

GENERAL PURPOSE STANDING COMMITTEE NO. 1

Thursday 15 August 2013

Examination of proposed expenditure for the portfolio area

FINANCE AND SERVICES

The Committee met at 2.00 p.m.

MEMBERS

Reverend the Hon. F. J. Nile (Chair)

The Hon. C. Cusack
The Hon. G. J. Donnelly
Dr J. Kaye
The Hon. M. R. Mason-Cox

The Hon. M. J. Pavey
The Hon. A. Searle
The Hon. W. Secord
Mr D. Shoebridge

PRESENT

The Hon. Andrew Constance, *Minister for Finance and Services*

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**

CHAIR: I declare this hearing for the inquiry into the budget estimates 2013-2014 open to the public. I welcome Minister Constance and accompanying officials to this hearing. Today the Committee will examine the proposed expenditure for the portfolio of Finance and Services. In accordance with the Legislative Council's guidelines for the broadcast of proceedings, only Committee members and witnesses may be filmed or recorded. People in the public gallery should not be the primary focus of any filming or photographs. In reporting the proceedings of this Committee you must take responsibility for what you publish and what interpretation you place on anything that is said before the Committee. The guidelines for the broadcast of proceedings are available on the table by the door. I note that today's hearing is open to the public and is being webcast live through the Parliament's website.

Before we commence I will make some comments about procedural matters. Any messages from advisers or members' staff seated in the public gallery should be delivered through the Chamber and support staff or the Committee clerks. 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 the hearing will be available on the web from tomorrow morning. Minister, the House has resolved that answers to questions on notice must be provided within 21 days. I remind everyone to turn off their mobile phones. All witnesses from departments, statutory bodies or corporations will be sworn prior to giving evidence. Minister, I remind you that you do not need to be sworn, as you have already sworn an oath to your office as a member of Parliament. I ask all other witnesses to in turn state their full name, job title and agency, and swear either an oath or an affirmation.

KEVIN YOUNG, Managing Director, Sydney Water,

KIM WOOD, Managing Director, Hunter Water,

LAURIE GLANFIELD, Director General, Finance and Services,

SAJEEV GEORGE, Chief Finance Officer, Finance and Services,

GENIERE APLIN, General Manager, General Manager, WorkCover Authority of New South Wales,

JOHN WATSON, General Manager, Work, Health and Safety, WorkCover Authority of New South Wales,
and

ANDREW NICHOLLS, General Manager, Motor Accidents Authority of New South Wales, sworn and
examined:

CHAIR: I declare the proposed expenditure for the portfolio of Finance and Services open for examination. I note that the Committee has previously agreed to no Government questions, and therefore the questioning of the portfolio of Finance and Services will run from 2.00 p.m. until 4.00 p.m., when afternoon tea will be taken. As there is no provision for a Minister to make an opening statement before the Committee commences questioning, we will begin with questions from the Opposition.

The Hon. WALT SECORD: Minister Constance, welcome to today's hearing and congratulations on your recent appointment as Minister for Finance and Services.

Mr ANDREW CONSTANCE: Thank you.

The Hon. WALT SECORD: In June and July there was extensive coverage about recent incidents involving wastewater overflows and bypasses at both Sydney Water and Hunter Water. Sydney Water admitted in response to questions on notice that Sydney Water wastewater treatment plants on average had been put on bypass 153 times a year, and the figures were higher for the Hunter. On 9 and 10 July Sydney Water said that it believed the residents of the Illawarra were properly advised when the plants down there were put on bypass. Minister, are you satisfied that the community is properly notified when wastewater plants go on bypass?

Mr ANDREW CONSTANCE: Thank you for raising this issue. I have obviously observed your particular interest in this matter. There is no doubt, as the former Government found, that during wet weather there is increasing pressure placed upon our wastewater treatment plants. That is why this Government is committing tens of millions of dollars of investment into plants. We have seen \$100 million invested in Malabar and \$32 million invested at Warriewood. Obviously in terms of wet weather treatments, the number of bypasses each year does vary. It varies for a number of reasons, in particular the pressure that can be put on the system during wet weather events. Any suggestion that untreated, raw sewage is pumped onto beaches and into the ocean is in fact incorrect. We do of course have a wet weather treatment process. Obviously, given the increased pressure that comes onto the systems, that does mean that full treatment is not afforded.

