process by which our coastal management program is prepared. I have a copy of the legislation here. Division 2 from section 13 onwards relates to how coastal management programs are provided. A local council prepares a coastal management program and then it is submitted to the Minister for certification. What that certification process means is the Minister confirming that the coastal management program has been prepared in accordance with relevant guidelines. It is not an endorsement or an approval of the particular management strategies or management options that are recommended within the program.

Mr JUSTIN FIELD: It would need to be consistent with the Act and government policies around the management, including the current Government policies around the management of ICOLLs. I assume in the instance of Lake Conjola it would be a consideration.

Ms GIBBS: Yes.

Mr JUSTIN FIELD: I get that. The thing is that a grant was awarded for Shoalhaven council to develop a coastal management program for Lake Conjola in the middle of last year. I know this is a contentious issue and the community has been badly impacted. The work was being undertaken by council and in that time they have obtained a licence and conducted an opening and conducted an emergency opening recently. Now council has applied to amend that licence. How is its judgements made by a grant board, a board considering a grant application, about whether or not that application would be consistent with a coastal management program that they are currently developing? Effectively what they are doing is just totally undermining a previous grant that was given to develop a long-term plan for the management of that waterway.

[The Minister returned.]

Ms GIBBS: The requirement to develop a coastal management program arose through the enactment of the Coastal Management Act, which commenced in 2016. I think what is relevant here is the savings and transitional provisions that carry over requirements to prepare coastal zone management plans under the previous legislative framework, which was the Coastal Protection Act 1979. Shoalhaven council had completed the Lake Conjola flood plain risk management study and plan in 2013 in consultation with the local community to look at the management of flood prone development within the surrounding areas at Lake Conjola.

The other thing that is relevant is that council had a previously existing entrance management policy that was prepared under the previous legislative framework. That entrance management policy had in place a series of triggers for when the lake might be opened artificially. As I am sure you are aware because you live locally, there was quite a build-up of sand within the entrance due to the prolonged drought conditions. The council had sought to open the entrance to the lake in July 2019 and as the Minister stated, it had closed up again after a seven-week period. Generally an entrance management policy sets a trigger for the emergency opening of a lake once—

Mr JUSTIN FIELD: Ms Gibbs, I do understand that. I appreciate you taking me through it but essentially my question is: On what basis does this independent body consider a grant application to essentially change the opening arrangements for the lake and the management of the lake when it would be inconsistent with the interim management policy that is agreed by council and a coastal management program that council have been funded to develop has not been finalised or signed off by the Minister yet? On what policy basis are they going to make a decision?

The ACTING CHAIR: Ms Gibbs, if you could take that question on notice, we are now going to move to the Opposition for questioning.

The Hon. PETER PRIMROSE: Can I talk briefly about Independent Pricing and Regulatory Tribunal [IPART] review of the local government rating system dated December 2016. Can you tell the Committee why that report was kept secret for three years?

Mrs SHELLEY HANCOCK: I am not sure that it was kept secret but I cannot really comment. I was not the Minister, I was not on Cabinet. I have no understanding of why it took a fair while to release that. I imagine it is probably something to do with mergers and the whole situation of mergers. I do not know.

The Hon. PETER PRIMROSE: May I ask through you, Mr Hurst, why was it kept secret for three years—the IPART report?

Mr HURST: It was not kept secret, Mr Primrose.

The Hon. PETER PRIMROSE: It was released?

Mr HURST: No, it was not released, but it was not secret.

The Hon. PETER PRIMROSE: Sorry?

Mr HURST: The Government was formulating its response.

The Hon. PETER PRIMROSE: No, I am not talking about the Government. IPART made that available in December 2016. That is the date on the cover that has now been released.

Mr HURST: To the then-Minister. That is correct.

The Hon. PETER PRIMROSE: Okay. It was not released but you are saying the Government was preparing a response and it took three years?

Mr HURST: I do not think it is fair to characterise it as being kept secret while the Government was formulating its response.

The Hon. PETER PRIMROSE: Was it made available to the public?

Mr HURST: No. It was made available to the public last year, though.

The Hon. PETER PRIMROSE: When? Last year, after three years, despite numerous requests for it to be made public. Minister, in that report it indicates that—for example, I will give you an instance. Two owners who have the exact same land size are under the proposal to change to capital improvement value for rates. They would be charged different rates despite the fact that they would be living on essentially exactly the same land size. Do you think that is fair?

Mrs SHELLEY HANCOCK: Again, you are talking about issues that have been raised as a response to that report being publicised. I am aware that there are a number of submissions that have come in and that have been submitted regarding that review, the IPART review, the rating review to which you refer. We will be formulating a response to that but I can indicate to you that there is probably a lot of—there is a great diversity of opinion and differences of opinion around rating and the future of rating. It will be an interesting process. It will be a controversial process and a difficult process.

The Hon. PETER PRIMROSE: Minister, may I ask where you stand on that, as Minister for Local Government?

Mrs SHELLEY HANCOCK: I do not have a position at all at the moment. We will respond in due time.

The Hon. PETER PRIMROSE: Minister, it has now taken over three years for the Government to release the report. It was then released. You provided an interim report response a year ago. You have now sought advice and information from councils. You are saying now, in what amounts to over four years, you do not have a view on the central element?

Mrs SHELLEY HANCOCK: Look, my views are generally based on the views of my councils and the councils throughout the State. They all have different views, so I am saying to you that a resolution to this rating review and a way forward will come as a result of me listening to my communities, as I am listening to you, about some of the complex issues. So I do not at this stage have a view that I can express to you, no.

The Hon. PETER PRIMROSE: After four years, you still do not have a view?

Mrs SHELLEY HANCOCK: No. Well, I have only been a Cabinet Minister for 12 months.

The Hon. PETER PRIMROSE: The Government has had this report now for four years.

Mrs SHELLEY HANCOCK: Yes, but I was not part of that Government.

The Hon. PETER PRIMROSE: You have also been the local government Minister for a considerable period of time.

Mr DAVID SHOEBRIDGE: You had to dust them all off when you came in, did you not, Minister? That took a while.

Mrs SHELLEY HANCOCK: Mr Shoebridge, welcome. We missed you.

The Hon. PETER PRIMROSE: Thank you for participating, Mr Shoebridge.

The Hon. CATHERINE CUSACK: Now we get the really good questions.

Mrs SHELLEY HANCOCK: Did you have something else, Mr Primrose?

The Hon. PETER PRIMROSE: Yes. I am quite gobsmacked by the fact that you do not have a position on this, Minister—

Mrs SHELLEY HANCOCK: People often are gobsmacked by my responses.

The Hon. PETER PRIMROSE: —but I will accept your response.

The Hon. CATHERINE CUSACK: He is lost for words.

The Hon. PETER PRIMROSE: Well, the Minister is the one lost for words.

The ACTING CHAIR: Order! I cannot hear any questions. We are now going to move to the crossbench for 10 minutes and then back to the Opposition for the rest of the time.

Mr DAVID SHOEBRIDGE: Minister, it is a fair question Mr Primrose asked. Four years into the report we still have not seen a final Government response.

The Hon. CATHERINE CUSACK: She has already answered that question.

Mr DAVID SHOEBRIDGE: When do you anticipate—

Mrs SHELLEY HANCOCK: We have actually released the submission summary, so all of the submissions we received were released in February.

Mr DAVID SHOEBRIDGE: Yes, I know. But when can the local government sector expect a decision from Government about something as crucial as the rating structure?

Mrs SHELLEY HANCOCK: As soon as possible.

The Hon. PETER PRIMROSE: Four years!

Mr DAVID SHOEBRIDGE: Oberon Council, which has been desperately keen for a result on ratings given the impact they see to their rating structure as a result of logging operations—they want to be able to plan for the future and they are just on ice, waiting to see what the Government will do on the critical issue of rating of productive State forest terrain. Do you see the difficulty it creates at a local government level, Minister?

Mrs SHELLEY HANCOCK: Hence my answer to you, Mr Shoebridge—as soon as possible, understanding the challenges being faced by local government.

The Hon. PETER PRIMROSE: In the fullness of time.

Mrs SHELLEY HANCOCK: Yes, whatever cliché you wish to use.

Mr DAVID SHOEBRIDGE: It is not entirely your fault, Minister, but we got that same answer from the Prime Minister for three years as the reports just sat there and the local government were waiting for an answer from you. To get the same answer from you now, 12 months in, will just send a collective groan of disappointment across the sector. Do you accept that they deserve some finalisation on this?

Mrs SHELLEY HANCOCK: They certainly do and, as soon as possible, they will get some finalisation. That is all I can say to you, Mr Shoebridge, at this stage.

Mr DAVID SHOEBRIDGE: Alright. It took 21 months for the Pittwater community to get an answer on the demerger proposal. Why did that take so long? Did the Office of Local Government lose the petition?

Mrs SHELLEY HANCOCK: Did the Office of Local Government lose the petition, Mr Hurst? I think you asked questions about this last year, as to whether I had seen the petition from Pittwater.

The Hon. CATHERINE CUSACK: He picked up the wrong file.

Mr DAVID SHOEBRIDGE: Yes, I asked a question about it last year and you said you were not aware of the details. The demerger proposal was submitted on 15 May 2018 to—I accept this—a staff member of the former Minister's office. When the Pittwater community inquired about a response to it last year, they were told by the Office of Local Government that it could not be found. They did not know where it was.

Mrs SHELLEY HANCOCK: Correct.

Mr HURST: We did not have it. That is correct.

Mr DAVID SHOEBRIDGE: So what happened? Did it just fall between the cracks? Did it sit in a pigeonhole in the former Minister's office? Why was it not forwarded to the Office of Local Government?

Mrs SHELLEY HANCOCK: When I became aware of the petition and it was presented to me, I referred it immediately to the Office of Local Government. I cannot comment on what happened before that. As I said to you last year, I had not seen it. I did not know where it was. After you asked me those questions, Mr Shoebridge, I did enquire within my office as to whether it was there or anybody had seen it—the existence of it. Nobody had seen it and I had not seen it, but it was presented to me subsequently and has been referred to the Office of Local Government.

Mr DAVID SHOEBRIDGE: There was not a handover document from the prior local government Minister that said, "I got a petition of X-thousand residents from Pittwater and I have put it in the bottom drawer of the filing cabinet?" There was not a handover document that you got advised about what the issues were when he took over?

The Hon. CATHERINE CUSACK: I am sorry but I do have a point of order.

The ACTING CHAIR: Mr Shoebridge, I think the Minister has answered the question. Unless you are going to a new question—

Mr DAVID SHOEBRIDGE: What is the point of order?

The Hon. CATHERINE CUSACK: Simply that there is wide latitude allowed in budget estimates for the financial year, but to be asking about a lost, missing or misplaced petition from May 2018 is so far outside the work of this Committee.

The Hon. PETER PRIMROSE: It is perfectly in order.

Mr DAVID SHOEBRIDGE: To the point of order: There is wide latitude given in budget estimates—

The Hon. CATHERINE CUSACK: My question relates to the relevance of the question to the budget estimates for the—

The ACTING CHAIR: Okay, Ms Cusack. It is noted. Mr Shoebridge?

Mr DAVID SHOEBRIDGE: There are repeated rulings from Chairs in budget estimates that there is wide latitude well beyond the financial details.

The ACTING CHAIR: I will allow the question if you just maybe take it into the next one.

Mr DAVID SHOEBRIDGE: Was there not a handover document where you were given notice about those current issues when you took over from the previous local government Minister?

Mrs SHELLEY HANCOCK: There was no petition handed to me when I took over as Minister. There was no material handed to me. I had not seen the petition. It was not in my possession. I looked for it subsequently. I did not find it. It was presented to me and I have then referred it to the Office of Local Government.

Mr DAVID SHOEBRIDGE: Minister, I do appreciate you handing it to the Office of Local Government. That was a major advance.

Mrs SHELLEY HANCOCK: I could have handed it to you, perhaps, Mr Shoebridge, but I handed it appropriately to the Office of Local Government.

Mr DAVID SHOEBRIDGE: You could have just put it in the bottom drawer and forgotten about it but you did not do that. You actually handed it to the Office of Local Government, so I appreciate that.

Mrs SHELLEY HANCOCK: I certainly would not do that.

Mr DAVID SHOEBRIDGE: It was then responded to within four days. What kind of analysis did the Office of Local Government do about the complex issues involving the demerger of Pittwater Council in four days?

Mr HURST: I can speak to that. The Local Government Act, as I am sure you are aware, Mr Shoebridge, imposes certain requirements on what constitutes a proposal in the situation. In this case it was a reasonably straightforward exercise to ascertain that petition did not contain the required number of signatures.

Mrs SHELLEY HANCOCK: So therefore was not valid, did you say?

Mr HURST: Was not a valid proposal under the Local Government Act. The organisation was advised of that outcome and it is up to them what they choose to do next.

Mr DAVID SHOEBRIDGE: Minister, do you accept that there is a large level of disquiet in the Pittwater community, evidenced by that petition? I say disquiet about the fact that their council was lost and they were merged?

Mrs SHELLEY HANCOCK: Because I was not the Minister at the time, I was not aware necessarily of the disquiet to which you refer in the community. But I agree that there was at the time. I am not so sure now about the level of disquiet. I have not received anything else from Pittwater or the residents of Pittwater about the demerger process in my time as Minister. A lot of correspondence comes across my desk in relation to all sorts of issues, but I have not received anything from the Pittwater community to my knowledge.

Mr DAVID SHOEBRIDGE: Minister, the Federal Government gave each council in a fire-affected community a \$1 million grant. Are you aware of that program?

Mrs SHELLEY HANCOCK: Yes, because that money was administered by the Office of Local Government.

Mr DAVID SHOEBRIDGE: Some of those councils have quite small populations and relatively small areas. Some of them like Shoalhaven have much larger populations and significantly larger areas with significantly more infrastructure impacted. Have you made any representations on behalf of local councils in New South Wales to the Federal Government to seek to have a payment made to councils that reflects the impacts of the fires as opposed to a one-size-fits-all payment?

Mrs SHELLEY HANCOCK: No.

Mr DAVID SHOEBRIDGE: Do you think you should?

Mrs SHELLEY HANCOCK: I think we are grateful for the money from the Federal Government, quite frankly. A million dollars for fire-affected communities was certainly well received and I am sure it will be well utilised throughout the councils in New South Wales in particular.

Mr DAVID SHOEBRIDGE: But a million dollars in Shoalhaven is hardly going to touch the sides of the kind of costs that the council has incurred as a result of it. In smaller councils it is going to come closer to dealing with the real cost. Will you take on these concerns and approach the Federal Government to seek a federal payment scheme that more closely reflects the actual impact, financial impact, that these councils have had?

Mrs SHELLEY HANCOCK: I think at the moment as a State government we are doing everything we can to assist fire-affected communities, such as in my community in the South Coast and that of my colleague, Mr Andrew Constance, in the electorate of Bega. For instance, the cost of clean-up of fire properties, where people's homes have been demolished, we are going to be paying for those clean-ups. We are also going to be paying for the rates for those people who have lost their homes and a number of other matters and a number of other matters too. We have committed a billion dollars statewide for infrastructure repair. In fact, we will be committing over \$2 billion for bushfire-affected communities, apart from the assistance that we have given to drought-ravaged communities. We are concentrating on our own assistance to the people of New South Wales who have been most seriously affected.

Mr DAVID SHOEBRIDGE: Minister, I know there were some questions asked and answered, and some taken on notice in relation to Stockton, but one of the substantial issues that has been discussed in Newcastle and Stockton at the moment is the prospect of dredging. As far as you are aware, can the city of Newcastle submit a State significant development application to access offshore sand for beach nourishment? Because that has been discussed.

Mrs SHELLEY HANCOCK: Have they?

Mr DAVID SHOEBRIDGE: Can they? Then, if they can—

Mrs SHELLEY HANCOCK: Yes, they can apply to the Deputy Premier who administers that Act, the offshore mining Act.

Mr DAVID SHOEBRIDGE: Does the fact that there is a pending declaration for a reserve block under the Commonwealth Offshore Minerals Act have any impact on the capacity to seek dredging off Newcastle? You may want to take that on notice.

Mrs SHELLEY HANCOCK: I will take it on notice but I imagine that would be better directed to the Deputy Premier. It is his legislation in terms of offshore mining.

The Hon. MARK BUTTIGIEG: Minister, I take you back to the current mayor of Strathfield Council. I think this is a significant matter of public interest and it is emblematic of the problem we are discussing, which is your inability to act on these sorts of things. This fellow was elected councillor. This investigation was referred some 18 months ago and we still do not have any direction on the outcome of the investigation. Meanwhile, he gets elected as mayor, a Liberal mayor. You are in the Liberal Party, he is in the Liberal Party. Why have you not intervened to stop what is a clear conflict of interest and allay the public's concerns over that conflict?

Mrs SHELLEY HANCOCK: Mr Hurst can answer you once again.

Mr HURST: I do think we have covered the fact that the Local Government Act does not give the Minister for Local Government the power to intervene in individual or councillor misconduct or pecuniary interest matters. There is a clear separation of the powers that provides for the Office of Local Government to deal with those matters.

The Hon. MARK BUTTIGIEG: Minister, if I could go back to you. Does it strike you as strange that we would have so much time elapse? We are on the eve of council elections. There is a clear interest and the public perception would be that that interest is being served by the Liberal Party to delay this investigation so that this person is not exposed and this does not affect chances at the local government elections. Can you see how that would be a perception in the public and that would be an issue for you as the responsible Minister?

Mrs SHELLEY HANCOCK: I think Mr Hurst has pointed out that I do not have the power to intervene.

The Hon. MARK BUTTIGIEG: If I get this right, as the current legislative framework is structured, a Minister can use that as an obfuscation to avoid these sorts of things being brought to a head, against the public interest?

Mr HURST: The legislation appropriately separates the power so that an elected official cannot be responsible for the administration of misconduct and pecuniary interest matters against another elected official in a different level of government. That is the structure of the Local Government Act.

The Hon. MARK BUTTIGIEG: What you are saying is the Minister has no power to intervene on a perceived conflict of interest or a corruption issue?

The ACTING CHAIR: That will be the last time we will hear that question.

Mr HURST: Corruption is a matter for the Independent Commission Against Corruption [ICAC]. If you have allegations of corruption, I encourage you to raise them with ICAC.

The Hon. MARK BUTTIGIEG: Are you satisfied that all the decisions made on that council have been aboveboard and would stand up to probity?

Mr HURST: Anyone who is concerned about matters that have been dealt with at the council can raise those as a complaint to the general manager in the first instance or to the Office of Local Government.

The Hon. MARK BUTTIGIEG: But Minister, you are the local government Minister and you have an issue here where a person who has interest in 11 companies, a significant property developer, has not declared his interest. You are saying that it is okay because the investigation will take as long as it takes and you do not have any power to intervene and you do not have an interest in it?

Mrs SHELLEY HANCOCK: Correct.

The Hon. MARK BUTTIGIEG: You accept that?

Mrs SHELLEY HANCOCK: That is the reality. It is not about accepting it; it is the Act.

The Hon. BEN FRANKLIN: It is how the Act works.

Mrs SHELLEY HANCOCK: Do you want me to say something else or something different? I am not going to say anything different to the answers that I have given you.

The Hon. MARK BUTTIGIEG: Presumably one of the things you could do to allay the public's perception of an issue here is to introduce a bill that bans property developers, but you do not even seem to want

to do that. If I could take you to some of the quotes from this fellow. In February Mr Doueihi said moves from the Liberal Party State Executive and Special Minister of State Don Harwin to ban property developers from councils did not make sense. "According to this idea, it doesn't matter if he is a brothel owner, I don't think this idea will survive in the High Court. You can't live without property developers, they build everyone's home." In other words, he is saying because we build people's homes and flats and we are part of the property development industry, we should have an input to council. Do you agree with that position?

The Hon. BEN FRANKLIN: Point of order—

Mrs SHELLEY HANCOCK: I am not going to answer that question again.

The Hon. BEN FRANKLIN: I have two points to make. First, that if the honourable member has an issue to raise about comments that another Minister has made, he should raise them directly with him. Second, he is asking the Minister for an opinion rather than in fact for a statement of fact, which is exactly what these budget estimates are about. It is outside the standing orders for that reason.

The Hon. PETER PRIMROSE: To the point of order: Where there is conflict in government, we need to confirm whether there is a conflict. We are now talking to the Minister for Local Government about a matter involving local government and we are seeking the Minister's view on policy relating to local government. To date, the Minister has washed her hands and said, "I don't know" or, more worrying, "I don't care".

The Hon. BEN FRANKLIN: That is just an absolute misrepresentation of what the Minister has said, with respect, Mr Primrose. What the Minister has actually said is that the Government would be considering its response to exactly this issue and will provide it in due course.

The ACTING CHAIR: I will allow the questions to continue but we probably need to wind up this particular issue. I think it has been almost done to death.

The Hon. MARK BUTTIGIEG: With all due respect, I am trying to scrutinise the Government on its ability to intervene on a matter of public interest and it seems to be able to wash its hands based on an investigation of the never-never. I wanted to ask then, and perhaps Mr Hurst can answer, does the Minister have any powers at all to conduct a review into decisions that might have been made in that council in the intervening period while the public are wondering if there is any conflict or issue?

The Hon. CATHERINE CUSACK: Have you got a complaint?

The Hon. MARK BUTTIGIEG: Is that a point of order, Chair, or are we just having commentary from the sidelines?