I can give you the number of bypasses for your information. This year to date there have been 114 bypasses. In 2012 there were 145; in 2011 there were 132; in 2010 there were 131; in 2009 there were 86; and in 2008 there were 90, and I daresay that reflects the drier conditions. In 2007 there were 156. So it does vary from year to year. Obviously, as we know, in extreme wet weather conditions the flow may be too high for the plants to treat everything as they normally would. In these cases around 90 to 95 per cent of the flow is still treated through the normal processes before being released and a small remainder bypasses some internal processes. The last Government had this challenge, and now we have this challenge. Ultimately what we are seeing is an enormous investment into Sydney Water infrastructure designed to counter that challenge.

The Hon. WALT SECORD: Minister, you raised two issues I was going to ask subsequent questions about. You said that no raw sewage is released and you referred to the \$32 million upgrade at Malabar. I would like to draw your attention to an incident on 19 June 2012 at Malabar. In fact I have a copy of the internal Sydney Water documents right here. These documents show that this was dry weather—it was not during a rain period—and that in fact 63 million litres of raw sewage was released at the cliff face at Malabar by that

treatment plant. That term "raw sewage" is what Sydney Water uses in its report. I want to know, Minister, if you are aware of this incident?

Mr ANDREW CONSTANCE: As you can appreciate, over the past 13 days I have been given briefings on a whole raft of elements of the portfolio.

The Hon. CATHERINE CUSACK: Do you not remember the weather of that day?

Mr ANDREW CONSTANCE: I would be hard pressed to remember for 19 June 2012, but I suspect it was the winter recess of the Parliament.

The Hon. WALT SECORD: This is a serious issue.

Mr ANDREW CONSTANCE: Absolutely. The advice given to me is that, first and foremost, Sydney Water reports all bypasses to the Environment Protection Authority NSW [EPA].

The Hon. WALT SECORD: I would like to correct you there—

Mr ANDREW CONSTANCE: I am just saying that I have been advised of that point. In terms of the episode to which you refer, given that I was not the Minister at the time I think it is obviously appropriate that I hand over to Mr Kevin Young, who is the Managing Director of Sydney Water.

The Hon. WALT SECORD: I will refresh Mr Young's memory—in fact I have the ministerial briefing note that you prepared for the previous Minister. Maybe you would like to tell me a bit about the incident, which has been described as the worst in 14 years. The community was not told about this.

The Hon. CATHERINE CUSACK: Mr Chair, as a matter of process, can those documents be tabled and perhaps a copy made available for the witness. That would assist him.

The Hon. WALT SECORD: May I finish referring to them?

The Hon. CATHERINE CUSACK: Certainly.

The Hon. WALT SECORD: I am very happy to hand them over afterwards at the appropriate time in the proceedings.

CHAIR: Order! Yes, it might help the Minister if he can look at them.

The Hon. WALT SECORD: Mr Young has indicated that he is very well aware of the 63 million litres of raw sewage.

Mr YOUNG: I am happy to respond.

CHAIR: Order! The witnesses may have a copy of that material already.

The Hon. WALT SECORD: Let us go through the questioning.

Mr YOUNG: I am aware of that information you received. It is true that at 8.57 on 19 June we had a power disruption at the Malabar Wastewater Treatment Plant and it is true that raw sewage was discharged at the cliff face discharge.

The Hon. WALT SECORD: Did you advise the Minister that no raw sewage—sorry, I will let you continue.

Mr YOUNG: That occurred because of a power outage. I think originally the earthquake that occurred elsewhere in Australia caused disruption.

The Hon. WALT SECORD: The earthquake occurred in Melbourne.