The ACTING CHAIR: Order, please. Could you please answer the question?

Mrs SHELLEY HANCOCK: If there are any allegations within the community, they can make those complaints to the general manager of the council.

The Hon. MARK BUTTIGIEG: I am sorry, Minister, but there is an investigation underfoot as a result of allegations. I think that is clear. What I asked is will you conduct a review into the decisions that were made in the intervening period?

Mrs SHELLEY HANCOCK: It would be up to the general manager of the council to undertake reviews.

The Hon. MARK BUTTIGIEG: You do not have the power? The Office of Local Government [OLG] and the Minister responsible do not have the ability to conduct that review?

Mr HURST: The Local Government Act does provide broad investigative powers to the Office of Local Government—

The Hon. MARK BUTTIGIEG: Right, so my question is will you use those broad investigative powers to conduct a review?

Mr HURST: If you would let me continue, the investigative powers do not rest with the Minister. The Minister has no investigative powers under the Local Government Act. The investigative powers rest with the Office of Local Government, that is correct.

The Hon. MARK BUTTIGIEG: This is bizarre.

The Hon. CATHERINE CUSACK: He has just answered your question.

The Hon. MARK BUTTIGIEG: The Minister is in charge of the Office of Local Government. Correct?

Mr HURST: The Minister is the Minister for Local Government.

The Hon. MARK BUTTIGIEG: But has no power over the Office of Local Government, is what you are saying.

Mr HURST: The Local Government Act provides that the investigative power rests with the Office of Local Government, not with the Minister personally.

The Hon. MARK BUTTIGIEG: Can you direct the OLG to conduct an investigation? Does the Minister have that ability?

Mr HURST: No. The Office of Local Government cannot be directed by the Minister under the legislation—it is quite specific in this regard—to undertake an investigation into any particular matter.

The Hon. MARK BUTTIGIEG: Can I ask you, Mr Hurst, will the department conduct an investigation based on the concerns that have been raised and the delay in the investigation of this conflict at Strathfield Council?

Mr HURST: I give you this undertaking that if you would like to provide information about any decisions of council that you are concerned about we will assess them and, if necessary, activate the powers under the Local Government Act to review those decisions.

The Hon. MARK BUTTIGIEG: With all respect, Mr Hurst, there is an investigation underway into conflict of interest—

Mr HURST: I have not spoken of this.

The Hon. MARK BUTTIGIEG: By an elected mayor. We are pretending it is not happening, okay, and clearly there is a problem in the public's eye with this fellow being on the council and being directly involved in development companies, and the public has no answer and apparently no recourse. The investigation could well go beyond the next government elections and people want to know who they are electing before those government elections occur. So I think it is entirely appropriate for the department to conduct a review into all of the decisions that were made in the intervening period. Will you undertake to do that?

Mr HURST: I gave you my undertaking that if you provide specific allegations to me we will assess them and decide in accordance with our intervention framework whether to commence any investigation into any aspect of the council's operations.

The Hon. MARK BUTTIGIEG: Minister, do you have a view on that?

Mrs SHELLEY HANCOCK: My view is the view that I have expressed to you repeatedly throughout the last two hours.

The Hon. MARK BUTTIGIEG: Which is that you have no power?

Mrs SHELLEY HANCOCK: Correct.

The Hon. PETER PRIMROSE: And no concern.

The Hon. MARK BUTTIGIEG: Thank you.

The Hon. PETER PRIMROSE: We might move on to something you may have a view on, Minister.

Mrs SHELLEY HANCOCK: I have a view on many things, Mr Primrose.

The Hon. PETER PRIMROSE: Yes, I am aware.

The ACTING CHAIR: Order! Let us continue. We have another seven minutes.

The Hon. PETER PRIMROSE: Minister, in February the Government bowed to Labor's calls for rates in bushfire-affected communities to be subsidised for two quarters, and that is welcomed. Will you consider extending that period of subsidies into the next financial year for those residents and small businesses in bushfire-affected communities?

Mrs SHELLEY HANCOCK: It is a very good question, Mr Primrose, and I would of course advocate the extension of that but that is up to, I guess, the Treasurer to determine, not me. I would certainly advocate that.

The Hon. PETER PRIMROSE: Have you written to the Treasurer or will you write to the Treasurer advocating that?

Mrs SHELLEY HANCOCK: Certainly. Those discussions have been held with the Treasurer and with the Deputy Premier as part of the budget process.

The Hon. PETER PRIMROSE: To date, what is the total figure subsidised for rates or rate subsidies for those residents and small businesses in fire-affected communities?

Mrs SHELLEY HANCOCK: I would have to take that on notice.

The Hon. PETER PRIMROSE: I would ask you specifically not only for the figure but if every small business and resident accepted the offer of rates subsidies what would the total cost to Government be? Please take that on notice.

Mrs SHELLEY HANCOCK: Yes, thank you, I will take that on notice.

The Hon. PETER PRIMROSE: What was the criteria used that residents in bushfire-affected communities had to meet to be eligible for the rate subsidy?

Mrs SHELLEY HANCOCK: For their homes to be destroyed or so seriously impacted that they were unlivable and similarly with businesses, if the business itself was destroyed or so seriously affected that they were unusable.

The Hon. PETER PRIMROSE: That would include apartment buildings?

Mrs SHELLEY HANCOCK: If a resident's home was destroyed they should be receiving rates relief.

The Hon. PETER PRIMROSE: Regardless of the type of building?

Mrs SHELLEY HANCOCK: That is my understanding, yes. In my community that issue did not arise. The homes that were lost in the South Coast fires were homes, not units or apartments, to my knowledge.

The Hon. PETER PRIMROSE: Who would have made those decisions, Minister?

Mrs SHELLEY HANCOCK: Which decisions, sorry?

The Hon. PETER PRIMROSE: Decisions, if there were decisions, about the type of property, the criteria. Would it have been you or another agency?

Mrs SHELLEY HANCOCK: It was not me that decided the criteria but I welcomed it, certainly, in consideration of the number of homes lost in my electorate.

The Hon. PETER PRIMROSE: What subsidies or compensation was offered to renters in those bushfire-affected communities?

Mrs SHELLEY HANCOCK: Emergency accommodation.

Mr HURST: And encourage the landlord to pass on the savings.

The Hon. MARK BUTTIGIEG: Encourage the landlords to pass on the savings? Can you elaborate on that?

Mr HURST: I do not think there is any specific assistance directed towards renters because renters do not pay rates.

The Hon. MARK BUTTIGIEG: So if you happen to live in a bushfire-affected local government area [LGA] and you happen to be unfortunate enough to pay rent you do not get any assistance?

Mrs SHELLEY HANCOCK: We are talking about rate subsidies and renters do not pay rates. I think that was the point Mr Hurst was making.

The Hon. MARK BUTTIGIEG: Yes, Minister, but surely the concern is that if you are a resident in a local government area that has been affected by bushfires, the fact that you pay rent should not prevent you from getting assistance, surely?

Mrs SHELLEY HANCOCK: No, but the questions coming from Mr Primrose were around rate subsidies and I was answering questions around rate subsidies specifically. There are a number of other measures whereby renters can be assisted and were assisted and are still being assisted throughout the bushfire crisis. That is in terms of emergency accommodation, food, assistance.

The Hon. PETER PRIMROSE: I have one minute, so I will put the remainder on notice. On 4 February you, the Deputy Premier and the Minister for Finance and Small Business issued a media release. In that release you said that up to a quarter of a million dollars was available for eligible local government areas impacted by

fires under the Bushfire Community Resilience and Economic Recovery Fund. Can I ask what local government areas have taken up that offer from the Government so far?

Mrs SHELLEY HANCOCK: I certainly know the Shoalhaven council has taken up that issue. I am not aware of the other councils at this stage. I imagine they would have taken up that offer. It was for small-scale events, community events, events that brought the community together. In fact, Shoalhaven council decided to direct some of that money towards the Milton show, Nowra show, Kangaroo Valley show, Milton Storyfest—

The Hon. PETER PRIMROSE: Minister, given that I have about 10 seconds, can you please take on notice what LGAs have taken that up and how much has actually been issued to councils as part of that funding?

Mrs SHELLEY HANCOCK: I will take that on notice, thank you, Mr Primrose.

Mr JUSTIN FIELD: One last question from me, Minister, and thank you for your time this morning. I hope you will indulge this question; it is not core to your portfolio. Your Liberal Party colleague Taylor Martin, who heads the regional development committee of the Legislative Council, handed down a report this morning calling on the New South Wales Government to lift the prohibition on uranium mining and nuclear facilities and to lobby the Commonwealth to lift its prohibitions. For clarity, Minister—and possibly in an area where we agree—would you support uranium mining in the Shoalhaven or any nuclear facilities in the Shoalhaven?

The Hon. CATHERINE CUSACK: Point of order—

Mr JUSTIN FIELD: I suspect the Minister might like to answer.

The Hon. CATHERINE CUSACK: This has got nothing to do with the Minister's portfolio. It has nothing to do with her portfolio.

Mrs SHELLEY HANCOCK: I do not think we would see any uranium mining on the South Coast, Mr Field.

The Hon. CATHERINE CUSACK: It has got nothing to do with the Minister's portfolio.

Mr JUSTIN FIELD: I understand that but we understand the history of nuclear facilities—

The Hon. CATHERINE CUSACK: There is not one word in that question that is relevant to this meeting.

Mr JUSTIN FIELD: The Minister may like to answer though.

The ACTING CHAIR: I will rule on that.

The Hon. CATHERINE CUSACK: She might like to answer.

Mrs SHELLEY HANCOCK: I have answered the question.

The ACTING CHAIR: I think the question is going to the Minister because she represents that electorate and therefore—

The Hon. CATHERINE CUSACK: It is not part of her portfolio.

The ACTING CHAIR: —I rule that the question is in order for that reason.

The Hon. CATHERINE CUSACK: Oh my goodness, it is not part of her portfolio responsibility.

Mrs SHELLEY HANCOCK: There will never be any uranium mines in the South Coast, Mr Field, as you would well know, and I oppose any nuclear facilities in the South Coast electorate.

The ACTING CHAIR: That was the answer we wanted.

Mrs SHELLEY HANCOCK: What a dumb question.

The Hon. CATHERINE CUSACK: Hear, hear!

The ACTING CHAIR: Thank you for attending the hearing. There are many questions taken on notice. Let me remind you that we need an answer to those.

Mrs SHELLEY HANCOCK: I understand that, thank you, Mr Chair.

(The Minister withdrew.)

(Short adjournment)

The ACTING CHAIR: I declare the hearing reopened.

The Hon. PETER PRIMROSE: Natural disaster areas, as I understand it, have been declared due to bushfires in 40 local government areas. Can you explain what support and resources the Office of Local Government has provided in general to those local council areas?

Mr HURST: Yes, of course. The declaration of a local government area as a natural disaster area triggers certain outcomes in terms of the State emergency management but also recovery processes. The Office of Local Government is represented on both the State Emergency Management Committee and the State Recovery Committee. Part of our role is to provide a local government view in both the emergency response and also the recovery arrangements that are coordinated across the State. How do we do that? We are very active with, particularly, our council engagement team. They spend a lot of time in the areas that are natural disaster declared. They make contact with the people who they deal with on the affected councils. We work with them to understand what their needs are as an organisation and how the particular natural disaster is affecting them. We are able to use that information often quite early in the State's response and recovery process to assist with how the State Government's support is managed.

We have also had some particular initiatives that we have put in place in partnership with other organisations this time around. The bushfires were quite unprecedented. As you say, 40 local government areas having that declaration at the same time is a very significant event. We partnered with the City of Sydney, the Sydney resilience office and also Local Government NSW to establish a bushfire recovery support group. Essentially, what it is is a process for councils assisting councils. Other councils were very generous in their offers of support to those councils that were affected by bushfires. We worked together as a team, each bringing our own knowledge and expertise into that forum to develop the systems necessary to support both the collection and maintaining those offers to councils but also the councils who were after the assistance so they knew what sort of things were available from other councils.

The benefit to councils working with councils is that these are people who are already skilled in the work that is needed in the area. They are used to working within a council structure and so they can slot in reasonably seamlessly, often with equipment, heavy equipment, and the materials that they might bring with them. Those staff are able to slot straight into the organisation and work as if they were additional staff. This is particularly important in councils where their own staff were affected. I am going to take the bushfires as an example. In one council, most of their planning staff were personally affected by the bushfires. So they needed assistance from planners from other councils, whether they turned up in person or were able to do stuff from Sydney to assist those planners. That is the kind of support that was able to be facilitated.

The Hon. MARK BUTTIGIEG: That process has been going on for quite a few months now. What are the key themes emerging in terms of issues identified by that process?

Mr HURST: When we say "issues", we know the types of support either that councils are offering or that councils are seeking assistance from other councils for. They are around a range of issues, from tree management and removal, particularly alongside roadsides, reconstruction of damaged infrastructure on road reservations, right through to planning assistance. So we would have a council where they want to provide a planner at their front counter who is a local to provide advice to the local community but the applications that they were dealing with still need to be progressed through the system. So they might get support from another planner. We had one council arrangement that we facilitated where records officers were moved between two councils. Their job, even though it is not front line and not something you would immediately associate with bushfire recovery, was to go in and help the bushfire-affected council to retrieve records to assist people who had had their homes damaged or destroyed in bushfires and did not have access to the records.

The Hon. MARK BUTTIGIEG: These are logistical, information dissemination and kind of procedural support. What about specific financial support from the Office of Local Government to the councils? When we get down to the pointy end of financial resources, what is happening in that space?

Mr HURST: There is a lot of different financial assistance being provided to councils. We have already spoken briefly about the \$33 million provided by the Commonwealth, which one day after it was received we were able to pass on directly to the bushfire-affected councils. I am very proud of the team in Nowra; some of the people in our office were bushfire affected or knew people who lost their homes and property as well. The staff in Nowra were able to get that money out quite quickly. Those are the biggest single amount that we transferred to councils. There have also been other payments and programs that have happened across government. For councils who assist other councils, generally the expectation is that the council providing the offer of support meets the costs of the staff's salaries and provides the equipment necessary for them to do their job.

The Hon. MARK BUTTIGIEG: Aside from passing on the Federal funding and the rate deferral, what other assistance has there been provided by the State Government in terms of direct financial assistance?

Mr HURST: I can look up some of the programs. Just while I am getting the list of measures, there is also waste management. You would be aware of the Government's announcement about managing the clean-up of properties for individuals who lost a home or a business to the bushfires. This is another area where councils have worked collaboratively with the State Government in that State Government contract to go in and manage the clean-up and in many cases using council's waste facilities to accept the waste being generated as part of that clean-up effort.

The Hon. MARK BUTTIGIEG: It looks like you have got the list ready now.

Mr HURST: The number continues to change but we have got information that there has been \$166 million that was spent directly in fighting fires. There is \$25 million to facilitate the clean-up of insured and uninsured homes. That is the beginning of a process that will cost many hundreds of millions of dollars to complete. There have been grants of up to \$15,000 for primary producers and small businesses to assist with the clean-up and the replacement of infrastructure. There has been \$6 million for additional mental health services for individuals, community groups and emergency services personnel and \$11 million to fund the economic recovery and community resilience grants program.

The Hon. MARK BUTTIGIEG: Have you had any feedback from constituent councils that there are issues with regards to approval and the money actually flowing with these sorts of grants—delays and things like that? This is often the problem in the aftermath of these things, so I am just trying to get a feel for the speed of the injection of funds.

Mr HURST: I think that there are always issues in dealing with a natural disaster of this scale. The important thing is that we have been part of the process of coordinating some of those comments and advice back from councils into the State's own processes. I know that the Minister has spoken with her colleagues, including the Deputy Premier with his responsibility for bushfire recovery, particularly about the small business components. I am also aware that the Deputy Premier has advocated to the Commonwealth about some of the conditions surrounding some of the grants to improve people's success when they apply for those grants in being able to be granted the funding.

The Hon. MARK BUTTIGIEG: Do we have a feel for the proportion of financial resource that has been taken up? You just outlined a whole suite of measures there and you put dollar figures on them. Do we have a sense of the proportion of that that has been used?

Mr HURST: You asked me broadly about the assistance available and I was drawing on some of the whole-of-government material there. The Office of Local Government does not administer those programs.

The Hon. MARK BUTTIGIEG: Okay, so you are not really coordinating that function.

Mr HURST: No. The part that we administer is passing on the Commonwealth funding to councils. The Commonwealth cannot make direct grants to councils; they are facilitated through existing arrangements. So when the Commonwealth advises us that they want to make payments to individual councils, the job that we do—and I believe it is important for us to do it as quickly as possible—is to pass that money on to the affected councils.

The Hon. MARK BUTTIGIEG: So those other programs you outlined, they occur in a direct one-on-one relationship between the constituent council and State Government?

Mr HURST: Those are not council-based programs. I was talking more generally about disaster assistance. The assistance to councils that we provide is passing on the Commonwealth money. Those other programs could be delivered directly to individuals. Service NSW—

The Hon. MARK BUTTIGIEG: This is an important nuance. Those other programs, in terms of the State Government's financial contribution to the relief, it is directed to the affected person or families as opposed to via council. The only council administration of monies is the Federal government funding, correct?

Mr HURST: That the Office of Local Government provides.

The Hon. MARK BUTTIGIEG: Right.

Mr HURST: The Minister talked about the community resilience grant funding. This is provided through the Department of Planning, Industry and Environment within the same cluster but not the Office of Local Government [OLG]. That money does go to councils. That is the money for community resilience, events and activities that might have been cancelled or otherwise badly affected by the bushfires during that period. That money goes from the cluster so it is still paid by the Government out to councils but not administered by OLG, no.

The Hon. MARK BUTTIGIEG: Have any OLG staff been directly deployed to areas damaged by the bushfires?

Mr HURST: I am very proud of the efforts the Office of Local Government staff made in the response to bushfires. The office is based in Nowra on the South Coast. It was a feature of the fires that there were a lot of road closures, there was a lot of uncertainty whilst those fires were burning and moving around. When they crossed the Shoalhaven River, even though none of our staff directly lost their home they knew people who did. They had friends and family who did, who are otherwise affected. It was very important for our own staff to look after their friends and family during that emergency. Some of them also volunteered in various ways, including through the BlazeAid camps assisting to rebuild fences for farmers. There has been fundraising that people have undertaken individually or as a group.

The Hon. MARK BUTTIGIEG: They are all very laudable and admirable things but you are referring to the voluntary nature and goodwill of your staff. I am referring to specific deployment of OLG staff into affected LGA areas to help. Has that happened?

Mr HURST: I am not aware of any staff who were deployed even though some of our staff are certainly trained. I think the issue for us is a business continuity risk because people could not attend work while the bushfires were still burning. We had to find different ways of operating as an organisation because we had a lot of people who were still at home protecting their property or assisting others. It is great that the public service is flexible and open to accommodate people doing that while we can still carry on the business of OLG without—

The Hon. MARK BUTTIGIEG: Without digging too deep into the detail, there would be a demand for that sort of human resource to be deployed even now after the fires have stopped. There is no presence on the ground from the OLG to assist with the recovery?

Mr HURST: We are out at councils. Our council engagement team is out working with all councils, not just bushfire-affected councils, every day. They are out there providing the practical assistance. We have staff who are seconded to the—

The Hon. MARK BUTTIGIEG: That is a business-as-usual function, isn't it? I am talking about an over-and-above commitment based on the aftermath of the fires.

Mr HURST: Sure. We have staff who are seconded to the bushfire recovery coordination groups, that group I was mentioning where we work with the City of Sydney. Blacktown Council also has staff that they have provided into that process, Local Government NSW; it is a joint effort. We also have staff seconded to the Office of Emergency Management. So they are assisting the Office of Emergency Management with their recovery structures, particularly the council-facing component, drawing on the skills that they have in dealing with councils in their routine work.

The Hon. MARK BUTTIGIEG: Has the OLG made an estimate of the total damage that the bushfires have caused in terms of the dollar amount? Do we have a feel for the economic impact on each of those LGAs in terms of dollars? Has any assessment been made on that?

Mr HURST: The State, through the emergency management and recovery processes, does have information on bushfire impact and also flooding and other disasters. In terms of economic impact by local government area, the Office of Local Government has not commissioned that work, no. I am not sure if it would exist elsewhere within Government.

The Hon. MARK BUTTIGIEG: Is there any intention to do that?

Mr HURST: We do not presently have the intention to go out there and commission work to look at the economic impact by LGA. It is not to say that that work is not going on elsewhere within government.

The Hon. MARK BUTTIGIEG: How would you make an objective assessment on the level of assistance required to local councils without knowing what the dollar impact has been at least in broad terms in each LGA?

Mr HURST: We speak to the councils a lot. We have a good understanding of what they are telling us their needs and concerns are. That is the information that we provide into the whole-of-government recovery processes that are underway.

The Hon. MARK BUTTIGIEG: There is no formalised schematic analysis of that, is what you are telling me, and there is no intention to do that?

Mr HURST: Not done by the Office of Local Government, no.

The Hon. MARK BUTTIGIEG: You would accept that unless the OLG stepped in and provided that umbrella framework it is difficult for each council to do it off their own back, correct?

Mr HURST: No, not necessarily. There are State recovery arrangements. I am sure that the Office of Emergency Management—the recovery arrangements are led by the State recovery coordinator Assistant Commissioner Willing. He is busily moving to the next phase in recovery now where it is about aspects of the economic recovery of communities. I can see that this is the sort of data that that team is probably going to be collecting to inform the whole-of-government response. Once again, it is not the OLG that is seeking or providing the data.