Mr YOUNG: Yes, that is correct. The emergency generators did start; they did not continue to operate, because of a system failure at the plant. Operations were restored at 11.32 after the initial failure at 8.57. We took samples from all the surrounding beaches. They indicated there was no impact on the environment. We immediately notified the relevant authorities including Randwick council and the Environment Protection Authority [EPA]. It is true that it has been 14 years since an event like this occurred, so they are extremely rare. As you would expect from this event, the Environment Protection Authority investigated the matter thoroughly and it determined it would have been impossible to anticipate the failure that was experienced at Malabar. Accordingly, the EPA closed its investigation. These events are extremely rare and they are unfortunate. We are very pleased that there was no significant impact and that there was no impact on the surrounding beaches.

The Hon. WALT SECORD: You said that the appropriate authorities were contacted or informed. The only internal memo by treatment manager Craig Barton says that Sydney Water failed to advise Beachwatch due to the fact that the contact details were not readily available. In fact, they did not inform Beachwatch about this because they did not have its telephone number. Can you elaborate on that, please? That contradicts what you said earlier about the appropriate authorities being contacted.

Mr YOUNG: No, I said we contacted the Environment Protection Authority and Randwick council. I did not say Beachwatch.

The Hon. WALT SECORD: Beachwatch is the organisation that, through the EPA, alerts swimmers and surfers when it is safe to go on the beach.

Mr YOUNG: I understand that, but we immediately did testing on the beaches to indicate that there was no environmental impact and there was no risk to surfers.

The Hon. WALT SECORD: On what date did you contact Randwick council?

Mr YOUNG: I do not have that information in front of me.

The Hon. WALT SECORD: I understand it was a day or so after the incident. Did you receive large numbers of complaints from residents during that period about the smell of sewage?

Mr YOUNG: Not that I can recall. I do not have any information on that either, but it is not something that I can recall.

The Hon. WALT SECORD: Do you think it is appropriate that Sydney Water not tell the community when 63 million litres of raw sewage is discharged not at the deep ocean outfall but at the cliff face?

Mr ANDREW CONSTANCE: I have heard the response given by the managing director at the time. I was not the Minister responsible at the time, but given an earthquake event—

The Hon. WALT SECORD: It was an earthquake in Melbourne.

Mr ANDREW CONSTANCE: That is right, but this was the first time that this had occurred in 14 years at the Malabar plant. If the Committee has an area of concern that Beachwatch was not notified, I will look into it. But in terms of notification to the Environment Protection Authority, which was an appropriate notification, the managing director has indicated that that was made.

The Hon. WALT SECORD: Mr Young, would you like to enlighten me on the two other incidents in which Sydney Water advised that it had not notified Beachwatch?

Mr YOUNG: I think you are going to wet weather by-passes where there was not a notification to Beachwatch.

The Hon. WALT SECORD: To refresh your memory, I am referring to another dry weather incident at Riverstone involving a discharge into Eastern Creek.

Mr YOUNG: I think in October 2012 there was a brief, temporary exceeding of its licence limit for dry weather flows at Riverstone, that is correct, through an anomaly in its operations. We are finalising the review of internal procedures at the plant to make sure that we can improve future operations. It was technically

a very small period where we exceeded our licence limit for dry weather flows and the EPA would have been notified.

Dr JOHN KAYE: Mr Young, could you repeat that? It was hard to hear your answer.

Mr YOUNG: My understanding is that in October 2012 the Riverstone treatment plant briefly exceeded its licence limit for dry weather flows due to an anomaly in operations. My understanding is that the EPA was notified at that time. We are finalising a review of internal procedures at all of its wastewater treatment plants to ensure that we can minimise the chances of these events occurring in the future.

The Hon. WALT SECORD: Mr Wood, would you tell me about incidents at Hunter Water about which the community was not informed?

Mr WOOD: I do not have any information with me that suggests that the community was not informed. That is not to say it has not happened. As per the Sydney Water response, from time to time it is possible these things can happen due to equipment failures. Our procedures require us to notify the authorities immediately we are aware that things have gone wrong.

The Hon. WALT SECORD: The incident at Malabar lasted for two hours and 29 minutes, 63 million litres of raw sewage was spilled and most of it was suspended solids. What are suspended solids?

Mr YOUNG: Raw sewage is principally 99.9 per cent water, but there is a small component of organics that comes into the sewage systems. Suspended solids are organics in the wastewater stream.

The Hon. WALT SECORD: What happens if you swim or surf in raw sewage?

Mr YOUNG: If you swim or surf in raw sewage there is an elevated chance that you can get nose and ear infections.

The Hon. WALT SECORD: Or gastroenteritis and diarrhoea?

Mr YOUNG: Absolutely. That is why it is important that I noted that we did some immediate testing on beaches. We can generally get out there straightaway and perform immediate testing on the beaches to see if the water has been contaminated by sewage. That is a great indication of whether the water is safe to swim in.

The Hon. WALT SECORD: Since this incident last June what steps has Sydney Water taken to ensure that this does not happen again if there is another electrical shutdown?

Mr ANDREW CONSTANCE: To put it into context—

The Hon. WALT SECORD: It was the worst in 14 years.

Mr ANDREW CONSTANCE: You make that allegation. We are talking about 1.6 billion litres of wastewater being treated every day by Sydney Water. There are 675 wastewater pumping stations and 24,000 kilometres of wastewater mains. No-one can 100 per cent guarantee that the system is going to work 100 per cent perfectly 100 per cent of the time. It is important to reflect on the size of the infrastructure that we are talking about. The incident at Malabar related to an electrical failure. I do not think any government worth its salt would guarantee 100 per cent infrastructure success, given the size of the infrastructure that I am talking about. It is important to recognise that when systems fail—as they do under all governments—the appropriate course of action is taken first and foremost to protect the community and to respond to immediate needs to ensure that the infrastructure is back up and running.

Mr YOUNG: If I could add one more thing that goes to the heart of the question that was asked about what we did. We had a full EPA investigation into why this occurred, because when power goes out we have emergency generators to kick in. There was a switching mechanism that should have worked to kick in the emergency generators. That is what it is there for. It has worked very well for all previous periods. The question was asked by the EPA whether adequate maintenance was undertaken of that unit. The answer is yes. They would ask the question about how often it was tested. We could show the evidence that we had simulated the failure to test that the equipment would work.

The Hon. WALT SECORD: Have you also rectified the fact that the staff at the treatment plant did not have the telephone numbers to contact Beachwatch and the EPA?

Mr YOUNG: I am sure that has been rectified. We would look also at the lesson that we have learned from the piece of equipment that failed at this time and whether we can make sure that we are also learning the lessons at other treatment plants where similar procedures and equipment are in place.

The Hon. GREG DONNELLY: Minister, I will start off by asking about board appointments. I will deal with specific appointments in a moment. In general, since becoming a Minister have you received any briefings about what conflict of interest means and what you should take into account when looking at whether appointments should be made to board positions?

Mr ANDREW CONSTANCE: First of all, we have hundreds of men and women who sit on government boards right across government. We have two imperatives when it comes to appointments. Obviously, first and foremost, they have to be merit based and, secondly, approved by Cabinet. In July we have also seen the Department of Premier and Cabinet release guidelines in relation to appointments.

The Hon. GREG DONNELLY: Are you familiar with those guidelines, Minister?

Mr ANDREW CONSTANCE: I am. The point that I would make is that very clearly, as I indicated, there are two clear imperatives: one relating to merit and the other relating to approval by the Cabinet.

The Hon. GREG DONNELLY: And that is the explanation that has been provided to you in terms of your considerations and in terms of appointing people to boards. That has been explained to you.

Mr ANDREW CONSTANCE: As indicated, the key point is that we have those guidelines. They are available for everyone to see, but again I would make this point. There has been a lot of discussion this morning in the budget estimates hearing of the Treasurer and in a number of other budget estimates committees around this key point. We have a very clear process when it comes to merit and when it comes to Cabinet approval. It is important, obviously, should there be a conflict that might arise, that that gets declared.

The Hon. GREG DONNELLY: If I can move to the specific example of the appointment of Mr Kim Garling to his role as the WorkCover independent review officer. I understand the position that you are taking is that you will not review the process that has taken place around his appointment. I understand that you are standing by that appointment that has been made by Mr Pearce. Is that correct?

Mr ANDREW CONSTANCE: The appointment of a statutory officer is one that is based on merit and one that is based on Cabinet approval processes. That is certainly the case when it comes to Mr Garling.