The Hon. MARK BUTTIGIEG: In terms of each local government area that was identified by my colleague Mr Primrose before, those rate subsidies that we touched on in the previous line of questioning, how much has been claimed in rate relief subsidies? Do we have an idea from each of the affected LGAs?

Mr HURST: The structure of it is that the State has established Service NSW as a single point of contact for the people affected by bushfires. It is great customer service. People can go into Service NSW fixed or mobile centres and talk to staff there about bushfire assistance that they are eligible for and be guided in the different types of assistance at the State office. There is the online Disaster Assistance Finder tool so that people can find what it is that they are eligible for. What it means is that I do not have numbers about what level of rate relief take-up there has been. It is administered—

The Hon. MARK BUTTIGIEG: Is that a concern given that the damage caused by the fires—economic, material, emotional—we have this assistance from Government in the form of rate relief subsidies and presumably the time that that gets to the front line is critical in ameliorating the effect of the bushfires, yet the OLG does not have an idea of how much has actually gone out?

Mr HURST: It is a new program. The announcement was only made relatively recently.

The Hon. MARK BUTTIGIEG: When was that, by the way?

Mr HURST: About two weeks ago is my recollection. People have been turning up to a Service NSW centre—

The Hon. MARK BUTTIGIEG: Sorry to interrupt, it just occurs to me as I am asking, from what you are telling me, if Service NSW is facilitating that in an administrative sense, there is no overarching measure to calibrate how much is going out and how quickly.

Mr HURST: There is very good bushfire damage assessment that has been undertaken. It has all been mapped spatially and this is the data that Service NSW uses to determine eligibility. We do know by matching that against council rating numbers what the cost of the program is likely to be if it is fully taken up. Your question is about the rate of take-up. The rate of take-up is based on a lot of different factors but I am sure that Service NSW, once they get over the initial flurry of people who are seeking to make sure that their rates notices are in the system to be paid, are going to be reporting on the level of take-up. We definitely know the overall size of the program, if it was taken up to its full extent.

The Hon. MARK BUTTIGIEG: I fully appreciate you would be aware of that. My question is more about what the Government is doing to facilitate the speed of injection of those funds to the people that need them? There would be a lot of people out there who may not even know they are entitled to the rates subsidy, so what is the educative process around that?

Mr HURST: Right. There has been really good communication at a local level about the rates assistance. I know that our own staff are saying it is one of the most popular programs that people talk about. The good news is that the Service NSW concierge facility means that anyone who walks in seeking access to any particular type of assistance is then presented with all of the different programs and activities that they are also going to be eligible for, including the rate assistance which we have provided. The other thing is that the rate assistance is actually making sure that people do not pay their rates notice. So the money goes to the council, not to the individual, unless they had already paid that rates notice—which we understand is not the case in most cases—in which case it is refunded to them. For most people it is not about them actually getting the money for the rates. It is about relieving them of the burden of having to pay that land rates component of the rates bill.

The Hon. MARK BUTTIGIEG: So this is an automatic process where the money goes to the council and then if the ratepayer pays the rates in error, they get refunded? In other words, in theory, it should be fully subscribed after a period of time?

Mr HURST: The process is that people go into the Service NSW centre or engage through their online features or phone them up. That is the way that, in each case, people trigger the beginning of the process.

The Hon. MARK BUTTIGIEG: And that trigger, what are the parameters around that? You just have to be in a bushfire-affected LGA?

Mr HURST: There is mapping that has been done and that mapping is used to determine eligibility for a range of government programs.

The Hon. MARK BUTTIGIEG: But why would you not have that process automated so that if you are in a particular area, you automatically qualify?

Mr HURST: Service NSW, for ease of administration, is looking at working with councils about doing that automatically. The complication is for the third-quarter rates notice where the rates notices have been issued. People in many cases do have a notice. They may have in fact already paid the notice. These are the things that we need to deal with progressively. In time it would be great if we could just go to the councils and give them the money, but that is something, I think, for the next stages. It is a new program.

The Hon. MARK BUTTIGIEG: I appreciate that there is a level of probity required with these things when State Government is handing out taxpayers' money. But the reality is that this is a significant catastrophe that has occurred, there is community suffering, and we have an OLG that has the ability to coordinate these sorts of things. I would have thought that that sort of stuff would be in place by now.

Mr HURST: Councils are dealing with a lot of issues in the recovery phase. Different councils are at different stages of that recovery and we need to be alive to the fact that some are more progressed, some are keen to work with Service NSW over a streamlined process and others are dealing with other issues. I think what is important here is to be responsive to the individual council concerns and to tailor the way that we run the program in a way that each individual council is happy with, on behalf of their community.

The Hon. MARK BUTTIGIEG: I think what is important, Mr Hurst, if I could put it to you, is that the bureaucracy and machinery of government needs to get out of the way of people getting access to funds as quickly as possible. An overarching coordinating body like the OLG would play a crucial role in facilitating that. Would you not agree?

Mr HURST: That is the role of the Office of Emergency Management. They are that coordinating, overarching body. We do assist them. Service NSW is the customer-facing component. They deal with members of the public who are affected by bushfires. I am seeing something that is really quite well joined up here and that is focused on getting that money out to people as quickly as possible.

The Hon. MARK BUTTIGIEG: Can you tell me if there have been any discussions in terms of extending that relief beyond two quarters of rate relief?

Mr HURST: I think the Minister has already answered that question.

The Hon. MARK BUTTIGIEG: Right. And what was it?

Mr HURST: The Minister gave her view in the session this morning.

The Hon. MARK BUTTIGIEG: Okay. Can I ask you, in terms of mitigation of potential bushfire threats going forward, have you had any consultation with local councils on that?

Mr HURST: You would probably be aware that there is an inquiry into the bushfires that has commenced in New South Wales. The bushfire inquiry, through its terms of reference, is going to look at a number of factors and I am aware from the terms of reference that that includes mitigation. I would expect that the independent inquiry will be talking to councils about their views about mitigation in their own area.

The Hon. MARK BUTTIGIEG: Do we know that that consultation with local government is going to occur for sure?

Mr HURST: I think that is something that it would be appropriate to take up with the bushfire inquiry themselves.

The Hon. MARK BUTTIGIEG: So in terms of any grants or resources that have currently been offered to council for that, that is in abeyance until the inquiry comes down with its findings, is it?

Mr HURST: I do not understand the question. You are saying, have we stopped paying—

The Hon. MARK BUTTIGIEG: I asked you whether or not there had been discussions and consultation about mitigation initiatives and you told me that there was an inquiry afoot which will do that. But in terms of resource right here and now, has anything been—

Mr HURST: Right. The Office of Local Government does not provide money to council for mitigation, so there is nothing that is on hold, no.

The Hon. MARK BUTTIGIEG: I realise the office does not but the Government may do. You would presumably know that, being the Office of Local Government, as to whether or not mitigation funds have been provided for local councils. The answer is none to date.

Mr HURST: I am not aware that any mitigation programs have been put on hold pending the outcome of the bushfire inquiry, no.

The Hon. MARK BUTTIGIEG: We have had a once-in-a-lifetime catastrophic event which presumably heightens the need for future mitigation given the debate we have had in the public arena. My question is to whether or not there have been discussions to compensate for that one-off event. In the future presumably there may be more of these catastrophic events given climate change and all the rest.

Mr HURST: That is squarely an issue that has been asked in the terms of reference of the bushfire inquiry. I think it would be appropriate to defer to the inquiry to have that debate about mitigation.

The Hon. MARK BUTTIGIEG: So to close the circle on it, nothing has happened yet? It is pending the inquiry?

Mr HURST: To close the circle, nothing is on hold, pending the inquiry. But I think the future direction of some of those policies—

The Hon. MARK BUTTIGIEG: Well, it is on hold by definition if no extra funds have been provided for mitigation. Do you see why I am referring to the circular nature of the argument? Anyway, let us move on.

The ACTING CHAIR: Yes. I think you closed the circle.

The Hon. MARK BUTTIGIEG: Yes, I think so. In terms of assistance that the OLG provides LGAs while their communities have been engulfed by fire, was there any assistance at the time that the fires were occurring?

Mr HURST: No. The Office of Local Government is not a bushfire response agency.

The Hon. MARK BUTTIGIEG: So it is purely a coordination role?

Mr HURST: Not actually in the bushfire response. We are more heavily involved in bushfire recovery. The Office of Local Government has no appliances. We might have staff who are trained as volunteers but we are not part of the actual response to bushfires.

The Hon. PETER PRIMROSE: How long have we got?

The ACTING CHAIR: You have 30 minutes if a member of the crossbench does not come.

The Hon. PETER PRIMROSE: I am happy to use 30 minutes. I will not be tempted to ask for advice on each individual council. I will put those on notice. Local Government NSW [LGNSW], as you are aware, has listed 12 priorities that it is seeking to implement. This was over 2019-20. I am just going to ask your views on three, if I can, please. I am not seeking to involve you in any of the politics of this, but I am interested in the policy responses. Number five of their concerns was end-cost shifting. As you are aware, every two years LGNSW surveys all local councils and comes up with an estimate of cost shifting from the State—also including Federal, but mainly State Government—onto them. Two years ago it was \$680 million annually. I think the latest estimate was about \$860 million. Is there a policy response from the Office of Local Government about the issue of continuing cost shifting as identified by Local Government NSW and if you have any proposals to help reduce that level of cost shifting onto local councils from the State?

Mr HURST: The first part of your question was about the Government's policy. I am fortunate that the Premier did actually provide in March 2019 some advice to Local Government NSW about those priorities and the Government's response. If I may, the Premier's policy response to that was to reinforce the commitment to ongoing investment in local councils across New South Wales. The Premier highlighted \$8.4 billion had been provided to local councils since 2010-11 and that annual funding had been boosted by 40 per cent from \$800 million in 2010-11 to \$1.34 billion in 2017-18. The Premier was quite clear that there are substantial and

increasing amounts of money that are being directed towards local government for them to undertake their activities.

In terms of the future direction, the Premier was also part of a group of New South Wales Government Ministers, including the Minister for Local Government, who signed an intergovernmental agreement with Local Government NSW on behalf of all the New South Wales councils. That was out at Warwick Farm at the LGNSW conference last year. One of the elements of that agreement, which I am paraphrasing, was a process of understanding the impacts of State government policies and engagement. Would you like the specific detail of the agreement?

The Hon. PETER PRIMROSE: I would be interested in what that actually means, thank you.

The ACTING CHAIR: Have we got the time?

The Hon. PETER PRIMROSE: I am happy to explore it. It is a significant issue for local government, if not the most significant. I stress this for my colleagues opposite, this is one of the 12 issues identified as key priorities by Local Government NSW and I am trying to understand the Government's response.

Mr HURST: Paragraph 6.10 of the intergovernmental agreement—Chair, if you do not mind, I will just read from this?

The ACTING CHAIR: Sure.

Mr HURST: It says: "Where the NSW Government requires local government to provide a new or expanded functional service, the NSW Government will consider the budget cycles and financial capability of local government, and where possible alleviate budgetary impacts." That is the commitment that was jointly agreed between LGNSW on behalf of the sector and the New South Wales Government.

The ACTING CHAIR: Who exercises that discretion?

Mr HURST: It is a commitment made by both levels of government. The New South Wales Government commits to it and local government commits to the intergovernmental agreement through their peak body. Most councils are members of Local Government NSW.

The ACTING CHAIR: But it is a government decision as to whether a response to the local government occurs or not, if they are seeking assistance through this agreement or is it automatic?

Mr HURST: What it says is that the Government will consider the budget cycles on financial capability of local government when looking to expand the role of local government, so whether that be a new or expanded function or service and also, where possible, to alleviate the budgetary impact. So to provide a mechanism for local government to fund it.

The Hon. PETER PRIMROSE: How would that be monitored? For instance, as part of these estimates, if I ask you the question next year: How and in what circumstances has that been activated? You presumably would say, "That is not our responsibility, that's a responsibility for X"—Treasury, Finance or someone else. Who actually would be responsible for oversighting that?

Mr HURST: The intergovernmental agreement also includes protocols for engagement and as part of that there is a commitment to regular meetings, including the Premier herself committing to engaging with local councils. There are avenues, forums under the agreement where if either party is concerned about the way that it is being applied, they have the opportunity to raise that and to have it dealt with. The agreement provides for that level of cooperation through the meetings and other engagement that happens. I am not aware since this agreement has been entered into of LGNSW or a council approaching us about paragraph 6.10 not being honoured.

The Hon. PETER PRIMROSE: Item 6 of the 12 priorities is allow greater financial independence. It specifically says: "Allow councils to levy rates up to 2 per cent over the rate peg limit without having to seek special rate variation approval, so councils can meet community needs with less red tape." I ask your response on that.

Mr HURST: Once again, informed by the Premier's response to LGNSW, the Government's policy on this is that the New South Wales Government has reaffirmed its commitment rate pegging as protecting the rights of the community against excessive rate rises. That councils have the ability to apply for rate rises over the rate peg in consultation with their local community by applying to the IPART. That is the Government's policy on that question and that has been provided to LGNSW.

The Hon. PETER PRIMROSE: Has any consideration been given to the request in item 6 to allow councils to levy rates up to 2 per cent over the rate peg limit without going to IPART?

Mr HURST: That is the entirety of the Premier's response to LGNSW.

The Hon. PETER PRIMROSE: So the answer was no.

Mr HURST: I think it is a question for the Premier.

The Hon. PETER PRIMROSE: I am not asking you to comment.

Mr HURST: It is great to be guided by something so specific here.

The Hon. PETER PRIMROSE: I understand that.

Mr HURST: This is the Government's policy.

The Hon. PETER PRIMROSE: The last item I want to address is item 12, address skill shortages where the request is for a new annual \$10 million to increase the number of cadets, apprentices, trainees and university graduates employed by councils. What was the response from the Premier to that? Also, are there other programs or policies being pursued through OLG or the department more generally in relation to addressing skill shortages in local councils?

Mr HURST: The response is a little bit longer here. With the Chair's agreement, may I read from the document?

The ACTING CHAIR: Yes, I agree with that.

Mr HURST: The Premier's response is that:

Currently the Local Government Skills Strategy developed in consultation with the Office of Local Government consists of three strategies offering vocational training to:

1. Increase the employment of apprentices and trainees with New South Wales councils, including an increase in school-based apprenticeships and traineeships and including professional development for councils on how to manage apprentices and trainees in order to boost completion rates.
2. Upskilling of essential council employees through increased access to and participation in vocational education and training. Consisting of part and full qualifications under Smart and Skilled.
3. Pre-employment strategy provides employment and training opportunities for prospective council employees in regional New South Wales with a focus on young people aged 17 to 24, for unemployed older workers and others who are disadvantaged in the labour market, local government work experience is offered as part of the strategy.

The Hon. PETER PRIMROSE: How will that be rolled out?

Mr HURST: The Local Government Skills Strategy is a program that we delivered jointly with Training Services NSW. It concluded at the end of last year. The program had those three elements that targeted the different areas. It was designed in consultation with the local government stakeholders and by all accounts was very successful in increasing numbers of people getting access to those skills in each of those areas.

The Hon. PETER PRIMROSE: Now that we have discussed bushfires, I talk briefly about the ongoing problem of drought. I have got figures here from 25 February. Department of Primary Industries figures show 22.3 per cent of the State was in intense drought, 33.36 per cent was in drought and 42.9 per cent of the State was drought affected. Can you please just talk about what plans or policies the Office of Local Government [OLG] has formulated in consultation with the Department of Primary Industries [DPI] to help those councils stricken by drought?

Mr HURST: It has come up in another hearing about the Drought Interagency Working Group. The Office of Local Government is a part of the Drought Interagency Working Group that co-ordinates the efforts across government in terms of the drought response. Quite similar to the bushfire recovery, our role there is to ensure that the programs and activities meet the needs of local government to ensure that our knowledge of the way that the local government sector operates is incorporated in the design and delivery and also, where necessary, we use our communications channels to assist councils to understand particularly the measures that are targeted but also their communities in terms of the Government's drought response.

The Hon. PETER PRIMROSE: Can you talk about what particular issues for local councils you, through that working group, have identified?

Mr HURST: The working group meets regularly. There are a range of issues discussed. From my own knowledge, councils have raised issues with OLG about local businesses and the effects on local businesses from the contraction in economic activity, from individuals within their local government area—councils are concerned about them having access to secure and ongoing employment—and also about primary producers and some of the impacts on their business. I think another area that has been raised is tourism and perceptions that people have

about some of these places as a destination for tourism, but in many of these areas the councils are also part of the active efforts to mitigate the effect of the drought on their own local government area.

The Hon. PETER PRIMROSE: I imagine water and roads and other issues.

Mr HURST: Yes.

The Hon. PETER PRIMROSE: I am not going to ask you to be responsible for a whole-of-government response—

Mr HURST: There are drought transport subsidies; there have been waivers of local land service rates and waiving of fixed water charges in rural and regional areas; Farm Innovation Fund interest fees have been waived; emergency town water supply assistance, and particular fees for primary producers, including for apiarists, wild dog fence fees, stock welfare panels, distribution of donated fodder. The activities that are co-ordinated across government are really broad and they affect individuals, businesses and also councils. Those programs are not administered by OLG but we are part of the co-ordination process.

The Hon. PETER PRIMROSE: I will come back with some more specific questions this afternoon but I would like to deal with one, in the time we have, and that is regarding the Fire and Emergency Services Levy. What feedback did OLG receive from councils prior to the Government's announcement that it would cover the increase in cost for the emergency services levy in 2019-20?

Mr HURST: I think it is fair to say that the informal feedback that was provided to me from councils was that they were concerned about the amount of the increase, the timing of the increase, particularly with respect to their budgetary cycles, and there may well have been other written correspondence—in fact I am sure there was to both the Minister and OLG—about the issue, I just do not have it to hand.

The Hon. PETER PRIMROSE: My next question was actually going to be about correspondence. I presume there was a standard letter that OLG sent back to local councils?

Mr HURST: There were probably two versions, one before and one after the Government agreed to fund the increase attributable to the additional workers compensation costs for firefighters, which was the major component of the increase for the current financial year.

The Hon. PETER PRIMROSE: Can I ask that you take on notice and table both versions of those letters—not today, but would you take that on notice?

Mr HURST: Sure.

The Hon. PETER PRIMROSE: Did the Office of Local Government contact every council to inform them that they would have to pay the increase in the levy in 2019-20?

Mr HURST: The arrangements were detailed in a circular that was provided to councils, from memory. I do not have the timing, but I can report back to you on that. It is not actually Office of Local Government who collects or advises councils of the amounts; that is done by the Office of State Revenue, and it is because the levy is collected under legislation administered by the Minister for finance. But we certainly did provide communication to councils about the issue at the time, even though we are not responsible for notifying them of what their levy is or the quarterly payment arrangements.

The Hon. PETER PRIMROSE: Are you aware of when councils will receive their rebate in 2020-21?

Mr HURST: For the current financial year, councils have already received that rebate. If there is any council who believes they have not received that, they should contact me quickly and we will arrange for it to be provided. Certainly we think we have paid them all, so I would hope they have all gone out.

The Hon. MARK BUTTIGIEG: Mr Hurst, I just want to ask you if you could outline for the Committee the Polytrade Council and what that is all about and how that works. Are you aware of that body?

Mr HURST: The Poly—

The Hon. MARK BUTTIGIEG: I must admit I do not know the detail but apparently it was a body that was set up for local councils to facilitate recycling of waste products.

Mr HURST: I am not familiar with it, I am sorry.

The Hon. MARK BUTTIGIEG: Ms Gibbs, are you aware of the Polytrade Council?

Ms GIBBS: No.

The Hon. MARK BUTTIGIEG: Apparently it was designed as an amalgam of bodies to enable local councils to get access to more economic recycling but it is no longer in existence and as a result there are two companies, I understand—Suez and Visy—who have a monopoly over the market. Are you aware of that?

Mr HURST: No. I think these are probably more appropriately questions when officials supporting the Minister for the environment are here. The Office of Local Government does not have any responsibility for administering waste legislation.

The Hon. MARK BUTTIGIEG: No, but you have constituent local councils who are responsible for managing waste and presumably have agreements with these companies, and there have been issues raised regarding the ability for them to economically carry out that waste management. The OLG has no idea about any of this?

Mr HURST: We are not responsible for waste policy across the government.

The Hon. MARK BUTTIGIEG: I know but you are responsible for assisting your constituent councils to manage their day-to-day local government business, part of which is waste management. I guess it is a simple question. You are not aware of any of this?

Mr HURST: No, council has raised with me personally a concern about those two firms.

The Hon. MARK BUTTIGIEG: The Government does hold on to a vast majority of the funds raised by the environmental levy applied to general waste. Is there a forward plan for a New South Wales-based recycling processing industry to deal with it? Can I put that on notice for you?

Mr HURST: I am afraid it is a matter for the Minister for the environment. The waste levy is collected under legislation administered by the Minister for the environment and the Office of Local Government has no part—

The Hon. MARK BUTTIGIEG: There is no interface whatsoever in your co-ordination role or dialogue with councils?

Mr HURST: We are not part of the processes of setting the waste levy, collecting it, administering the proceeds, returning any of it to councils, no, the Office of Local Government has no role.

The Hon. MARK BUTTIGIEG: Can I ask you then about the donations management platform known as GIVIT. Are you aware of that?

Mr HURST: Yes, I am.

The Hon. MARK BUTTIGIEG: Can you inform the Committee as to how that works?

Mr HURST: What can I tell you about GIVIT? It is a charity with a very innovative approach to managing donated goods but also monetary donations that I think is going to significantly change the way that some of these issues are dealt with in the recovery from future natural disasters. What they do is provide an online platform and, through the online platform, people can list items that they are seeking to donate. They get matched up with local councils or local charities that have a need for the donated goods and then that order is matched, if you like, through the system and those parties go off and undertake negotiations about actually facilitating the donation. There is also the ability for councils or charities in local areas who need particular goods to put up, if you like, a wanted ad for those goods through the platform. People who are looking to make donations can browse items that people are after and potentially be matched up if they have those goods and they would like to donate them.

The Hon. MARK BUTTIGIEG: For councils to get access to this platform, what is the arrangement? Do they need to subscribe or how does that work?

Mr HURST: When we say they need to subscribe, they do need to register for the platform, but it is free. What the New South Wales Government did is engage GIVIT on a whole-of-State basis as part of the very early part of our response to the bushfires. What that facilitated was free access for councils and charities in New South Wales to the platform. GIVIT have expanded the platform to cover geographically New South Wales. We have worked very hard with them, with Local Government NSW and other bodies to assist councils to understand the opportunity, particularly in dealing with donated goods that they may not have been able to match up to an established need in a local area.

The Hon. MARK BUTTIGIEG: The State Government basically subscribed on behalf of constituent councils to that platform.

Mr HURST: Yes.

The Hon. MARK BUTTIGIEG: How long does that last for?

Mr HURST: I am not sure of the exact date but I think it is until the middle of the year. It was put in place—

The Hon. MARK BUTTIGIEG: Given the apparent satisfaction with the tool and given the drought and the bushfire crisis we have experienced, is there a view towards extending that beyond mid-year?

Mr HURST: I am sure that there will be an evaluation of the success of GIVIT managing those monetary and non-monetary donations in the current process. The procurement was put through very quickly as part of an initial response that needed to be made very fast to deal with the bushfires—particularly dealing with non-monetary donations that were piling up, often in local government areas that were hundreds of kilometres from where they were potentially needed. The process was done very quickly. It was not meant to be a long-term or ongoing contract. I am sure there will be an evaluation of that and a decision made about a long-term engagement or an engagement for future.

The Hon. MARK BUTTIGIEG: Is the Office of Local Government [OLG] aware of any constituent councils making representations about an extension of that?

Mr HURST: At least one council has spoken to me about it. As I say, it is not something that is going to happen immediately. At this stage the focus is on getting the information about GIVIT out to councils, encourage each council to make a resolution to participate in the service and then linking them and their local charities up with the goods, but also the money. GIVIT have a policy of spending cash donations at local businesses; getting each individual council to sign up their local government area and their local charities for free, because the Government has met the cost, so that they can benefit from it.

The Hon. MARK BUTTIGIEG: In respect of the Greening Sydney Plan, will you tell us where the cooling our suburbs initiative is up to?

Mr HURST: I think that program is administered by the Minister for Planning and Public Spaces.

The Hon. MARK BUTTIGIEG: The OLG has no oversight or knowledge of that?

Mr HURST: No, it is not an OLG program.

The Hon. MARK BUTTIGIEG: What about those residents who have been affected by floods and fire in terms of the gap in the insurance market? Is the OLG looking at doing anything in respect of interfacing with the insurance industry to see what can be done about filling that gap?

Mr HURST: Councils have their own insurance arrangements. It is not something that is administered by the State Government. The State Government, of course, is a self-insurer of its own—

The Hon. MARK BUTTIGIEG: What I am eluding to is the fact that there may be a problem in the coverage of the market due to what has happened, due to significant one-off events and whether or not the OLG or the State Government is interested in intervening in that process to ensure that gap is covered?

Mr HURST: That is not a council issue. I do not know if it is an issue for—

The Hon. MARK BUTTIGIEG: If you are a council that has residents who are struggling to get insurance, presumably it would have an interest in it.

Mr HURST: That is probably a question for the Deputy Premier in his role as Minister responsible for the bushfire recovery.

The Hon. MARK BUTTIGIEG: Given the recent spotlight that has been shone on the building industry—in particular the role that certifiers play in that industry—comparing it to the previous configuration whereby council employed certifiers in the building process which avoided a conflict, has the OLG had anything to do with coordinating discussions with local councils, which I understand by and large have a desire to go back towards that system? Has the OLG facilitated any of those sorts of discussions? Is there any response to what seems to be a mood emerging from the building inquiry?

Mr HURST: The OLG has not facilitated those discussions, no. But I am aware that they are going on. The responsibility for undertaking those discussions is with the Department of Customer Service. I believe in general these are matters that probably should be addressed to the Minister for fair trading or if it is about the Environmental Planning and Assessment [EP&A] Act to the Minister for Planning and Public Spaces. We are aware that the discussions are going on but the OLG has not convened or facilitated those discussions, no.

The Hon. MARK BUTTIGIEG: If we have a situation where there is a major calamity in the building industry, many, many councils—I would proffer almost all of them—would be concerned about it and there is a degree of unanimity over whether or not certification should be brought back into council. Doesn't the OLG have a coordination role to have those views put forward to the ministry?

Mr HURST: The OLG is the regulator of councils as independent agencies. We also have a role in dealing with the individual misconduct and pecuniary interest matters for councillors. We are not a catch-all for every issue that affects a council. Think of us more as a regulator.

The ACTING CHAIR: Thank you very much. We are now going to break for lunch. We will return for questioning at 13:40.

(Luncheon adjournment)

The ACTING CHAIR: It will only be Opposition questions, unless a crossbencher returns. I will ask the Opposition to commence.

Mr HURST: Chair, we endeavoured to come back with some material for previous questions. Would it be convenient if I ran through that material?

The ACTING CHAIR: Yes.

Mr HURST: Mr Pearson, you asked about Liverpool council. It was at the council meeting on 26 February 2020 that they made a resolution, the effect of which is to enter into negotiations with the people who bought the site of the Renbury Farm facility on the basis that they would seek to extend their use of that facility. That is my understanding of where that currently is. But as the Minister mentioned, there is nothing that we can see in the resolution that means that the council was not open to make this decision. It is a matter for council about how they want to contract for the provision of the pound services. So that was the council meeting on 26 February 2020.

The ACTING CHAIR: Thank you for that.

Mr HURST: Mr Primrose, you asked about the resilience funding and how much had been taken up. I am advised that as of midday today 12 councils have submitted applications and had their projects approved. Another nine council applications are underway and in the system. A total of \$1,941,515 has been approved for payment so far from that program.

The Hon. PETER PRIMROSE: That means about half the number of eligible councils. I have got about 40 on my list.

Mr HURST: That is how many as of midday today.

The Hon. PETER PRIMROSE: Thank you for that.

Mr HURST: You also asked about communication with councils about the Emergency Services Levy. I have a copy of the advice that the Office of Local Government provided to each council and the council circular that was issued, which I foreshadowed in the discussion.

The Hon. PETER PRIMROSE: Thank you. If you could table that, that would be great.

The Hon. PENNY SHARPE: I want to ask you a range of questions about disability inclusion and the role of your office across government in relation to this. I recently put some questions on notice to the Minister for Local Government regarding disability inclusion, and essentially there was no answer provided except that it said that it should be referred to the Minister for Families, Communities and Disability Services. What role does your office have in relation to disability inclusion?

Mr HURST: My memory of this is that a couple of years ago, when the requirement was introduced for councils to have Disability Inclusion Action Plans, we worked with other parts of government to ensure that they were aware of those requirements.

The Hon. PENNY SHARPE: "We" being the Office of Local Government?

Mr HURST: The Office of Local Government worked with other New South Wales government agencies.

The Hon. PENNY SHARPE: Such as?

Mr HURST: I am trying to remember. It was a couple of years ago.

The Hon. PENNY SHARPE: My specific interest is that councils are required to do disability inclusion plans and access plans.

Mr HURST: That is correct.

The Hon. PENNY SHARPE: I want to know what role your office plays in relation to the development of those, the monitoring of those, and the implementation and the delivery of those.

Mr HURST: My understanding is that we assisted in promulgating the requirement to councils.

The Hon. PENNY SHARPE: So you sent them an email saying, "You've got to do one"?

Mr HURST: I think it was much more involved than that. I think we assisted in running some workshops or sessions for councils.

The Hon. PENNY SHARPE: When was that? The Act came in in 2014.

Mr HURST: My memory is about 2016 or 2017. I am happy to come back with the timing of when we worked with councils to do that. Here we go; here is the circular. We provided a circular to councils on 23 January 2015, so it was actually quite soon after the legislation.

The Hon. PENNY SHARPE: A circular, just to be clear, is pretty much an email to councils. Is that right?

Mr HURST: It also was the beginning of a process that I understand led to having some sessions that we ran for councils to assist them to understand their obligations.

The Hon. PENNY SHARPE: Would you be able to provide us, on notice, with how many and where those were held and how much they cost?

Mr HURST: I do not recall the details. It was some time ago.

The Hon. PENNY SHARPE: That is fine; I am not expecting you to. If you could provide that on notice, that would be great. Since then, what have you done?

Mr HURST: I expect that councils will have Disability Inclusion Action Plans in place.

The Hon. PENNY SHARPE: When you say you expect them to do that, are you able to tell us whether every council has one?

Mr HURST: No, I cannot tell you that.

The Hon. PENNY SHARPE: Who would be able to tell me that?

Mr HURST: The Disability Inclusion Act would be administered by the Department of Communities and Justice.

The Hon. PENNY SHARPE: Yes, I understand that. You are saying to me that, other than the initial email and some sessions with councils, essentially the Office of Local Government does not have any role in the oversight or monitoring of what local councils are doing in relation to disability inclusion?

Mr HURST: We are the regulator for the local government sector. What that means is that if people are concerned that councils are not fulfilling their legislative obligations, they can write to us or a number of other agencies who also have specific responsibility. We would look at that to see if councils had a problem complying with the legislative requirements.

The Hon. PENNY SHARPE: Do councils provide you with a copy of their Disability Inclusion Action Plans?

Mr HURST: I am not aware that we have required them to provide them to us.

The Hon. PENNY SHARPE: If you do, could you confirm that on notice?

Mr HURST: Yes.

The Hon. PENNY SHARPE: You have just said that you are a regulator in relation to this.

Mr HURST: We regulate councils more broadly.

The Hon. PENNY SHARPE: Yes. It is a legislative requirement that councils provide this, but you are telling me that that is not you, that is the Department of Communities and Justice. Is that right?

Mr HURST: Councils have a lot of rights and powers that are conferred by legislation. The Independent Pricing and Regulatory Tribunal looked at this question a couple of years ago. A lot of individual pieces of legislation place, as in this case, an obligation on councils. We do not have a comprehensive process of monitoring every council's compliance with every legislative obligation that they have. What we do have is an overarching requirement to ensure that councils are complying with their obligations. We work with other agencies in that.

The Hon. PENNY SHARPE: So if I write to you as a citizen to say that I am concerned that local governments are not developing and/or finalising their Disability Inclusion Action Plans, only then would you take action?

Mr HURST: We would, in the first instance, talk to the Department of Communities and Justice and find out if they had information about councils' compliance with their obligations. Our role would come if any individual council was not complying with its obligation, whether that was raised with us by a member of the community—

The Hon. PENNY SHARPE: But how do you know that? How do you find that out? Are you relying on people with disability in the community to find out that their council is hopeless and then write to you before any action is taken?

Mr HURST: It is the Office of Local Government. Those powers are activated by a complaint being made.

The Hon. PENNY SHARPE: That is the only way that activates any action from your end?

Mr HURST: We cannot go out there and systematically work through every power or responsibility that a council has and satisfy—

The Hon. PENNY SHARPE: But you do some?

Mr HURST: We do not have a program where we go out there and pick obligations that councils have and say, "Have you complied with that obligation?" Other agencies, usually with responsibility for the legislation, would raise it with us if they were concerned that a council that was aware of its obligation had not complied with it.

The Hon. PENNY SHARPE: It is completely complaints driven?

Mr HURST: For us but not necessarily for other agencies and we work together across the government.

The Hon. PENNY SHARPE: I will get to that. Other than the initial amount of money, after the email and some sessions with councils about their obligations, has there been any funding provided to local governments to assist them with either that development of their Disability Inclusion Action Plans [DIAPs] or the implementation of them?

Mr HURST: I do think that there was some funding provided at the time but I would have to take that on notice.

The Hon. PENNY SHARPE: Could you tell me how much that would be and what that was for.

Mr HURST: Yes.

The Hon. PENNY SHARPE: But you are saying that was probably about 2015. Are you aware of anything since then?

Mr HURST: Not that I can recall but I will find out in responding.

The Hon. PENNY SHARPE: You cannot tell me how many local councils will have a Disability Inclusion Action Plan?

Mr HURST: I am happy to talk to the Department of Communities and Justice and see if together we can provide you with that information but the Office of Local Government does not hold that information.

The Hon. PENNY SHARPE: Sure. The Office of Local Government has moved around in government. One of the things I am interested in is that you now sit with planning and industry, is that correct?

Mr HURST: We are part of the Department of Planning, Industry and Environment.

The Hon. PENNY SHARPE: Yes, that cluster. The cluster is required to have its own Disability Inclusion Action Plan. What consideration and what materials are available from the Office of Local Government in relation to that?

Mr HURST: The Office of Local Government, through the machinery of government changes at the middle of last year, is no longer a separate entity within the State government. Previously we were a separate statutory authority. We now form part of the Department of Planning, Industry and Environment and the Disability Inclusion Action Plan for the Department of Planning, Industry and Environment incorporates staff of the Office of Local Government.

The Hon. PENNY SHARPE: Does it deal specifically with any issues in relation to local government and the way in which you operate?

Mr HURST: It covers the obligation of our department across 10,000 staff. The Office of Local Government is a small component of that.

The Hon. PENNY SHARPE: It still has responsibilities around disability inclusion so I am interested in what is in there for the staff there.

Mr HURST: Those provisions in the Disability Inclusion Action Plan also apply to the Office of Local Government and our staff in Nowra.

The Hon. PENNY SHARPE: There is nothing specific in the plan that you are aware of.

Mr HURST: For our staff or for councils?

The Hon. PENNY SHARPE: No, your staff.

Mr HURST: No, not for my staff I do not believe.

The Hon. PENNY SHARPE: Are you able to tell me how many people within the Office of Local Government have a disability?

Mr HURST: That information is reported each year in our annual report. I have a copy of it here if you would like me to look it up?

The Hon. PENNY SHARPE: As you know, the Government has set targets in relation to employment of people with a disability. It is far short of those targets and I am interested in what specifically individual agencies and offices are doing in response to that target.

Mr HURST: Sure.

The ACTING CHAIR: If it is difficult for you to find you can take it on notice.

The Hon. PENNY SHARPE: I am happy if you take it on notice.

Mr HURST: I found it.

The Hon. PENNY SHARPE: You have got it, excellent.

Mr HURST: This is the office's 2018-19 annual report; it is the most recent report that we provided. It provides for the Office of Local Government that in 2018-19 we had 8.3 per cent of staff who identified that they had a disability and 5.5 per cent of staff, which is obviously a subset of the group, are people with a disability requiring a work-related adjustment.

The Hon. PENNY SHARPE: That is actually pretty good compared to many others, given that the target is five.

Mr HURST: Those numbers have been rising over the last three years, which are reported in the annual report as well.

The Hon. PENNY SHARPE: Within the machinery of government changes there is a focus on—and I am sorry if I do not understand exactly what is in your purview, Mr Hurst—public spaces and policy development around public spaces. Does that come anywhere near you?

Mr HURST: It is a matter for the Minister for Planning and Public Spaces.

The Hon. PENNY SHARPE: Do you have any responsibilities in relation to that or do you just purely do local government?

Mr HURST: I also have responsibility for areas across local and regional planning and planning policy in New South Wales but not open spaces as such.

The Hon. PENNY SHARPE: Where I am going with this is that the idea around cluster arrangements is that they provide the ability to provide more seamless input and policy development—that is supposed to be

the plan. In relation to disability inclusion, leaving aside the fact that essentially you leave councils to themselves and they report to a completely different body, what is happening in the regional planning space that is looking at disability inclusion? Are you able to provide me some information about that?

Mr HURST: When we talk about leaving councils to themselves, we have had a discussion earlier about councils being independent and self-governing bodies. It is up to councils to implement these arrangements themselves.

Mr HURST: That is fine. My concern is that the Government makes commitments around forcing people to make plans, which I fully support, but the monitoring and implementation support for those plans is the issue. We have already canvassed that. My question is: Within the cluster, given how important local government is—particularly around issues of public space, parks, footpaths, public facilities—what discussions, if any, and who is responsible for having a discussion about disability inclusion in the broader planning piece happening at State Government level?

Mr HURST: That is probably a question for the session with the Minister for Planning and Public Spaces rather than local government.

The Hon. PENNY SHARPE: But is that not part of your role?

Mr HURST: The Office of Local Government does not regulate councils. We do not do regional planning—

The Hon. PENNY SHARPE: Yes, I know. I understand that. I am asking about your role. If you are coming back again and I need to come and ask you in a different session, just say that. That is fine. We have got you here and the whole idea around clusters is that they work together. I thought that there might be the opportunity for me to ask you whether there is an opportunity and what is happening within government and policy development within the department to address the issues of disability inclusion across those two, regional and local government.

Mr HURST: I would have to take that on notice and report back to you on that.

The Hon. PETER PRIMROSE: It is unfortunate the Minister is not here because I have quite a number of questions that are really more policy oriented than for public servants.

The Hon. CATHERINE CUSACK: You said you would put those on notice at the earlier part of the hearing.

The Hon. PETER PRIMROSE: Yes, I will put those that I can on notice. Others I do not want to force on the public servants to have to respond. I will be as careful as I can, Mr Hurst, in terms of not infringing on that division. Can you please explain the process of the development of a coastal management plan and what specifically Newcastle City Council is being required to do in that process.

Ms GIBBS: Thank you for that question. In 2016 the New South Wales Government introduced a new coastal management framework. It has three pillars: the Coastal Management Act 2016, supported by a Coastal Management State Environmental Planning Policy [SEPP], which is administered by the Minister for Planning and Public Spaces and supported by our Coastal Management Manual. The Act and the manual are now assigned to the Minister for Local Government in terms of responsibilities. Councils can voluntarily commence the preparation of coastal management program in accordance with the legislation. The purpose of the coastal management program is to set up the long-term strategy for the co-ordinated management of land within the coastal zone, the "coastal zone" being defined in the legislation itself. Over 40 councils have either commenced preparation or have taken advantage of the savings in the transitional provisions from previous legislation to prepare a coastal management program in accordance with the legislation.

The difference for Newcastle council particularly is that the Minister recently issued a direction, as was discussed this morning. It is under section 13 of the legislation. A local government can be directed by the Minister to prepare a coastal management program in accordance with that part of the Act. Basically the process is set out in the Coastal Management Manual. There is a five-stage process, the first of which is the completion of a scoping study, which Newcastle City Council recently completed and placed on their website about two weeks ago. The second stage is generally to look at more detailed investigations and studies identified in the scoping study that were warranting further investigation. Newcastle council, in the case of Stockton, has commissioned an external consultancy using the funding support that was provided through the grants, which we also discussed this morning, to understand the sediment budget and the movement of sediment and sand around the Stockton embankment. The third stage is to weigh up management options. The fourth stage is to write up the plan and the fifth stage is to implement the plan. All of that process is set out in the coastal management manual.

In the case of Newcastle council, in order to fast track, as we also discussed this morning, they will basically be concurrently looking at stages two and three while they commence preparation of stage four, which is the writing up of the actual personal management program itself. The reason that the City of Newcastle council is in quite a strong position to be able to commence the writing up without going through those other studies is that the history of erosion at Stockton has been well known and documented since the 1920s. There is quite a lot of information, including through quite extensive public consultation processes in the past—the technical options in terms of how you manage coastal erosion are fairly well-known in that location.

The ACTING CHAIR: What caused the Minister to have to give a directive?

Ms GIBBS: We have received a lot of correspondence from members of the community. Certainly there were calls for the Minister to go and visit Stockton, which she did on 30 September last year, and the community have generally said, "We don't think action to develop a coastal management program has been fast enough and we'd like things to happen more quickly." I suppose the Minister has responded to that by saying—the council originally intended to complete its coastal management program by October 2020, but now basically we are doing everything that we can to assist the council to meet the revised time frame of 30 June 2020.

The ACTING CHAIR: Did that directive rise out of the Minister's responsibility under the legislation relating to coastal areas as opposed to her position as the Minister for Local Government?

Ms GIBBS: In her position as Minister for Local Government, under the allocation of Acts the Coastal Management Act is assigned to her to administer. That direction is given under section 13 of the Coastal Management Act 2016.

The ACTING CHAIR: Thank you for that clarification.

The Hon. PETER PRIMROSE: In normal circumstances, how long would it take to prepare and finalise a plan or program?

Ms GIBBS: This in fact will be one of the first of the coastal management programs under the new legislation that has been prepared. The council has been working on its scoping study for at least the last 12 months, so it is not as if they are just commencing afresh today, as it were. The council has an existing coastal zone management plan that was prepared under the previous legislative framework that looked at short- to medium-term actions and was certified by the former Minister in August 2018. So the council has a lot of work to draw upon, I suppose. In terms of the writing up of the plan itself, we are certainly committed to provide every possible level of assistance that we can to the council to ensure that they have the best chance of meeting the deadline.