The Hon. GREG DONNELLY: That is notwithstanding the fact that the then Minister, Greg Pearce, appointed the husband of his private secretary, Pamela Williams. That is the sort of close relationship that was there.

The Hon. CATHERINE CUSACK: Point of order: The Minister has just clearly indicated it is not up to him to review Cabinet decisions regarding appointments. He is best placed to answer questions relating to his time as Minister. The member is now badgering on the same line of questioning when he clearly has an answer—the best answer the Minister can give.

CHAIR: It is the Minister's role to answer questions, not Committee members. Mr Donnelly may proceed.

The Hon. GREG DONNELLY: Minister, clearly now that you have this responsibility, you are the Minister and you are well apprised of the facts and the tragic circumstances, to put it that way, of the behaviour of the then Minister, Greg Pearce, in terms of ultimately losing his Ministry. Are you prepared to review that appointment in the light of the fact that we have some very clear details of very close personal relationships?

Mr ANDREW CONSTANCE: In terms of the premise of your question, I will come back to my key point. Appointments are based on merit and appointments are based on the approval of Cabinet. In terms of the performance of Mr Garling, which seems to be where you want to take this, again I point to: Where can you

show me there is nothing that relates to a merit-based and Cabinet-approved appointment when it relates to Mr Garling?

The Hon. GREG DONNELLY: We are dealing with this issue of conflict of interest—

The Hon. CATHERINE CUSACK: This is Mr Constance, not Mr Pearce.

The Hon. GREG DONNELLY: —and ultimately a determination of the Minister was clearly articulated by the Premier.

Mr ANDREW CONSTANCE: Sorry: The determination of the Minister?

The Hon. GREG DONNELLY: Of Greg Pearce on the issue of conflict of interest.

The Hon. CATHERINE CUSACK: Yes, and it is not Greg Pearce. You are talking to Andrew Constance here.

The Hon. GREG DONNELLY: Yes, I know but I am saying—

The Hon. CATHERINE CUSACK: But how can he answer for Greg Pearce?

CHAIR: Do not interrupt the member who is asking questions. The Minister answers the questions.

The Hon. GREG DONNELLY: It was within his power as the Minister to review these circumstances that were associated with this appointment. You could do this. You could at least review the whole matter. Are you prepared to do that?

Mr ANDREW CONSTANCE: I guess, coming back to the premise of your question, if you are suggesting that Mr Garling is not suitably qualified for the statutory officer position at the WorkCover Independent Review Office [WIRO], then make that allegation. What you are asking me about is the process in which Mr Garling was appointed. It is the same process that Cabinet has followed in relation to the appointments of Nick Whitlam, Morris Iemma, Phil Koperberg and Ron Dwyer. We have worked through these processes in order to have—

The Hon. GREG DONNELLY: Conflict of interest is a very serious issue.

Mr ANDREW CONSTANCE: Just let me finish.

The Hon. MELINDA PAVEY: Let him answer, please, Greg.

Mr ANDREW CONSTANCE: We worked through this process based on merit and based on a Cabinet approval process because we are not prepared to be judged by the previous Government's standards when it comes to appointments. I could talk about Michael Williamson being appointed on 1 March 2011.

The Hon. GREG DONNELLY: There is an opportunity here for you, Minister, to say today that in the light of the information that we have about the circumstances of the appointment of Mr Garling, "I am going to review this and look at this closely."

The Hon. CATHERINE CUSACK: Point of order: Mr Chairman, he has answered this repeatedly. It is a Cabinet decision. He has repeatedly said that.

CHAIR: Yes.

The Hon. CATHERINE CUSACK: This is the fourth time the member has asked him.

CHAIR: Yes. We understand that. It is up to the member to ask questions. If he wants to keep repeating his question—

The Hon. CATHERINE CUSACK: Can I ask that you rule the question out of order?

CHAIR: —he can keep repeating his question.

The Hon. WALT SECORD: It is our prerogative. It is our prerogative to re-ask.

The Hon. MATTHEW MASON-COX: The bell has gone and his time is up, Mr Chairman.