The Hon. PETER PRIMROSE: Really what you are saying is that there are not really any precedents as to how long it may take to prepare a plan?

Ms GIBBS: If I look at the 42 certified coastal zone management plans prepared by councils under the previous legislation, some of those were prepared quite quickly and some of them took several years. I think it depends on the will of the council and the appetite of the community to engage in that process. I would say that the appetite in Stockton is quite strong for the community to engage.

The Hon. PETER PRIMROSE: What would "quite quickly" mean?

Ms GIBBS: Well, I guess "quite quickly" means by 30 June.

The Hon. PETER PRIMROSE: You have mentioned other councils. Some, you said, were prepared quite quickly. It is not a trick question. I am just trying to get an idea of how long.

Ms GIBBS: It is still a matter of months. It is not weeks. It is a process that involves looking at quite a lot of data and information to understand the situation. But the councils are not starting from a low base, I suppose. They well understand the issues.

The Hon. PETER PRIMROSE: Let us say the coastal management plan for Newcastle was submitted on the deadline of 30 June. How long would you estimate it would take for that to be approved?

Ms GIBBS: The Minister has the ability to certify the coastal management program. The council can request that a coastal management program is referred to the Coastal Council for advice prior to the Minister deciding whether to certify to not. That decision has not been taken in relation to Newcastle, but that would prolong the process. We have a checklist that we would make sure that the coastal management program had been prepared in accordance with.

The Hon. PETER PRIMROSE: Can you just maybe outline, without going into incredible detail, what the process would be? Who is involved in terms of approving the plan? You have started, so I wonder if you could just give us a blow-by-blow explanation.

Ms GIBBS: The council submits its draft plan to the Minister and then it is referred to the department. There is an assessment done within the department about whether it meets the criteria that it needs to meet. The Minister has the option of referring it to the Coastal Council or not, essentially for a similar assessment about whether it meets the legislative requirements, and then information would be put back up to the Minister with a recommendation about whether it be certified or not. So that could take two to three months, I would say, reasonably.

The Hon. PETER PRIMROSE: Is there an expectation within the department, given the deadline of 30 June, of when such a plan would actually be expected to be implemented?

Ms GIBBS: One of the requirements that is included in the coastal management program is a detailed list of actions, including the timing of when it is going to be implemented. One of the key things that is different in the coastal management program, as opposed to a Coastal Zone Management Plan, is the requirement for councils to crosscheck and make sure that the actions that they are going to implement are included in the integrated planning and reporting framework that they complete under the Local Government Act.

The Hon. PETER PRIMROSE: So when would you expect that this one would be implemented?

Ms GIBBS: It will depend on the types of actions that the council include, but it is a plan for the long term. I imagine they will have actions that will be implemented immediately, ranging out to actions that will occur over the next 10 years.

The Hon. PETER PRIMROSE: Thank you. Can you describe, given the Minister has set the deadline, what support has been provided by the department to council to help implement—you have already described what assistance is being provided to develop the plan. What assistance would be provided to help them implement the plan once it is approved?

Ms GIBBS: Once a plan is certified councils are able to access the grant funding. I am not sure if it has come up today, but as part of the coastal management framework the Government committed to providing \$83.6 million for the implementation of coastal management actions up until June 2021. Under that package \$72.7 million is available to support local councils through provision of technical advice and grants under the coasts and estuaries program. In terms of other support that we would provide, we meet weekly with the council and have regular discussions with them where we provide access to data and technical information. We would continue to do that. Council, I expect, would want to submit some grant applications to get financial assistance for any actions that they might have included in the coastal management program, so we would obviously be in discussion with them about that as that occurred as well.

The Hon. PETER PRIMROSE: Under the Act or under any associated regulations, are there any penalties for the council if they do not meet the Minister's deadline?

Ms GIBBS: There are no penalties as such, certainly no financial penalties. If a council fails to comply with the direction then—

The Hon. PETER PRIMROSE: I am not suggesting, by the way, that they will. I am just trying to get an understanding of what we are talking about.

Ms GIBBS: Right, of what would actually happen. So the legislation contemplates what would actually happen under those circumstances. In the past, when directions have been issued under the previous legislative framework, some councils have sought a time extension on how much time they had to prepare their plan. The ultimate penalty is that if the council has failed to comply with the direction that is issued under the legislation then the Minister may prepare and adopt a coastal management plan for the local council as if the Minister were the local council. That is in section 20 in the legislation.

The Hon. PETER PRIMROSE: I might come back with a few other questions but I will ask Mr Buttigieg to pursue. I just want to mull over that one in my head. Thank you.

The Hon. MARK BUTTIGIEG: Mr Hurst, I might take you back to Strathfield Council because I just want to clarify a couple of things. Can you just put on the record, just so we are clear, in the event that there was an investigation who would be responsible for conducting that? Would it be the council or the OLG?

Mr HURST: The procedures for the administration of the code of conduct are that complaints are normally dealt with in the first instance by a council or, depending on a council resolution, are based on an

independent conduct review or they can be sent to the Office of Local Government. The exception is for pecuniary interest matters, where those matters under the procedures are required to be sent directly to the Office of Local Government.

The Hon. MARK BUTTIGIEG: In the event that it fell according to one of those two criteria into the remit of the OLG, could you point us to the provision in the legislation or the code of conduct or policy that precludes you from telling a House budget estimates committee whether or not in fact an investigation is underfoot?

Mr HURST: It is our policy not to do that. The reason we have that policy is because everyone has the right to a fair trial. People have the right to have allegations that are made properly investigated, not in the public eye to participate in the investigation.

The Hon. MARK BUTTIGIEG: I understand the point you are making, but there is a fundamental difference between tainting an investigation by airing specific allegations pertaining to the matter in public and actually knowing that an investigation is a foot. They are two different things. One could have a material effect on the investigation. The other one is just simply informing the public that there is an investigation going on. The policy you are pointing out specifically says that you cannot even divulge to the upper House of the New South Wales Parliament that there is an investigation a foot. Is that your position?

Mr HURST: The question here is about how people knowing whether or not investigations are underway could be viewed as prejudicing someone's right to have their matter heard confidentially, with the opportunity to seek and receive legal advice, to have procedural fairness applied to test those matters and for that only to come into the public sphere at the point at which those processes had run their course—the person had had the opportunity to provide the input—and at that stage a decision on breach and penalty is able to be made public. Even then there are rights of appeal that would still be available to people who—

The Hon. MARK BUTTIGIEG: It is quite a bizarre proposition. I am aware that there is an ICAC investigation going on into any number of matters. That does not prejudice the outcome of the case.

The Hon. CATHERINE CUSACK: Point of order: This is an opportunity for the member to ask questions related to budget estimates. The member is expressing views and opinions and giving a speech about his form of response to the question. I ask that the member be drawn back to his proper role, which is to make inquiries at budget estimates.

The Hon. MARK BUTTIGIEG: To the point of order: The question was specifically what provision in the policy precludes the public servant informing the House or House committee that there is an investigation a foot. Mr Hurst was proceeding to explain to me why that policy gives life to stopping that. I was explaining why that does not make sense.

The Hon. CATHERINE CUSACK: You commented that it was bizarre.

The Hon. MARK BUTTIGIEG: It is direct relevance to the answer.

The Hon. CATHERINE CUSACK: You can think those things, they do not need to be shared with the Committee at this point. The point of today is to ask questions—

The Hon. MARK BUTTIGIEG: Yes.

The Hon. CATHERINE CUSACK: —and we deliberate at a separate meeting on the replies that we have been given.

The Hon. MARK BUTTIGIEG: If you want me to reiterate the question, I will do that.

The Hon. CATHERINE CUSACK: I am worried that you have run out of questions, to be honest.

The Hon. MARK BUTTIGIEG: You would say that.

The ACTING CHAIR: Do you understand the question that Mr Buttigieg is putting to you?

Mr HURST: I do.

The ACTING CHAIR: I think it is in the Committee's and the public interest to extrapolate that particular information. I will allow the question to continue but it has to be specific to draw out that evidence. You can proceed Mr Hurst if you understand the question.

Mr HURST: You mentioned the Independent Commission Against Corruption and that you were aware of some of their investigations. I would suggest that there are other investigations which the ICAC has underway

that you and other members of the public are not aware of. That is to protect the investigative process and to allow the people who are the subject of the investigation, the opportunity to have that fair hearing and not be judged in a public arena until all of the evidence has been adduced and they have had the opportunity to respond to it. I do not think there is a principle that there is an overriding obligation to provide information on investigations that are underway. It is not the office's policy to do so.

The Hon. MARK BUTTIGIEG: I ask you to point us to that specific policy? Where does it reside? What does it say?

Mr HURST: It is not a written policy, it is a—

The Hon. MARK BUTTIGIEG: It is not a written policy?

Mr HURST: It is a convention as it were.

The Hon. CATHERINE CUSACK: It is procedural fairness.

The Hon. MARK BUTTIGIEG: When was this dreamt up?

The Hon. CATHERINE CUSACK: Have you never heard of this?

The Hon. MARK BUTTIGIEG: It is not a written policy.

The Hon. CATHERINE CUSACK: Are you saying that you have never heard of this principle?

The Hon. MARK BUTTIGIEG: Are we allowed to engage in cross commentary?

The ACTING CHAIR: No.

The Hon. MARK BUTTIGIEG: Is it a point of order or not?

The Hon. CATHERINE CUSACK: My point of order is that telling the witnesses that he has never heard of this principle is not really a matter for the witnesses to be addressing. Only the member and his party can understand why they have never heard of this principle. It is not a question that is properly directed to these witnesses.

The Hon. MARK BUTTIGIEG: Chair, with all due respect, I will not be verballed.

The Hon. CATHERINE CUSACK: I am really surprised.

The Hon. MARK BUTTIGIEG: I did not say that I have never heard of this.

The Hon. CATHERINE CUSACK: Yes, you did.

The Hon. MARK BUTTIGIEG: What I said was that when was this dreamt up and when was it made up?

The Hon. CATHERINE CUSACK: Dreamt up, are you serious?

The ACTING CHAIR: We need to leave it there.

The Hon. MARK BUTTIGIEG: It is not in writing.

The ACTING CHAIR: If you want to continue this discussion, you can go somewhere else and continue it. The question was put. Mr Hurst has answered the question. It is quite clear that there are not principles or policies pertaining to this issue, it is an overarching principle that is in law and justice.

The Hon. CATHERINE CUSACK: In Westminster democracy, in rule of law.

Mr HURST: It is to protect the privacy and rights of individuals.

The ACTING CHAIR: I have made the point, thanks very much. We will move on out of that field.

The Hon. MARK BUTTIGIEG: Let me get this on the record Mr Hurst. There is no policy written down. It is a principle in the mind of the department that you are unable to tell us that there is an investigation a foot?

The Hon. CATHERINE CUSACK: We need to organise some training.

The ACTING CHAIR: Thank you, Ms Cusack.

Mr HURST: It is a recognition that there is a need not to prejudice the privacy and rights of those who may or may not be subject to investigation. It is also, I think, linked to the sub judice convention of not discussing

matters that were before the courts. There is a very similar principle here about allowing people the right to a fair trial.

The ACTING CHAIR: We need to leave that there because I think that issue is answered. We need to go into a different area of questioning.

The Hon. PETER PRIMROSE: After the Minister's visit, I think it was on 2 October last year, she made a number of commitments to the Stockton community. What advice did the department give to the Minister or her office in relation to those commitments?

Ms GIBBS: Which commitments specifically are you referring to?

The Hon. PETER PRIMROSE: The Minister promised the people of Stockton, as I outlined this morning, that by the end of 2019 a long-term solution to the problem of erosion would be found in the community, as reported in the media.

Ms GIBBS: I think the Minister addressed this question this morning. That was one of the reasons that she wanted to issue the direction as well. It is not actually a matter for the Minister to determine the long-term solutions for Stockton.

The Hon. PETER PRIMROSE: I understand that. I am not asking the Minister, I am asking you what advice you provide to the Minister in relation to that?

Ms GIBBS: We provided advice to the Minister on how the coastal management framework works and that the proper place for these issues to be examined is through the development of a coastal management program.

The Hon. PETER PRIMROSE: Did you provide that advice in writing?

Ms GIBBS: I cannot recall, I may have.

The Hon. PETER PRIMROSE: Can you please find out? Can you take that question on notice and indicate, if you would, what advice was provided to the Minister about those undertakings?

Ms GIBBS: Specifically in the lead-up to 2 October 2019?

The Hon. PETER PRIMROSE: The Minister visited Stockton and made a number of undertakings particularly in relation to the fact that the long-term solution to erosion would be found by the end of 2019. You have indicated that the department provided written advice to the Minister and her office in relation to that undertaking. I am asking when did you provide that advice and essentially what was it?

Ms GIBBS: Just to clarify, you actually asked me what advice we had provided and whether that was in writing or not.

The Hon. PETER PRIMROSE: Yes.

Ms GIBBS: And I said I could not clearly recall whether the advice was in writing or not.

The Hon. PETER PRIMROSE: Yes.

Ms GIBBS: So I attended the public meeting with the Minister. Obviously we were discussing the issues that had come up verbally as well.

The Hon. PETER PRIMROSE: If you provided written advice, can you please confirm that? I would request that a copy of that advice be made available to the Committee.

Ms GIBBS: Okay, so I will take that on notice.

The Hon. PETER PRIMROSE: Thank you. When the Minister declared Stockton an open coastal location or erosion spot she said at the time that this declaration would allow grants to be fast-tracked, particularly referring to the application from Newcastle council. Can you please confirm what you understand by the term "fast-tracked"?

Ms GIBBS: Normally what happens is that the grants for the implementation of coastal zone management plans, which we were talking about in the case here, if an area is not declared as a significant open coast location a council needs to wait until that grant round is open, and typically that grant round is open for four to six weeks once a year. So the declaration of a significant open coast location means that a council can submit its application at any time and that the grant for implementation will be assessed basically after it is received, rather than waiting until the next grant round is open.

What Newcastle council did after that declaration was, they submitted a number of grant applications, which the Minister also talked about this morning, and since that declaration was made the Minister has approved several grants, which I can outline now for you. One of them was for the planned retreat and demolition of the former North Stockton Surf Life Saving Club—\$32,500 was provided for that. The other grant that was provided immediately was for the emergency sandbagging works at the end of Griffith Avenue and Stone Street at Stockton—a total of \$215,000 was provided for that. On 25 November a further grant was provided to Newcastle council for beach nourishment at the southern part of Stockton Beach for \$175,000.

More recently, we have seen a further \$140,000 provided to the council as a variation to their previously existing grant for the preparation of a coastal management program for the Newcastle local government area coastline. That was specifically in response to a request from the council for support for additional resources to prepare their coastal management program and made in response to the Minister issuing the direction to effectively prepare their coastal management program in a faster time frame than they had originally envisaged.

The Hon. PETER PRIMROSE: I have two further questions, if I can ask those?

The ACTING CHAIR: You can.

The Hon. PETER PRIMROSE: I just want to be clear that I am not going to keep this going all afternoon. Is funding available to council to complete works that are not listed in their coastal management plan?

Ms GIBBS: No. The rules of the grant program state that the funding is available for councils that have actions that are listed in either their certified coastal zone management plan under the previous legislation or a certified coastal management program under the new legislation.

The Hon. PETER PRIMROSE: Just to clarify, is Newcastle council's whole coastal management plan due on 30 June of this year or just the section related to Stockton?

Ms GIBBS: It really is just the section related to Stockton, but it is a matter for council to decide whether they want to address other issues within their local government area at the same time.

The Hon. MARK BUTTIGIEG: Mr Hurst, can I ask you in respect of investigations, has the OLG ever reported the existence of investigation concluding dates in similar such circumstances in the past?

Mr HURST: At the conclusion of an investigation where a decision is made and a statement of reasons is issued, you will find that information is published on the Office of Local Government website.

The Hon. MARK BUTTIGIEG: My question was specifically during the course of an investigation the existence of that investigation has not been made public by the OLG in any situations that you are aware of?

Mr HURST: I am aware of circumstances where people have revealed that they are under investigation. In doing so, they have waived any right to privacy that we would normally protect in those circumstances, although in those circumstances, beyond the mere existence that the matter is being investigated by the office, there is still nothing else that we would discuss, including about the time frame for any such investigation.

The Hon. MARK BUTTIGIEG: I just want to take you to the subject of demergers. I understand there is talk about a possible demerger, possible consultation, in respect of the communities of Snowy Valleys and Cootamundra-Gundagai. Could you enlighten us as to what, if any, conversations have been had with those councils on a possible demerger?

Mr HURST: I can confirm that valid proposals to reinstate former local government areas were received by the Minister for both Snowy Valleys and Cootamundra-Gundagai shire councils, and the Minister consulted on the question of whether those proposals should be referred to the Boundaries Commission for examination and report. The consultation closed at the end of January. Last month the Minister announced that she had indeed referred both of those proposals to the independent Boundaries Commission for examination and report.

The Boundaries Commission now has the function of examining the questions that the legislation puts forward about whether or not to proceed with the proposal. Their obligations are set out in the Act, about how they go about that task. At the end of that process they will report back to the Minister. Councils are specifically mentioned in the Act as having the ability to provide a submission to the Minister on the question of whether or not to refer. I understand that both councils did make a submission to the Minister on the question of whether to refer. That does not limit council's opportunities then to participate in the process of the Boundaries Commission itself, which ultimately are the ones undertaking the examination and reporting function.

The Hon. MARK BUTTIGIEG: On that specific subject of the constituent councils under question making submissions, is the OLG aware of any feedback that has been given to it regarding the submission process?

Mr HURST: I am not sure. The submissions have been provided to the Boundaries Commission or will be provided.

The Hon. MARK BUTTIGIEG: There was a process associated with those submissions. Has there been any feedback from Snowy Valleys or the other council, Gundagai council, regarding the process for those submissions? Is the OLG aware of any correspondence or feedback on the submission process?

The Hon. CATHERINE CUSACK: Which process?

The ACTING CHAIR: I am sorry, submissions in relation to?

The Hon. MARK BUTTIGIEG: In relation to demerging, the Boundaries Commission.

The Hon. CATHERINE CUSACK: The February review or the Boundaries Commission review?

The Hon. MARK BUTTIGIEG: The Boundaries Commission review.

The ACTING CHAIR: That is clarified. Can you answer that question, Mr Hurst?

Mr HURST: The referral to the Boundaries Commission has only just happened. I am not aware that either council has made a submission to OLG or to the Minister about the matters that—

The Hon. MARK BUTTIGIEG: What about the February review?

Mr HURST: I did mention, each of the councils made a submission. It was prepared by the council and they both resolved at council meetings held towards the end of January the content of that submission. That submission was provided by the Minister and the Minister was obliged to take it into account in deciding to refer to the Boundaries Commission.

The ACTING CHAIR: We will now move to the crossbench and the very honourable Mr David Shoebridge.

Mr DAVID SHOEBRIDGE: You have got me all wrong; I do not use that term. Mr Hurst, you would be aware of your powers under section 430, as the departmental chief executive, to investigate councils at the request of the Minister?

Mr HURST: At the request of the Minister, yes.

Mr DAVID SHOEBRIDGE: Are you aware of the concerns in the Mid Coast community about the conduct of the MidCoast Council and, most particularly, the concern there about the \$40 million proposed project to refurbish the former Masters warehouse as the new combined council facilities?

Mr HURST: There has been correspondence to the Minister and OLG about the issue and council's decision-making process.

Mr DAVID SHOEBRIDGE: You are aware that the local community has concerns about the extent of community consultation? They have raised concerns about transparency, accountability and representation. Is that a fair summary of their concerns?

Mr HURST: That reflects my understanding of what was provided in those requests.

Mr DAVID SHOEBRIDGE: Have you commenced the work of reviewing the MidCoast Council and the issues raised by the community so you can provide the Minister advice on whether there should be an investigation under section 430 of the Local Government Act?

Mr HURST: The Act does provide for a preliminary inquiries power, which precedes an investigation. I can confirm we are not undertaking preliminary inquiries into council's decision-making around the Masters site relocation.

Mr DAVID SHOEBRIDGE: Have you provided advice to the Minister—

Mr HURST: The Minister has not requested it. I have not provided it, no.

Mr DAVID SHOEBRIDGE: On what basis have you determined not to undertake that preliminary investigation, given the level of concern and the scale of the project?

Mr HURST: In response to the inquiries that the office has had, we have had a look at council's decision-making and the concerns that people have been raising in the correspondence. On the face of it, our assessment of that material is that council is acting within its powers and is following the process that the Act requires in undertaking this work.

Mr DAVID SHOEBRIDGE: You formed that conclusion, though, without using any of your powers—

Mr HURST: To investigate.

Mr DAVID SHOEBRIDGE: —to investigate, including to look at beyond just the publicly reported documents.

Mr HURST: The actions and the decision about whether or not to investigate needs to be preceded by some assessment, some understanding that there is an issue that needs investigating. On the face of it, the material which was provided to the office and that we established from our own inquiries of council is that they are following a process that is reasonably open to them to undertake to proceed with this work, how they are making those decisions and their engagement with the community. Councils are independent and self-governing bodies. Apart from any fault in the process, they are able to make decisions to undertake projects like this if they follow the correct processes.

Mr DAVID SHOEBRIDGE: Have you used the preliminary investigation powers given to you under the Act this financial year?

Mr HURST: Yes.

Mr DAVID SHOEBRIDGE: In relation to which councils?

Mr HURST: The powers have definitely been used. I am not sure, because some of them may lead to a formal investigation, that I would be prepared to name the councils where we had commenced preliminary inquiries.

Mr DAVID SHOEBRIDGE: I am going to ask you again. You are here under oath. You are obliged to answer the questions so far as they relate to budget estimates. You are, of course, entitled to take questions on notice if you wish to. I am going to ask you again: In respect of which councils have you exercised the preliminary investigation powers this financial year?

The Hon. CATHERINE CUSACK: Point of order: The question has very clearly already been answered.

Mr DAVID SHOEBRIDGE: To the point of order: The witness refused to answer it, which is why I pressed it.

The Hon. CATHERINE CUSACK: The witness indicated he did not believe he was in a position to give an answer to that question. You have restated the identical question. This is badgering the witness. He has given a very clear explanation for why he is not in a position to answer it.

The ACTING CHAIR: I will rule on that. It is not badgering; it is a second question seeking the evidence that the questioner is requesting. This is budget estimates and Mr Hurst is under oath. Therefore he is required, if he knows, to answer the question.

Mr HURST: Just to explain, my concern here is that providing a list to the Committee of councils where preliminary inquiries may be or have been undertaken by the office—

Mr DAVID SHOEBRIDGE: Mr Hurst—

Mr HURST: —could prejudice—

Mr DAVID SHOEBRIDGE: —I have given you the opportunity, if you wish—

Mr HURST: —the inquiries.

Mr DAVID SHOEBRIDGE: —to take it on notice and consider your position, in light of your obligations to provide answers to budget estimates and any other considerations you may have. I have given you the opportunity to take it on notice. Do you want to take that opportunity and take it on notice or do you want to continue to not answer it?

The ACTING CHAIR: Mr Hurst, it might be wise to take it on notice if you think you need to seek legal advice on how you answer that question.

The Hon. CATHERINE CUSACK: Point of order: This is a really significant issue. People asking questions cannot direct the answers. The question has been asked and an answer has been given.

Mr DAVID SHOEBRIDGE: No, it has not.

The Hon. CATHERINE CUSACK: Just because it is not the answer you wanted does not mean that an answer was not given.

Mr DAVID SHOEBRIDGE: When the witness says he is not going to answer it, that is actually not an answer. I do not know why you cannot comprehend that. It is quite simple.

The Hon. CATHERINE CUSACK: Clearly the question has been responded to. The imputation that is being made is that information is being withheld and that he has some kind of obligation under oath to give you. That has been reinforced by the Chair.

Mr DAVID SHOEBRIDGE: I made no such imputation. He has an obligation to answer the questions. That is what budget estimates is about.

The Hon. CATHERINE CUSACK: He has answered the question.

The ACTING CHAIR: I will rule. I disagree with the Hon. Catherine Cusack. It is not badgering. If the Committee is not satisfied with an answer, we can seek elucidation and clarification for that answer. If the witness is concerned that he may be breaching some sort of protocol or regulation or requirement, he may take the question on notice and do whatever is required.

The Hon. CATHERINE CUSACK: He can state that concern, as he is entitled to, and he has.

Mr DAVID SHOEBRIDGE: Are you cavilling with the Chair's ruling?

The Hon. SHAYNE MALLARD: Point of order: Mr Hurst was clearly explaining for the record—he was halfway through at the time—why he felt he could not give that information to the Committee. Mr David Shoebridge spoke over him—*Hansard* will show that—and said, "You can take it on notice. You are under oath." I support the view of the Hon. Catherine Cusack that the witness is entitled to express it to the Committee right now.

Mr DAVID SHOEBRIDGE: Point of order: The Hon. Shayne Mallard is cavilling with the Chair's ruling. He is seeking to reopen the ruling.

The Hon. CATHERINE CUSACK: Do you want us to go into a closed hearing about this?

The Hon. SHAYNE MALLARD: No, I am not seeking to reopen the ruling. I am pointing out that Mr Hurst was halfway through his answer. He should be allowed to answer the question.

The ACTING CHAIR: That does not preclude the question being asked again if the questioner is not satisfied with the answer. After that point, we leave it. We cannot keep asking the same question over and over again. I am satisfied that Mr Hurst was not certain whether he could answer the question or not, and therefore indicated that. The question has been asked again by the questioner and it is up to Mr Hurst how he answers it a second time. Then we will move on.

The Hon. SHAYNE MALLARD: Thank you, Mr Chair.

Mr DAVID SHOEBRIDGE: Mr Hurst, do you need the question reiterated?

Mr HURST: No. Mr Chair, the budget estimates guide does provide certain reasons why people could object to a question. One of those reasons, at 4.12, is about the disclosure of information required by the question that would be prejudicial to the privacy or rights of others. We are talking about matters that may have led to an investigation or are in the preliminary processes of doing so. I am concerned about more generally making available material about where we are investigating or in the preliminary stages of investigating matters, given the opportunity for the disclosure of information to lead to those adverse outcomes. This is on page 14 of the guidance.

The ACTING CHAIR: I will speak to that. I do not think a council is protected by such a provision in the budget estimates guide.

Mr DAVID SHOEBRIDGE: Mr Hurst, I note your objection. I am going to press the question on the basis that I do not believe councils have privacy rights. I am asking not about individual officers but about councils. I press my question and again invite you to answer it.

The Hon. CATHERINE CUSACK: Point of order: This is now the third time the same question has been asked and the witness has given his answer twice. I believe that is sufficient. The Chair indicated earlier that it could be asked again, at which point we should then move on.

The ACTING CHAIR: The difference is that we needed to examine what the witness is relying on in his concern about answering the question.

The Hon. CATHERINE CUSACK: I do not agree, Mr Chair.

The ACTING CHAIR: We have clarified what my view is: that a council is not protected by such a protection mechanism and individuals are, for certain. Therefore, because the question was not asking the witness to indicate the names of particular councillors or anybody else for that matter—it is the name of the council—I will allow the question for the last time and the witness will decide as to which way he wishes to answer it, giving a direct answer or taking it on notice. And then we move on because we now have a clarification about a standing order pertaining to budget estimates which we did not have the last time the question was asked. Mr Shoebridge, you may continue.

Mr DAVID SHOEBRIDGE: Mr Hurst, I ask the same question.

Mr HURST: I will take the question on notice.

Mr DAVID SHOEBRIDGE: Good idea. Excellent idea.

The Hon. SHAYNE MALLARD: After all that.

Mr DAVID SHOEBRIDGE: Well, it was my suggestion at the beginning.

The Hon. CATHERINE CUSACK: Because you are trying to imply there is something wrong—

The ACTING CHAIR: Ms Cusack, that is not appropriate. We will continue the questioning.

The Hon. CATHERINE CUSACK: I would like to note my objection to the entire line—

Mr DAVID SHOEBRIDGE: You cannot note your objection. There is not a process for that.

The ACTING CHAIR: No. This is not the mechanism for that.

The Hon. CATHERINE CUSACK: Yes, there will be a process for this.

Mr DAVID SHOEBRIDGE: There is not a process for that.

The ACTING CHAIR: Send me an email.

The Hon. CATHERINE CUSACK: You are incorrect, Mr Shoebridge.

Mr DAVID SHOEBRIDGE: Send us a letter. Send us an email, Ms Cusack.

The Hon. CATHERINE CUSACK: You are incorrect. You pop in and out.

Mr DAVID SHOEBRIDGE: Send us an email.

The ACTING CHAIR: That is enough.

The Hon. CATHERINE CUSACK: His behaviour is outrageous.

The ACTING CHAIR: Ms Cusack, I might have to look up the manual myself if this continues.

Mr DAVID SHOEBRIDGE: Mr Hurst, are you aware that the Snowy Valleys Council is currently projecting a year-end deficit of \$4 million?

Mr HURST: I am not aware of the last quarterly business review numbers from the council, no.

Mr DAVID SHOEBRIDGE: Are you aware that it has got a projected deficit in the order of \$4 million which, given the budget of that council, is an extraordinarily large deficit?

Mr HURST: I have just said that I am not aware of that number, no.

The ACTING CHAIR: One more question, Mr Shoebridge, and then we break for 10 minutes.

Mr DAVID SHOEBRIDGE: Will you undertake to make some inquiries about the financial situation of the Snowy Valleys Council in order to see whether or not some intervention is required if they do have a deficit in the order of \$4 million?

Mr HURST: I am happy to undertake some inquiries. Whether or not intervention is required is a separate question.

(Short adjournment)

The ACTING CHAIR: We are now going to resume for our last session, which will finish at 16:20. Questions from the Opposition.

The Hon. MARK BUTTIGIEG: Thank you, Chair. I will just take up that previous line we were looking at in terms of demergers. You have got a problem, have you, Ms Cusack, again?

The Hon. CATHERINE CUSACK: I do.

The Hon. MARK BUTTIGIEG: I look forward to more interjections. Mr Hurst, in respect of that submission process, and we clarify that there was the review and then the subsequent process with—the name escapes me now. My question was, Is the OLG aware of issues that Snowy Valleys Council in particular and the residents of Snowy Valleys LGA had with the submission process? Have you had any feedback from either the residents or the council on the submission process for demerging?

Mr HURST: The way it works is that a resident group prepares a document with signatures. It goes to the Minister. The Minister provides it to the OLG. We verify that it is a complying proposal under the legislation. The Minister then opens it up for public submissions, as she is required by the Act, so that both the council and affected community members can provide submissions about it. In essence it is to inform her decision of whether or not to refer to the Boundaries Commission or simply to end the proposal at that process.

That process happened across December and January. At the end of January the councils made submissions to the Minister. There were many hundreds of submissions made from affected electors across both local government areas during that time as well. And then the Minister, taking into account all of those submissions and the submissions from the two councils as she is obliged to do, made the decision to refer to the Boundaries Commission. Within all of that process, I am not sure which component of that is it that you are asking me what do I know.

The Hon. MARK BUTTIGIEG: Up to the point in time when the Minister was in receipt of all the submissions, be they council submissions or submissions about residents in affected LGAs, was the Minister aware or was the OLG aware of complaints or feedback on the process itself? For example, there may have been some sort of impediment to submissions being made and receipted in a timely manner. I do not know, I am giving you an example. My understanding is that there has been some feedback, but I do not know the qualitative nature of it. That is why I am asking you to tell me if you are aware of any feedback?

Mr HURST: I cannot speak for the Minister, but I am aware that one of the residents, who I think was involved with the group that made the proposal in the case of Snowy Valleys, did have questions about what that process would look like, the nature of the submissions that were sought and also the timeframe for making submissions. I am sorry, I do not have the exact details with me, but the Act provides a statutory time frame—I think it is 28 days—for the Minister to have those submissions. The Minister, because of the Christmas and new year period, extended it well in excess of that right through to the end of January. So I think that was a consideration for the Minister, whether people had had sufficient time, and clearly she must have formed that view in deciding to proceed with the referral to the Boundaries Commission and, as I might have mentioned, was overwhelmingly supported in the submissions that were made by members of the community in that process.

The Hon. MARK BUTTIGIEG: To paraphrase that answer, there was feedback and the main sort of negative feedback pertained to the nature of the deadline, if I could put it that way.

Mr HURST: I do not know that it was negative feedback. I think people were, from my recollection, seeking to clarify the process, whether this process was about engaging with the actual proposal itself, i.e. should the former council be reinstated, or was the engagement about the question of referral to the Boundaries Commission as the next step in the process laid down under the legislation, and also about the time frame for submissions. That is my understanding.

The Hon. MARK BUTTIGIEG: I am sorry, I missed the detail. Did you say you were aware of one such complaint or were there several over both local government areas?

Mr HURST: There may have been, I am only aware of one that came from a person who was connected with the group that made the proposal in the first place in Snowy Valleys.

The Hon. MARK BUTTIGIEG: Would you be able to provide us on notice more detail of that sort of feedback?

Mr HURST: I am happy to provide perhaps not a copy of the correspondence, bearing in mind that it came from a private individual, but certainly the contents of it, yes.

The Hon. MARK BUTTIGIEG: Any other similar sort of feedback regarding the process would be good.

Mr HURST: That came to OLG, yes.

The Hon. MARK BUTTIGIEG: Have any OLG staff visited either of the LGAs to discuss or inform the councils and communities about the demerger process?

Mr HURST: Staff of OLG have visited the LGAs quite a number of times, but not to discuss or inform them about the process under the Local Government Act, no. That would not be appropriate.

The Hon. MARK BUTTIGIEG: It would not be appropriate for OLG staff to do that?

Mr HURST: This is a statutory process that the Act contemplates. I do not think it would be appropriate for our staff to be down there discussing that statutory process while the consultation period was underway.

The Hon. MARK BUTTIGIEG: When you say "consultation period", what—

Mr HURST: This is from mid-December through to the end of January, while the Minister was consulting to inform her decision on whether or not to refer to the Boundaries Commission.

The Hon. MARK BUTTIGIEG: Who was the Minister consulting?

Mr HURST: The Act obliges her to consult with the affected councils and with affected electors from each of those local government areas.

The Hon. MARK BUTTIGIEG: So the Minister does consult with the affected electors, but the OLG staff employed by the Minister cannot help her do that. Is that what you are saying?

Mr HURST: The consultation is a statutory process, so a notice is issued and it is publicised locally. I mean clearly the Office of Local Government arranged for the publication of the notices. We sent the notices to each of the councils who put them on display in their council office, so in a sense we were involved in it in that way, but were we in the community explaining it or otherwise trying to influence people's submissions? Absolutely not. That would not be appropriate.

The Hon. MARK BUTTIGIEG: There is a qualitative difference between trying to influence and hearing people's views and I would suggest the latter is real consultation, but if you are telling me that the OLG was not out in the field doing that, I accept that. Do you know if there was any such consultation by the councils themselves in that respect, actually engaging with the community in a physical environment, consulting on the demerger?

Mr HURST: Yes. Each of the councils had to make a submission to the Minister. Those submissions were drafted by officers of the council and required to be considered at a council meeting in each case that was held towards the end of January. Members of the public have a right to be present during the deliberations of the council.

The Hon. MARK BUTTIGIEG: In the event that it is decided that one or both of those councils be demerged, can you inform us as to what the process will be in broad terms and what involvement the OLG will have, if any?

Mr HURST: The Local Government Act does not contain any provisions to demerge councils, so it is important to understand that the proposals that have been made are proposals to alter boundaries and establish new areas. In effect, each proposal seeks to contract the current local government area to one of the former local government areas and then establish a new area at the same time in the residual area that would have been left by the contraction. It does not actually demerge a council. That concept does not exist within the Local Government Act. What it is about is one council having its boundaries changed and then a new council being established in the residual. Those processes are in the Local Government Act, but beyond there about how that would work I think that these are matters for the Boundaries Commission, which is required to examine and report on the proposal. The Act provides the criteria that the Boundaries Commission has to look at under section 263, and that will, of necessity, involve the Boundaries Commission having to understand what the implementation of the proposal would look like for the local government area and for the residents and what the future process might look like.

The Hon. PETER PRIMROSE: To clarify, will the Boundaries Commission be responsible for advising on, say, the disbursement of assets, the allocation of responsibility for any council debt and similar matters?

Mr HURST: I would imagine that, given the functions of the Boundaries Commission in the legislation, they are going to need to comment on some of those matters and to take them into consideration in arriving at a view of the criteria under section 263.

The Hon. PETER PRIMROSE: I am not heartened by your suggestion that you imagine and they may.

Mr HURST: Because it is in—

The Hon. PETER PRIMROSE: Could I ask you to take on notice—and I am not playing games because it is a very important issue—who will make the determination in relation to the disbursement of assets, who is responsible for any debts that might be ongoing, and all the other financial, staffing and other issues, and how will that process take place?

Mr HURST: I think I can answer that. I cannot comment for the Boundaries Commission; it is an independent authority.

The Hon. PETER PRIMROSE: I understand.

Mr HURST: The process that they follow to satisfy themselves of those considerations, of necessity, is something that they have to do. What I think you are talking about is subsequent to any decision being made there would need to be a process of implementing it, so I suppose the answer to that is that that decision has not been made and we are not planning for that, so I do not have a clear understanding about how that would look if that were to eventuate.

The Hon. PETER PRIMROSE: Do you think it would be good, given that there have been demergers in the past and given that States such as Queensland, for example, had significant demergers, for the New South Wales Government to consider putting in place a considered policy should this arise? You could do that extraneous to any particular example of where that was occurring. It would simply be a standalone policy that said, should there be a demerger, "This is the agency responsible and these are the matters that need to be considered by this agency, this agency and this agency."

Mr HURST: My understanding is that it is not the Government's policy to do that at this time.

The Hon. PETER PRIMROSE: So ad hoc? Okay.

The Hon. MARK BUTTIGIEG: So in effect, there is no premeditated process even though presumably this could have been foreseen as a probable outcome.

Mr HURST: When we say a premeditated process and a probable outcome, I do not know that Parliament in 1993 contemplated that there would be a need for demerger provisions in the Local Government Act. If Parliament did consider that at the time, they did not include them. So we have no guidance in the legislation about how to—

The Hon. MARK BUTTIGIEG: But the OLG is the Office of Local Government. Presumably the Minister is appointed to administer the Office of Local Government and the Minister is unable to come up with a plan for a potential demerger because there is no legislation telling her how to do it? Is that the position?

Mr HURST: In the event that it happened, we would work within the current legislation to give effect to it. I am suggesting that the word "demerger" and that as a process does not exist as a concept within the Act. There is nothing there to guide those actions.

The Hon. MARK BUTTIGIEG: A boundary redraw resulting in shifts in assets and other things, as my colleague has pointed out—

Mr HURST: Yes, that does happen from time to time.

The Hon. MARK BUTTIGIEG: Correct. Would you agree it would be better to have a premeditated plan and process in place to deal with it, rather than making it up after it happens?

Mr HURST: We do have a process.

The Hon. MARK BUTTIGIEG: You just said the process is that the Boundaries Commission will probably tell us what to do.

Mr HURST: The process for a boundary adjustment happens quite regularly, actually. It is often a matter of moving individual properties or, in some cases, a town or a locality between local government areas. It happens with the agreement of the councils and the parties and it is not a contentious process. The Act does provide extensive powers through the proclamation giving effect to that decision to deal with those transitional

issues—the division of assets and so on. There is a mechanism to do it, but the Act does not say how it has to be done. We do it through the proclamation.

The Hon. MARK BUTTIGIEG: Do you have any feel, in the event that it does go ahead, of how long the process would be expected to take?

Mr HURST: No.

The Hon. MARK BUTTIGIEG: What about—ballpark—before the September elections this year?

Mr HURST: This is the Boundaries Commission process or the process of demerging a council?

The Hon. MARK BUTTIGIEG: You just told me that there is no such thing as demerging; it is a redrawing of boundaries—

Mr HURST: Redrawing the boundaries, yes.

The Hon. MARK BUTTIGIEG: —which results in asset shifts. If that is the semantics we are going with, let's use that definition.

Mr HURST: The Act does not provide a time frame for the work of the Boundaries Commission. It gives them a task. The task is set out in section 263. The Boundaries Commission needs to take the time that is necessary to satisfy themselves of the questions posed by the Act and then to provide that report to the Minister. There is no time frame.

The Hon. MARK BUTTIGIEG: So we could theoretically have a situation where we are going into September local government elections and residents are expected to make a decision on who represents them based on boundaries that may change soon after then?

Mr HURST: I do not know what the Boundaries Commission's time frame for undertaking their functions is going to be. Sometimes the Boundaries Commission has done it quickly; sometimes it has taken them longer.

The Hon. MARK BUTTIGIEG: Is this how modern-day government operates, where one silo does not talk to the other on a matter of import to people out there paying their taxes?

Mr HURST: I think the issue is the Act does not allow the Minister or the Office of Local Government to direct the Boundaries Commission or any of the commissioners about how long they have to fulfil a task that ultimately rests only with them in the legislation. They need to take the time that is necessary to go through and provide a report on those matters.

The ACTING CHAIR: Leading up to a local government election, is there a requirement that the boundaries must be set in place and not changed for a period of time before the election?

Mr HURST: The Electoral Commissioner normally asks that matters to do with boundaries, including ward boundaries that would also be local government boundaries, are settled more than a year out from elections because of the preparations that the Electoral Commissioner needs to undertake to run the election.

The ACTING CHAIR: That answers the question. Earlier you said—please clarify it for me if I have it wrong—that some decisions cannot be made because it is not clear in the Act, but you rely on the proclamation. Could you elucidate on that? It was a little difficult to follow.

Mr HURST: I cannot be specific about how the process would work. The Act does not say there is a way you have to do this, but it gives a power for the Governor on the recommendation of the Minister to do anything that is necessary to give effect to the proposal. The proclamation power is very broad. It has to be used for the purposes of implementing that decision. So it is not that there is not the power to do it, but there is no guidance in the Act about how that general power to use a proclamation to vary the boundaries of a local government area should be used in any particular boundary adjustment to solve some of the questions that were posed.

The ACTING CHAIR: Who makes the decision to write to the Governor?

Mr HURST: The Governor is the one who changes the boundaries or creates new local government areas, and it is on the recommendation of the Minister for Local Government.

The Hon. MARK BUTTIGIEG: In terms of financial assistance with a prospective demerger, are there any plans afoot for the Government to contribute to the cost of boundary redraw?