CHAIR: The member's time for questions has expired. Minister, I notice in one of the budget papers entitled "Performance Report 2013-14", it refers to selling surplus government buildings and offices on page 5-1. I am just wondering what progress you have made and whether those buildings that are listed have been sold now in Wollongong, Newcastle, Penrith, Queanbeyan, and in Sydney the McKell Building, Bligh House and 207 Kent Street?

Mr ANDREW CONSTANCE: Thank you for that important question. Can I say more broadly that there is a very clear determination by the Government to ensure that we better utilise the assets that are available. Certainly when it comes to government property we want to ensure that we get the best value for the community when it comes to the management of the State's assets. The Property Asset Utilisation Taskforce was established in November 2011 to overhaul the asset management framework to improve efficiency and create a whole-of-government approach. There were a number of key recommendations out of the process. Since that time we have now entered a number of tranches when it comes to the divestment of government property. In more recent times we have announced the second tranche of that sale.

The one thing that I would say in terms of the first tranche is that, obviously, the Government's actions around the divestment actually exceeded expectations. Of course one thing that we did do in terms of that divestment is invest in new housing land releases because, as we saw earlier this week, one of the best ways to strengthen our State economy and strengthen our State finances is off the back of housing and that is where the Government is having success. We will continue to work through the divestment process. I will quickly hand over to the director general to add further to that response.

Mr GLANFIELD: Specifically to answer your question, Mr Chairman, those properties were sold as a tranche of seven properties and realised something in the order of \$405 million, which, as the Minister indicated, was then reapplied to expanded housing for those who were struggling to find homes. The area that has been looking after these tranches is the Office of Finance within my department. It has been working very closely with Treasury and the Department of Premier and Cabinet to identify where there is property that could be better utilised—that is, not essential for the Government—to free up the locked value, if you like, and use that for the Government's priorities and for meeting, I guess, government expenditures in the difficult economic times we are still facing.

CHAIR: Did you say \$405 million?

Mr GLANFIELD: Yes, \$405 million. That was in relation to seven properties. There are, in tranche two, two sandstone buildings, Lands and Education.

CHAIR: There are still some buildings? You are anticipating \$483 million from the sales.

Mr GLANFIELD: Yes, certainly. I am not sure whether all of those—I have not looked at the list in here—have sold but there were seven properties put together in that first tranche. Certainly we secured more than we expected, so I suspect there is a building that is on this list that is yet to be sold.

CHAIR: So you are getting good commercial price values; it is not a fire sale?

Mr GLANFIELD: Yes, and it is the same with government property in New South Wales. From what I have seen in the short time I have been in the chair, almost all of the properties that we have been selling have been securing prices in excess of what had been the expectations.

CHAIR: I note in the same budget paper there is a reference to selected eight urban activation precincts will provide up to 30,000 new homes. Where are those eight precincts? You selected those in March 2013?

Mr ANDREW CONSTANCE: Again, in terms of that specific question it is probably better directed to the Planning Minister and of course also we can seek additional information and provide you with that.

CHAIR: Will you take it on notice then?

Mr ANDREW CONSTANCE: Yes.

CHAIR: On page 5.2 you are responsible to administer the Payroll Tax Rebate Scheme Jobs Action Plan that gives employers an incentive to increase a number of their full-time equivalent employees. What is the result of that particular program?

Mr ANDREW CONSTANCE: One of the great joys of becoming a Minister is there are more folders than I know what to do with, so I apologise in that regard.

CHAIR: Is it possible to actually say how many full-time equivalent employees have been employed?

Mr GLANFIELD: Essentially the way it works is of course someone is employed and then that position is registered and the payment occurs over a two-year period to support, in terms of refund, payroll pay. Just to give you some figures, for the year 2011-12 in the metropolitan area, there were 5,723 positions that were registered and in the regional areas, 1,691 positions. In the year just past, 2012-13 in the metropolitan area 11,471 positions and in the regional area 2,371. My understanding is in the coming year that in fact there will be an increase in benefits and so we expect to see those numbers increased yet again in the coming year.