The Hon. CATHERINE CUSACK: Point of order: All of this is hypothetical questioning predicated on a Boundaries Committee report that has not been written and on what the recommendations hypothetically might be. Now we are being asked about planning for hypothetical things that have not even happened. In terms of straying from budget estimates for the current financial year, I do not see how these questions can be answered. It has gone on for quite some time, but we really are in the realm of things that have not happened and are not before the department at the moment. I ask that the hypotheticals be removed from the line of questioning.

The ACTING CHAIR: I will hear from the Hon. Mark Buttigieg.

The Hon. MARK BUTTIGIEG: To the point of order: Last time I looked, government is in place to deal with hypotheticals, which occur on a daily basis. That is what we exist for: to plan for the future. The idea that we would not plan for a pandemic because it may not happen is bizarre. I find that point of order almost ludicrous.

The Hon. CATHERINE CUSACK: The report has not even been written yet.

The Hon. MARK BUTTIGIEG: There is a demerger consultation going on and a report is being written. I am asking a question about the financial implications of whether or not the Government will contribute, which has a budgetary impact. It is directly related to budget estimates.

The ACTING CHAIR: I uphold the Hon. Mark Buttigieg's response to the point of order. The reason I do so is because this is an inquiry into budget estimates of what will be spent. Therefore, the question is in order as long as it does not stray too far from the question of how the money is going to be dispensed with by the Government. Of course it will relate to hypotheticals.

Mr HURST: The Local Government Act does not oblige the Government to provide financial assistance in the case of any boundaries adjustment. There is precedent both ways. There have been boundaries adjustments where no financial assistance has been provided and the councils have had to bear the cost themselves. There have been boundaries adjustments where the Government has provided financial assistance. There are examples both ways.

The Hon. MARK BUTTIGIEG: Can you enlighten us as to how the decisions were made in each case as to when financial assistance was and was not provided? What are the key triggers?

Mr HURST: The way I would characterise it is that financial assistance was provided in the past sometimes but not always when councils were merged. But I am not aware of cases where financial assistance was provided only for a boundary adjustment.

The Hon. MARK BUTTIGIEG: Right. So there was financial assistance provided for a merging process but because we are calling it a boundary readjustment then it does not trigger any financial assistance?

Mr HURST: The Act never triggers any financial assistance. It is a choice of Government that in the past was made in one instance to provide that. There are other boundaries adjustments and there are other mergers for which the Government provided no funding in the past. It is at the discretion of the Government. There is nothing in the legislation about financial assistance.

The Hon. MARK BUTTIGIEG: No. I am trying to get a feel for the parameters where a decision would be made to say, "Well, this is costing them money. We'd better give them some." I am sure these constituent councils would be thinking about this. Otherwise they are going to have to budget for it themselves and they are getting no guidance. That is about as plain as I can put it.

The ACTING CHAIR: And the question is?

The Hon. MARK BUTTIGIEG: And the question is, what would be the guiding parameters for deciding whether or not in this case, for example, financial assistance would or would not be applicable?

Mr HURST: I am not aware that there are any parameters that guide that decision, either in the past or for anything that might eventuate in the future.

The Hon. MARK BUTTIGIEG: So it is at the whim—what resources and assistance, if any, will the OLG be able to offer those councils who wish to demerge or end up having a boundary redraw?

Mr HURST: I think we are now speculating about a process that is still underway with a conclusion that may or may not happen. I can confirm that the Office of Local Government always has the role to support councils in undertaking their functions under the Local Government Act more generally. We would continue to work with any councils through any future process that affected them.

The ACTING CHAIR: I might move to Mr Shoebridge now.

Mr DAVID SHOEBRIDGE: Mr Hurst, members of the community from Hunters Hill have been trying to seek some clarity about the \$1 million received by Hunter's Hill Council from the Stronger Communities Fund in August 2018. Can you advise what the funding round and process through which Hunter's Hill Council received that money was?

Mr HURST: In 2018, you say?

Mr DAVID SHOEBRIDGE: Yes, August 2018 is the date that they have. It might be to do with Boronia Park.

Mr HURST: I can confirm that Hunter's Hill Council received \$1 million in the tied grant round of the Stronger Communities Fund.

Mr DAVID SHOEBRIDGE: What was it for?

Mr HURST: The funding agreement would detail the specific projects which that money was granted to the council for. I do not have a copy of each funding agreement with me.

Mr DAVID SHOEBRIDGE: Where do residents find these funding agreements? The residents have raised the issue about transparency. How does a resident find out about these funding agreements?

Mr HURST: They could ask the council or ask the Office of Local Government. It is not a secret document. It is just a funding agreement.

Mr DAVID SHOEBRIDGE: Can you provide a copy of that funding agreement to the Committee?

Mr HURST: Yes.

Mr DAVID SHOEBRIDGE: Do you know if council applied for the funding agreement?

Mr HURST: Council executed the funding agreement. It is a deed between the Office of Local Government and the council.

Mr DAVID SHOEBRIDGE: Do you know if council applied for the funding?

Mr HURST: Applied in the sense of—

Mr DAVID SHOEBRIDGE: Sought the funding from the Stronger Communities Fund—filled in an application form and sought it.

Mr HURST: No. There was no application form for the process.

Mr DAVID SHOEBRIDGE: On what basis was it delivered? If not from an application basis, how was the Stronger Communities Fund allocated?

Mr HURST: The funding agreement was provided to the council. Council made a decision to execute it. It was returned to the Office of Local Government and we paid them the funds.

Mr DAVID SHOEBRIDGE: Why was Hunter's Hill Council chosen?

Mr HURST: There are guidelines that apply to the Stronger Communities Fund more generally and to the tied grants round. A copy of the guidelines is attached to each of the funding agreements, so it will in fact be provided to the Committee, and the guidelines talk about councils who are eligible for funding under the program.

Mr DAVID SHOEBRIDGE: And is it an annual program, the Stronger Communities Fund?

Mr HURST: No. It was a one-off program. Eligibility was for councils who were merged during the 2016 merger process or councils who were, through that period, affected by a merger proposal.

Mr DAVID SHOEBRIDGE: So the funding was not provided on application by council. Who then made the final decision on the allocation of funding under the Stronger Communities Fund? Who made the decision? For example, who made the decision that Hunter's Hill Council got \$1 million?

Mr HURST: That was a decision of Government.

Mr DAVID SHOEBRIDGE: Government is very amorphous. Was that you, Mr Hurst? Was it the Minister? Was it Cabinet? Who made the decision?

Mr HURST: No, it was not made by the Office of Local Government. The allocations were advised to OLG.

Mr DAVID SHOEBRIDGE: By whom? I ask you again a fairly simple question, Mr Hurst. Who made the decision?

Mr HURST: I would have to check our records to find who advised us of that decision. I do not know off the top of my head.

Mr DAVID SHOEBRIDGE: Who did the assessment for the Stronger Communities Fund?

Mr HURST: The assessment of councils who were eligible?

Mr DAVID SHOEBRIDGE: Well, I assume somebody did an assessment and then made a recommendation—I am just assuming this—about how the fund would be distributed. Did that happen?

Mr HURST: The Office of Local Government was advised the councils and the projects. Our role was to administer the grants by drafting and then executing the funding agreements and making the payments to the councils.

Mr DAVID SHOEBRIDGE: So you did not assess councils for whether or not they fit or did not fit the criteria?

Mr HURST: There was not an assessment as such, but each council who applied was a council who was eligible—each council who was given funds was a council who was eligible under the funding guidelines.

Mr DAVID SHOEBRIDGE: Councils did not apply though?

Mr HURST: No, that is correct. Sorry, I should not have said "applied"—that was eligible under the funding guidelines.

Mr DAVID SHOEBRIDGE: Who determined eligibility?

Mr HURST: The eligibility is in the guidelines. Councils who are eligible are councils who were merged in 2016 or subject to a merger proposal during that process.

The ACTING CHAIR: Were there any councils that were eligible that did not receive this funding?

Mr HURST: Yes.

The ACTING CHAIR: So just like this particular council, they were eligible but they did not receive the funding?

Mr HURST: Except this was a council who was eligible and did receive the funding.

Mr DAVID SHOEBRIDGE: Could you on notice provide us a list of all the councils that were eligible for funding?

Mr HURST: All of the councils who were eligible for funding were councils who were created in the 2016 mergers or affected by one of the merger proposals made during that period.

Mr DAVID SHOEBRIDGE: Yes. Because the term "affected" is a fairly general term and I may interpret it differently to how you interpret it. Mr Hurst, can you provide me with a list of all of the councils that were considered to be eligible?

Mr HURST: Yes. I am sure we can put together a list of councils who were the subject of a merger proposal during that period.

Mr DAVID SHOEBRIDGE: Mr Hurst, I am not asking you to put together a list.

The Hon. BEN FRANKLIN: You sort of are.

Mr DAVID SHOEBRIDGE: I am asking whether or not there was—

The Hon. BEN FRANKLIN: That is literally what you are asking.

Mr DAVID SHOEBRIDGE: Let me be clear. I want to know whether there was a list at the time of the councils that were considered to be eligible. Was there a list at the time of the councils that were considered to be eligible?

Mr HURST: No. The guidelines instead talked of the councils who were eligible in terms of that more broad description about councils who were merged or subject to a merger proposal during that period.

Mr DAVID SHOEBRIDGE: Having established that, can you provide us with a list of those councils that you consider would have been eligible?

Mr HURST: Yes. I am happy to do that.

Mr DAVID SHOEBRIDGE: And then can you provide us with a list of those councils that received funding?

Mr HURST: The list of the councils who received funding has been published. I am happy to provide that information.

Mr DAVID SHOEBRIDGE: And can you provide us with a list of the amount that each council received?

Mr HURST: Yes. I can provide that information as well.

Mr DAVID SHOEBRIDGE: On what basis were eligible councils not provided with funding?

Mr HURST: I cannot answer why some councils did not get funding. I cannot answer that question.

Mr DAVID SHOEBRIDGE: Who made the decision, if not you—you were just administering a decision that came from another place—as to which councils were and which councils were not eligible councils to receive funding?

Mr HURST: I cannot answer that question. I can only advise that we were told the councils to pay and the projects, and the Office of Local Government prepared the agreements, sent them to the councils, executed them and paid the funds.

Mr DAVID SHOEBRIDGE: Who told you?

Mr HURST: I am sorry, I agreed to take that on notice and find out where that advice came from.

Mr DAVID SHOEBRIDGE: Who made the decision about how much a council would receive?

Mr HURST: I do not have that information. It was advised alongside the projects.

Mr DAVID SHOEBRIDGE: Did any councils raise concerns with you about either the quantum that they received—and when I say "you" I mean the Office of Local Government—or the fact that they did not receive funding?

Mr HURST: Not that I am aware of.

Mr DAVID SHOEBRIDGE: I think you may have said that there was a policy in place at the time.

Mr HURST: There were guidelines surrounding the funding.

Mr DAVID SHOEBRIDGE: Who drafted the guidelines?

Mr HURST: The Office of Local Government drafted the guidelines.

Mr DAVID SHOEBRIDGE: Were they signed off by yourself or were they signed off by another entity?

Mr HURST: They were signed off by respective Ministers.

Mr DAVID SHOEBRIDGE: Who were those Ministers?

Mr HURST: I will take that on notice; I cannot remember exactly which Ministers they were.

Mr DAVID SHOEBRIDGE: When were they signed off?

Mr HURST: Before the program was initiated. The date would be on the guidelines.

Mr DAVID SHOEBRIDGE: Were you aware of any concerns about the manner in which the Stronger Communities Fund funding is allocated to councils?

Mr HURST: No-one raised any concerns with me.

Mr DAVID SHOEBRIDGE: In terms of the funding agreements that different councils have, you have said that you will provide a copy of the Hunters Hill agreement. Could you provide us with a copy of each of the funding agreements?

Mr HURST: Yes, I am happy to do so.

Mr DAVID SHOEBRIDGE: Mr Hurst, you would be aware of the repeated concerns councils have about the manner in which they are paid for footpath damage done by utilities. Are you aware of those concerns?

Mr HURST: I understand that concerns have been raised by councils.

Mr DAVID SHOEBRIDGE: A layman's description of the concerns is that council can lay a nice new shiny footpath, residents are very happy, they have paid for the footpath and then the NBN comes along and slices the middle of it out, or another utility comes along and slices a 30-centimetre wide channel out of the middle of it, replaces it with asphalt which sinks over the course of the next six to twelve months, and maybe at a later point comes along and patches it up, and the end result is a very substandard footpath. You are aware that that is the pattern of the concerns; would you agree, Mr Hurst?

Mr HURST: If that is what you are suggesting, yes. It has not been raised with me.

Mr DAVID SHOEBRIDGE: I am asking if you are aware of those concerns.

Mr HURST: I am aware that I walk down footpaths.

Mr DAVID SHOEBRIDGE: Do you know what? I am walking out.

The ACTING CHAIR: Just to clarify, Mr Hurst, you are not aware that there have been concerns or complaints communicated to your department about this sort of activity, of digging up these spaces and footpaths for whatever reason?

Mr HURST: I am happy to take on notice whether the Office of Local Government [OLG] has had councils write to us with concerns about that. It is not a Local Government Act matter, which is why I cannot understand why it would be raised with us.

The ACTING CHAIR: I think it might be becoming clearer to you that one of the things we are actually needing to grapple with and clarify is who is responsible for what, because somebody has to be. At the end of the day, if we go across the road or you end up across the road and you are having to answer questions, we need to find out who, with whom and under whose watch these issues lay. That is extremely important. You are probably a little bit bewildered as to why we are going down certain paths and I think it is because there is not a lot of clarification in some areas as to who is the Minister or who is the secretary that is responsible for certain things. That is why some of the questions are of that nature.

Mr HURST: Mr Chair, I am not seeking to not answer that. I do not know who is responsible for that, if it is governed by legislation.

The ACTING CHAIR: That is helpful.

Mr HURST: I am happy to undertake on notice to find out what legislation governs that—it is not the Local Government Act—and to provide an indication of who the appropriate Minister at the State or Federal level is who has responsibility for it.

The ACTING CHAIR: We would appreciate that.

The Hon. PETER PRIMROSE: Going back to elections, my understanding is that if you are a candidate for a local government position, and the Minister outlined this this morning, you are required to complete a statutory declaration under the Local Government Act answering a number of things, so it is under the Oaths Act, but it is a requirement made by the Local Government Act, for example, that you are not a property developer or a close associate of a property developer. That is correct, is it not?

Mr HURST: Yes, so the statutory declaration is an oath under the Oaths Act but it is a requirement of the Local Government Act that that be provided by candidates.

The Hon. PETER PRIMROSE: Under the Oaths Act, if you give a false declaration, what would the penalty be?

Mr HURST: I am not an expert in the Oaths Act but, getting to your next question, my understanding is that the NSW Police Force investigates a breach of the Oaths Act as a criminal matter.

The Hon. PETER PRIMROSE: If something that was a criminal matter was brought to your attention, as the director of the Office of Local Government—and please forgive me in terms of your official title—would you be obliged to refer that to the police?

Mr HURST: It has happened in the past and we have referred those matters to the NSW Police Force.

The Hon. MARK BUTTIGIEG: The question was quite specific: Would you be obliged to, or is it optional?

Mr HURST: I do not know whether the Act obliges me to take the action which I think any person in society should, which is, when they become aware of a criminal act to report it to the appropriate authorities. I do not know that that is an obligation on me under legislation but I would do it anyway.

The ACTING CHAIR: Could you take that on notice and find out if you are obliged—and if not you as an officer, which officer would be?

Mr HURST: Yes.

The Hon. PETER PRIMROSE: Chair, I have had made available to me a public document, which was actually published by the NSW Electoral Commission on behalf of Mr Antoine Doueihi, who was the subject of questioning earlier. This is his declaration, which I am happy to table to the Committee. I am getting a better copy—this is a poor photocopy—but I am happy to table this.

Document tabled.

In that document he has, like all other candidates, been asked to tick boxes. The first one is "I am a property developer" or "I am not a property developer", and he has ticked that he is not a property developer. The second is whether he is a close associate of a property developer or not a close associate, and he has ticked saying that he is not a close associate of a property developer. If he was shown to be a property developer, would you be obliged to refer that to the police as a matter of a breach of the Oaths Act?

Mr HURST: I think anyone who is concerned that someone has breached the Oaths Act in a statutory declaration should refer it to the NSW Police Force as the appropriate agency to investigate a potential criminal matter.

The Hon. PETER PRIMROSE: I am asking you specifically, as the Deputy Secretary of Local Government, Planning and Policy at the Department of Planning, Industry, and Environment and as someone who will be advising the Minister on her position in relation to whether the Government should support the current bill before the House relating to property developers and real estate agents, would you refer this matter if you were made aware that the Strathfield mayor was a property developer who had indicated on his official form a statutory declaration made under the Oaths Act?

Mr HURST: I am not going to speculate on a future action that depends on material for which there may or may not be evidence. I can confirm that I have in the past referred matters to the NSW Police Force where I, in my role at the Office of Local Government, have become aware of matters that might involve potential criminal conduct and I will do so again in the future.

The Hon. MARK BUTTIGIEG: Mr Hurst, this is not speculative. My colleague has just said he has a signed statutory declaration. The question was quite specific: Will you, as a senior member of a government instrumentality that has oversight of this area of local government, refer it?

Mr HURST: I am sorry. The question here is in two parts: about the statutory declaration and then about whether the person who signed the declaration is a developer. Both pieces of information are required before, in my mind, it would trigger the need to refer to the police. Mr Primrose, if you hold that belief I encourage you to report that matter to the NSW Police Force.

The Hon. PETER PRIMROSE: Thank you. I note that it is publicly known that Mr Doueihi has 11 companies that are mainly involved in property development. It is public knowledge. He has indicated in his statutory declaration that he is not a property developer. What more do you need?

The Hon. CATHERINE CUSACK: Have you referred it to the police?

The Hon. PETER PRIMROSE: I am asking the appropriate senior public servant here. What more do you need?

Mr HURST: I am aware of the allegations. I am not going to talk about matters that we may or may not be investigating.

The Hon. PETER PRIMROSE: If you were sent a copy of the company search in relation to all of those companies of which he is the director, would that be sufficient for you to refer it to the police?

Mr HURST: Mr Primrose, I cannot speculate about what would trigger a belief that there was a potential criminal conduct here—

The Hon. PETER PRIMROSE: Trigger your belief.

Mr HURST: —and the evidence necessary to support that. If you have that belief, with or without the company searches that you speak about, I encourage you to go to the NSW Police Force.

The ACTING CHAIR: But the question is to you, Mr Hurst. If it came across your desk and you saw company searches showing that particular man's name, and he also has filled out a declaration stating that he does not have an interest in the development of properties, would that trigger you to refer it to the police? Irrespective of what anybody else may or may not have done in terms of notifying the police, would you do it?

Mr HURST: With due respect, Chair, it is a hypothetical question that has not eventuated. I would be guided by the evidence—

The ACTING CHAIR: I am sorry, but I have to interrupt there. It might be hypothetical in a sense but this is a particular situation—

Mr HURST: That has not transpired, Mr Chair.

The ACTING CHAIR: As I pointed out to you, my question is if this information was on your desk and you became aware of it, would you refer it to the police?

Mr HURST: I can only reiterate once again that I cannot speculate about what a future action might be about evidence that may or may not support that outcome.

The Hon. MARK BUTTIGIEG: Chair, I move a suspension of standing orders so that we can go into a deliberative to discuss the matter.

The Hon. CATHERINE CUSACK: What?

The Hon. MARK BUTTIGIEG: Is the Hon. Catherine Cusack saying we are not able to go into a deliberative?

The Hon. CATHERINE CUSACK: I do not understand why we would go into a deliberative.

The Hon. MARK BUTTIGIEG: You will find out when we go into the deliberative.

The ACTING CHAIR: In order to go into a deliberative, there would need to be a dissent from my ruling.

The Hon. CATHERINE CUSACK: I support you 100 per cent, Mr Chair.

The Hon. PETER PRIMROSE: Here is my concern, Mr Hurst. Most of us here are fully aware of ethics training. We have done ethics training. We are asked to make decisions in relation to various scenarios. I am not making allegations per se, in the sense that I am aware that there is an inquiry underway. But I do have some evidence here. I am saying we have got the signed document under the Oaths Act and there are company searches. I am trying to get some understanding of what it takes for you to actually take action.

Mr HURST: I have answered that question. I have said that if there is evidence that someone has committed a breach of the Oaths Act, I will refer it to the NSW Police Force.

The Hon. PETER PRIMROSE: That is all I need to know. Thank you.

The Hon. MARK BUTTIGIEG: We might zoom in on the issue of election costs. In terms of correspondence that the OLG has had with the NSW Electoral Commission [NSWEC] regarding costs associated with local government elections run by the NSW Electoral Commission in September 2020—those are the ones coming up—can you update the Committee on that correspondence and those discussions? What are those elections likely to cost? Are there cost increases involved? There was the IPART report, of course, on election costs. Where are we up to with all that?

Mr HURST: Would you like me to talk generally about election costs, or anything specific?

The Hon. MARK BUTTIGIEG: Is there likely to be a rise in election costs for those councils using the NSWEC to conduct their elections?

Mr HURST: The cost of council elections conducted by the NSW Electoral Commission in September 2020 were always expected to increase compared to previous elections.

The Hon. MARK BUTTIGIEG: Why is that, Mr Hurst?

Mr HURST: As noted by the Independent Pricing and Regulatory Tribunal in its review of local government election costs, the key driver of this increased cost is the NSWEC's greater focus on managing risk in relation to project management, security and the health and safety of election workers.

The Hon. MARK BUTTIGIEG: Managing risk?

Mr HURST: In relation to project management, security and the health and safety of election workers.

The Hon. MARK BUTTIGIEG: Do you have an indication of the average increase in cost that is likely to occur as a result of that increased risk management approach?

Mr HURST: The Government is contributing \$19.9 million to fund the NSW Electoral Commission's corporate overheads for administering local government elections, and that is to limit the impact of the increase. That would see, as an estimate, councils paying an average cost of \$8.21 per elector, compared to \$12.72 per elector if no New South Wales Government contribution was provided.

The Hon. MARK BUTTIGIEG: But in terms of the incidence of expenditure by local councils, presumably it still will result in a significant increase for those councils, will it not, irrespective of the subsidies by State Government?

Mr HURST: This is at the heart of what IPART looked at in their review. IPART looked at what a different funding model might look like and how those costs should be shared between the Government and councils or, indeed, some that should be borne by the electoral commission as part of its core responsibilities. That IPART report foreshadowed much larger increases for councils than were actually given effect to, in part because of the Government's contribution of the \$19.9 million.

The Hon. MARK BUTTIGIEG: Have any concerns been raised by the OLG with the NSW Electoral Commission regarding the way that they structure those costs—for example, rental of school halls, staff, all that sort of thing—or has it just been accepted prima facie that those costs are a given and we will just have to stump up the money to try and attenuate the increase as a result of the IPART report?

Mr HURST: Yes. I have spoken to the Electoral Commissioner. I know the Minister for Local Government has spoken to the Electoral Commissioner about the need to, as far as possible, manage the increase in cost to councils and to provide them with opportunities to reduce the cost of running their elections where they and the Electoral Commission can agree ways to do so.

The Hon. MARK BUTTIGIEG: I will just give you an example of the sort of things we are dealing with here. I understand the Cobar Shire Council local government election has risen from \$30,000 to \$66,841—a 123 per cent increase. Similarly Cootamundra-Gundagai, which has seen costs rise from \$73,000 to \$160,000—a 120 per cent increase. These are not incremental minority increases. They are over doubling in cost. Has the OLG got a concern about this increase?

Mr HURST: Yes. OLG is concerned about that sort of increase.

The Hon. MARK BUTTIGIEG: So what are you doing about it?

Mr HURST: It is not an invoice issued by the Office of Local Government. These are the costs of the independent NSW Electoral Commissioner that he has provided as an estimate to councils of the cost of running their elections. As I say, both I and the Minister have met with the Electoral Commission to pass on councils' concern about the increase and to encourage him to work with councils to minimise that cost increase as much as possible.

The Hon. MARK BUTTIGIEG: Is there a possibility here that the Electoral Commission is being wedged out of the market by being forced into overpricing its services so that it does not become competitive with private providers? Does the OLG have a view about that?

Mr HURST: The IPART report looked at these questions of the efficient cost of providing election services and also the market for private providers. There is a great deal of material in that report about how that might work. The answer is that the Electoral Commission, for the time being, is able to set the cost at the cost that the Electoral Commission decides is necessary to run an election in each of those local government areas; that there are opportunities for councils to work with the Electoral Commission to bring down that cost; and that we have encouraged councils, but also the Electoral Commissioner, to participate in the process to try and bring that cost down. It is not in anyone's interest to be an expensive process.

The Hon. MARK BUTTIGIEG: No, certainly not. Does the OLG have a view about the preference for a publicly funded and provided conduct of local government elections vis-a-vis the private sector doing it, or is the OLG agnostic about that?

Mr HURST: No, we do not have a view about who should provide elections. We do have a view about the process of running elections.

The Hon. MARK BUTTIGIEG: My understanding was that there was anecdotal evidence to suggest that there were significant issues with those councils who went out to the private sector.

Mr HURST: We are not aware of significant issues. Councils have engaged the private sector in the past. We provide information and briefings for private sector election providers to assist them and the councils who contract them to undertake their roles. We issued a circular with some specific material to guide those private election providers just recently.

The ACTING CHAIR: If there are private providers for an election, what is the legislation that oversees them?

Mr HURST: They are bound by the Local Government Act. The Local Government Act and the regulation contains the legislative prescription for how council elections are to be run. It provides a mechanism for both the Electoral Commissioner and private providers to be selected, contracted and to operate elections for councils. There used to be the ability for general managers to run elections for councils on their own but the legislation was amended last year to remove the ability for councils to do that.

The Hon. MARK BUTTIGIEG: In terms of departmental staff, can you tell us how many full-time equivalent [FTE] positions were in the OLG prior to it being absorbed by the Department of Planning, Industry, and Environment last year?

The Hon. CATHERINE CUSACK: We have already covered this. These are last year's questions, Mr Buttigieg.

The Hon. MARK BUTTIGIEG: Well, maybe he can answer them then, Ms Cusack.

The Hon. CATHERINE CUSACK: Do you want the transcripts? They are all online.

The Hon. MARK BUTTIGIEG: We can go back to developers, if you like.

The Hon. CATHERINE CUSACK: You have run out of questions.

The ACTING CHAIR: If there are no points of order I do not want to hear anything. We are going to listen to the answer to the question.

The Hon. CATHERINE CUSACK: It is just terrible.

The Hon. MARK BUTTIGIEG: Go away, then. You have no obligation to sit there.

Mr HURST: For 2018-19 there were 57.17 full-time equivalent ongoing staff and 10.8 full-time equivalent temporary staff for a total of 67.97 full-time equivalent staff at the Office of Local Government. I am happy to give the breakdown by grade, as I did last year.

The Hon. MARK BUTTIGIEG: That is okay. And currently at the OLG—so we are saying roughly 68 FTEs?

Mr HURST: It is 67.97.

The Hon. MARK BUTTIGIEG: And currently?

Mr HURST: Currently the staff are distributed within the Department of Planning and Environment and are allocated to different areas, so there is not a separate entity as the Office of Local Government as such. However, anticipating this question, we have done a calculation based on what that would be if the old structure still applied, for the purposes of comparison. As at 17 February 2020 that was 58.17 ongoing staff, FTE, and 15.6 temporary FTE of staff, for a total of 73.17 FTE. But I do caution that that does not reflect an actual organisation that exists as a separate organisation anymore. That is counting the areas which used to make up the organisation that still exist within DPI.

The Hon. MARK BUTTIGIEG: So an effective increase in FTE hours?

Mr HURST: Yes.

The Hon. MARK BUTTIGIEG: That is good.

Mr HURST: Our staff fluctuates as the work that we have varies.

The Hon. MARK BUTTIGIEG: Apparently that was not asked last time.

Mr HURST: Most of that increase is in temporary staff and I can think of a number of reasons why we might have more temporary staff on with the workload that we have at the moment. It is not unusual for those numbers to vary over time.

The Hon. MARK BUTTIGIEG: Sure. Financial year 2020-21—are there any job cuts planned?

Mr HURST: We do not have a budget for 2020-21 yet. That will be handed down in a couple of months' time and that will provide the budget for the Department of Planning, Industry, and Environment moving forward.

The Hon. MARK BUTTIGIEG: Okay. In terms of the Nowra headquarters, how many FTE positions down there prior to being absorbed by the Department of Planning and Environment?

Mr HURST: I do not know that I have that separately identified, but I would be surprised if there is any variation in the split between Nowra and Sydney staff of more than one or two FTE since that time.

The Hon. MARK BUTTIGIEG: Do we have an idea of how many females were employed by the OLG prior to the absorption?

Mr HURST: I can be quite prescriptive on this. The annual report for the Office of Local Government—I wish I had left it open on the same page—provides that at the end of 2018-19, 61.8 per cent of the workforce of the Office of Local Government were women.

The Hon. MARK BUTTIGIEG: That was prior?

Mr HURST: That was at 30 June.

The Hon. MARK BUTTIGIEG: Okay. And now?

Mr HURST: I do not have a breakdown for now.

The Hon. MARK BUTTIGIEG: Alright. Are there any plans to relocate the headquarters from Nowra?

Mr HURST: No.

The Hon. PETER PRIMROSE: I have a few questions, one that hopefully will be quite quick in relation to the Companion Animals Act. I am aware that there are only four offences that result in possible jail time in the Act relating to dog attacks. I was wondering if you could tell us, in the last five years, how many people have been imprisoned as a result of any of those offences?

Mr HURST: I am presuming that the enforcement would be undertaken by councils. I am certainly happy to take that on notice. I do not have that number, I am sorry, Mr Primrose.

The Hon. PETER PRIMROSE: Can you please take that on notice?

Mr HURST: Yes, I will.

The Hon. PETER PRIMROSE: Clearly, if there were offences that led to jail time then that is appropriate, but if there have been none, that is an issue that we would need to look at because these are serious matters, and I know you would agree with that.

The ACTING CHAIR: Can you take on notice to also include all of the reports, irrespective of whether they attracted a fine or imprisonment, so that we can get the percentage difference?

Mr HURST: Mr Chair, we do publish the details of councils' dog attacks. All of the dog attack data that is recorded by the Office of Local Government is published on our website. It is a good resource that shapes that policy development.

The ACTING CHAIR: Does it describe the outcome, whether there has been a fine or a term of imprisonment, or it was dismissed?

Mr HURST: I am not sure. It certainly provides data on dog attacks. I am not sure whether it also provides data on the enforcement action.

The ACTING CHAIR: If it does not, would you be willing to take that on notice?

Mr HURST: We can certainly look at where we have that.

The ACTING CHAIR: See if you have that data.

Mr HURST: On the question of dog attacks and whether or not people have been imprisoned, I am not sure that it is actually a good thing. I would much rather that there were not serious dog attacks and that people did not have to go to jail for them. Hopefully it means that the framework under the legislation is working.

The Hon. PETER PRIMROSE: I am simply looking at the fact that it is a potential threat and I am curious as to whether that penalty is actually applied to anyone, because we are not only talking about dog attacks. For instance, one of the offences is encouraging a restricted dog to attack, bite or harass. Another is a reckless act of an owner that results in a dog attacking, biting or harassing a person or other animal, and so on, and often involving children. There is a whole range of issues. I accept that it is a matter for the courts, but the penalties are matters for us, and I was just curious as to whether there have been any. In relation to the website, when I last looked, the latest available statistics on your website were for the three-month period beginning in July 2019. I accept that that is relatively up to date in terms of information gathering. Back in 2015 there was information by local government area. Is that still available on the site, the information for each LGA as opposed to consolidated, all council areas?

Mr HURST: This is the dog attack data, information on dog attacks?

The Hon. PETER PRIMROSE: Yes.

Mr HURST: I am happy to respond as part of what I have taken on notice about local government area data.

The Hon. PETER PRIMROSE: It is not a trick question, I just cannot find information by local government area. Maybe it is because I am not particularly skilled at using websites. If you can please indicate where the data is by local government area, that is fine.

Mr HURST: I do not know. I will take that on notice.

The Hon. PETER PRIMROSE: I am very happy for you to take that on notice. Can I ask you some questions now about Balranald? How long had the Office of Local Government been aware of issues with Balranald Shire Council before action was taken?

Mr HURST: For a considerable period of time.

The Hon. SHAYNE MALLARD: Mr Chair, I wonder if the question could be repeated?

The Hon. PETER PRIMROSE: The question is in relation to Balranald council. Balranald has been placed into administration and I have some questions about the process and supports and likely outcome.

The Hon. SHAYNE MALLARD: I did not hear the name of the council.

Mr HURST: On 29 January Balranald council was dismissed by the Governor following a public inquiry that found it was plagued by entrenched performance and behavioural issues. Your question was the history of our engagement with the council. Even though we have been involved in the council for some time, formally we commenced preliminary inquiries about its functioning back in July 2016. That led to the preparation of an inquiry report with the concerns that we had at that time about governance and financial operations. On 26 April 2017 the council was issued with a performance improvement order [PIO] by the then Minister. As part of the PIO a temporary adviser was appointed to assist council with its governance.

At the end of council's implementation of the actions under the order, and as a result of the office's own assessment of council's compliance with the PIO, we recommended to the Minister that a public inquiry be held as the best way to examine whether the council could meet the needs and expectations of the community into the future. On 24 January 2019 the former Minister appointed Ms Roslyn McCulloch as a commissioner to undertake that public inquiry into Balranald Shire Council. The commissioner's report was provided to the Minister on 25 November 2019. That was the report which you may have seen, Mr Primrose. It was tabled in Parliament on 29 January 2020, the day that the council was placed into administration.

The Hon. PETER PRIMROSE: One of the five reasons given by the independent commissioner to draw their conclusion was that council failed to command the confidence of its community. Can you elucidate about what that actually means?

Mr HURST: I do have some quotes here from the report. It is the view of the commissioner that is important and that guides the Minister in this respect so, rather than try to interpret what the commissioner has said, I encourage you to read the commissioner's own assessment of that in her report.

The Hon. PETER PRIMROSE: I have. I was just wondering whether you were able to tell us.

The Hon. CATHERINE CUSACK: What didn't you understand?

Mr HURST: I can read from the report. It is not my view about whether they command the confidence. The commissioner, having sought submissions, held public inquiries, spoke with members of the community and the councillors, who ultimately formed that view for the reasons that she detailed in her report.

The Hon. PETER PRIMROSE: What are the guidelines that a commissioner is required to use to assess whether or not a council should be dismissed and put into administration?

Mr HURST: The Local Government Act provides guidance on the public inquiry in section 438U of the Act. Without going through what it talks about, it talks about the Minister or the Governor appointing a person as a commissioner, and that is with respect to any matter relating to the carrying out of the provisions of this Act, so that is the Local Government Act or any other Act conferring or imposing functions on a council. It is a very broad opportunity for the commissioner to look at those matters, as well as any act or omission of a member of a council, employee of a council, any person elected or appointed to any office under the council—you get my drift. It is a very, very broad, overarching reach for a public inquiry. In practice, the commissioner was guided by terms of reference. The terms of reference were published and you will find those in the commissioner's report. The terms of reference guide the commissioner about the concerns that the Office of Local Government had particularly about the functioning of the council.

The Hon. PETER PRIMROSE: Is there is a public document indicating—broadly, I accept—over the next 4½ years what actions the administrator, Mr Michael Colreavy, will undertake to bring the council back to a point where an elected council can be reappointed?

Mr HURST: Yes, there is a suite of documents. The administrator, once appointed, has the functions of the mayor and all of the councillors. That individual becomes the governing body of the council. What it means is that at that point the administrator's role is to work with the general manager and the council staff to implement council's suite of integrated planning and reporting documents. This is the community strategic plan, the delivery plan—all of those documents that guide their future. The administrator also will have the opportunity in the next integrated planning and reporting cycle to revise and update those documents to reflect the community's revised needs. On the specific question of what the commissioner needs to fix, I would expect the commissioner to be guided by the public inquiry report and its findings but also the performance improvement order and the office's assessment of council's compliance with the performance improvement order.

The Hon. PETER PRIMROSE: What was the recruitment process used to appoint the administrator?

Mr HURST: The administrator is a person appointed by the Minister. The Act does not stipulate a process for selecting a person as an administrator.

The Hon. PETER PRIMROSE: Was there a process in this case?

Mr HURST: A person was identified with the skills and experience to undertake the role who was willing to undertake the role.

The Hon. PETER PRIMROSE: It was not publicly advertised?

Mr HURST: No, the role is not advertised. Often the role of an administrator needs to be filled at short notice. In practice, the Office of Local Government maintains a list of people who are interested in such roles when they come up from time to time and that list was used to inform the—

The Hon. PETER PRIMROSE: Thank you.

The ACTING CHAIR: Are there any specifications that the Minister has to take into account for appointing an administrator that make it clear that they must take into consideration certain information about a potential administrator?

Mr HURST: Absolutely. I think, as everyone would expect, the appointment of an administrator of a council is a last resort. The Act is very specific about the process that needs to be followed to move down that path and all of the steps that have to be taken. In particular, the Minister cannot make that recommendation to the Governor to appoint an administrator unless a public inquiry has been held and the Minister is in possession of the public inquiry report.

The Hon. MARK BUTTIGIEG: Has the OLG received any correspondence from councils regarding the issue of stray shopping trolleys?

Mr HURST: Yes.

The Hon. MARK BUTTIGIEG: Can you elaborate? How many councils, which councils, what is the nature of the correspondence?

The Hon. SHAYNE MALLARD: Going back to what decade?

Mr HURST: Please do not make me take that on notice.

The Hon. CATHERINE CUSACK: How many shopping trolleys were there and were their wheels in good condition?

Mr HURST: I can confirm that a lot of councils have over a long period of time been concerned about their ability to manage discarded items, including shopping trolleys. The Impounding Act is the principal legislation that empowers councils to deal with shopping trolleys. Some of them also use conditions of consent through development applications that they grant under the Environmental Planning and Assessment Act. But for many councils the Government has heard that these are still not giving them the powers that they believe they need to deal with the problem of shopping trolleys, so the Minister has announced that we are reviewing the Impounding Act. Not just shopping trolleys but a bunch of other council powers to deal with discarded items that impose these impacts on the community are all being dealt with through the review of the Impounding Act. I would encourage councils to provide their views about what legislative framework they would like to see to give them the power to deal with shopping trolleys.

The Hon. MARK BUTTIGIEG: Is the issue with the Impounding Act to do with the labour intensiveness of reacting to a problem instead of preventing it up-front? What views does the OLG have in respect of that?

Mr HURST: I think there are a range of views from councils about it. The practicalities of collecting the shopping trolleys—when they are discarded one street from a shop it is a very different matter to when they are thrown off a jetty or down a ravine. Councils have to go and pick them up in all of those circumstances and it can sometimes be very expensive. Once they have collected those trolleys, they have to hold the trolleys unless they are recovered by the owner. That imposes the cost on them of collecting them in a central point and securing them while that process is underway to find the owner and give them the opportunity to have them returned. I think it is also fair to say that councils are concerned that the financial penalties that are available, they have argued, are not a sufficient deterrent to either the individuals who discard the trolleys or the companies who own them and allow them to be or do not prevent them from being discarded. So there is really a wide range of issues that councils are raising about how the Impounding Act is assisting them with that task at the moment.

The Hon. MARK BUTTIGIEG: You have articulated what is the problem. The Impounding Act is essentially a reactive approach—in other words, the problem is here and then we deal with it. We have to send people out to collect them. We are going to need trucks. You have got to find a place to store them and all the concomitant issues that go along with that: extra labour or whatever. There must be countries or jurisdictions doing this better than we are. Has the OLG taken any lead in trying to coordinate a strategy for all these councils to deal with this in consultation with the Minister?

The Hon. CATHERINE CUSACK: Good idea for a parliamentary inquiry.

Mr HURST: Yes, we have. There is the discussion paper to guide the engagement of councils. We have looked at some things which we think might be possible but ultimately it is up to councils to tell us what legislative mechanisms or what regulatory framework they would like to see for shopping trolleys that they can efficiently and economically use to manage the impact either through prevention or to deal with the discarded item. I encourage councils to tell us what they think they need to solve this problem so we can feed it into the legislative process.

The Hon. MARK BUTTIGIEG: Do you have any view about a one-size-fits-all solution in terms of a technological fix? The dollar coin in the slot seems to work at the shopping centre I go to.

The Hon. SHAYNE MALLARD: That is to stop theft.

The Hon. MARK BUTTIGIEG: It stops stray trolleys too because you do not get your buck back unless you put return the trolley.

The Hon. SHAYNE MALLARD: It is about consumer behaviour.

The ACTING CHAIR: There is a question that requires an answer. Could you answer that question?

The Hon. CATHERINE CUSACK: I do not see this under the Act.

Mr HURST: I do not have a view as such.

The Hon. CATHERINE CUSACK: What if the footpath is broken?

Mr HURST: In principle, I agree that if different councils believe that they need different powers to do this then I encourage them to tell the Office of Local Government. We are consulting on this at the moment about what they believe are the methods that they would like to see available for their local government area. It clearly will need to go through the process of amending the legislation but let's see if we can give councils some better tools tailored to their own needs to deal with the issue.

The Hon. PETER PRIMROSE: Presumably then in the review one of the things you may be considering is a provision similar to the boat trailer legislation, where it is a power available to councils if they choose to use it. I do not imagine that this is a major issue that would require the work and effort of rangers in many rural communities. But in city communities it may be a power that they wish to have under the Impounding Act so the council could resolve to use it, as I said, in a similar way to the boat trailers legislation.

Mr HURST: The boat trailer legislation is part of the Impounding Act.

The Hon. PETER PRIMROSE: Yes, I know.

Mr HURST: It is also open for comments from councils about how they would like to see that operate more effectively if it is not currently meeting their needs to deal with boat trailers. I do not think that we should be guided by any one approach. I certainly do not want to pre-empt what councils will tell us. We have put some material out but it is not meant to stifle the conversation with councils about the measures that they would like to see available to them to deal with it.

The Hon. PETER PRIMROSE: Fair enough. I know rangers have told me they have got many concerns and it is good that it is being reviewed.

Mr HURST: I would like to see them addressed.

The ACTING CHAIR: I believe we can conclude there. Thank you very much for coming. It has been a fairly long hearing and a little bit gruelling at times but we appreciate your input. You have taken quite a few questions on notice. If we could have the answers 21 days from today that would be great.

(The witnesses withdrew.)

The Committee proceeded to deliberate.