Mr ANDREW CONSTANCE: Can I add to that further, one of the key platforms in terms of this Government is about driving jobs growth. We have recently seen the national unemployment figures released. It is very pleasing that the New South Wales labour market is showing a lot of resilience in the face of the national unemployment rate increasing. The other point that I would make is that this Government had set a target of creating 100,000 new jobs in the first term of office. We have now exceeded that; in excess of 115,000 jobs. Obviously as part of that, laying the appropriate framework when it comes to payroll tax has been very much on this Government's agenda, making sure that we are competitive with the other States. I think the proof is in the pudding. To exceed our job's target within the first 2½ years when we had a four-year strategy in place speaks volumes about the discipline that has been brought to the fiscal management within New South Wales.

CHAIR: The reduction that your Government brought in did have some positive impact on employers.

Mr ANDREW CONSTANCE: Absolutely and I think that providing business confidence, business certainty is a key component to the work that is being undertaken by the Government, undertaken by the Treasurer in this regard. From my perspective as the Finance Minister, I am about trying to drive efficiencies across government in order to make life better for families and businesses across the State. When it comes to tax measures such as this and providing that vital relief, it does make it easier for those small businesses to give consideration to employing that additional person. Certainly in terms of the figures, I think that speaks volumes about that approach and it is one that is working.

CHAIR: Are there any further proposals to reduce the payroll tax further?

Mr ANDREW CONSTANCE: Again, obviously as indicated by the Treasurer, there is always a need to constantly review and respond accordingly in terms of the state of the economy when it comes to taxation measures.

From my perspective, when it comes to taxation and the administration of the Office of State Revenue, we are very much looking at ways in which to drive efficiency, to ensure certainly when it comes to outstanding tax debts—that they are collected. This Government has undertaken a number of measures that are delivering the results in terms of outstanding taxes. Ultimately I think certainly the intent of this Treasurer is to make sure that we give confidence to business and I do not think that there is a better example under our Jobs Action Plan than the measures that have been employed when it relates to payroll tax.

CHAIR: In that performance report, page 5.2, there is a reference to proposed reforms to the Compulsory Third Party scheme, which was going to reduce, according to this budget paper, the average passenger vehicle premium by up to 15 per cent and extend benefits to about 7,000 additional injured motor accident victims each year. As you know, that legislation has not proceeded. What are your plans at this stage concerning that proposal?

Mr ANDREW CONSTANCE: Again thank you for that question. We have two key principles when it comes to the reform of the Compulsory Third Party scheme. First and foremost we want to put downward pressure on prices. We know that New South Wales has the highest Compulsory Third Party scheme prices around the country. Secondly, we want to deliver the timely benefits to injured motorists, regardless of what the cause is of that accident. Our reforms are based around those two key principles. In terms of the current scheme, the current scheme is inefficient, it is ineffective. We know certainly in terms of the efficiency of the scheme, we are seeing instances where 50¢ in the premium dollar is actually going to the injured motorist. The remainder is going in expensive administrative overheads, insurer profits, legal and investigative costs. We are determined to move this scheme to one that is no fault. We are determined to obviously put downward pressure in relation to prices. We have had extensive work in terms of actuarial advice that has been undertaken by Ernst & Young in this regard; that has been released publicly in the past fortnight and I, as the Minister, look forward to negotiating with all members of the Upper House in relation to the legislation.

CHAIR: I know you are the new Minister so you may not know all the background, but there have been some allegations that the insurance companies have lobbied intensively to have these amendments, which would financially benefit them with increased profits. Are you aware of those allegations and have you had a chance to make inquiries?

Mr ANDREW CONSTANCE: What we did over the course of the winter recess is invite all relevant stakeholders to a round table, which was held in this room, chaired by Paul McClintock. I have to say this, when it comes to the lobbying efforts, we made clear that following the round table we would establish a steering committee. I was very pleased to appoint both John Walsh and John Della Bosca to that steering committee, given the experience that they both bring in terms of the National Disability Insurance Scheme. I also indicated to those stakeholders that I did want to meet with them obviously to understand and appreciate their concerns. As a Government we want to continue to listen to those stakeholders. Should there be any concerns that come in the form of amendments, obviously we will consider those and obviously work through this process.

CHAIR: So you do not believe there is any pressure that has been applied by insurance companies to dictate the benefits of that legislation?

Mr ANDREW CONSTANCE: No, we are not relying on the insurance companies to provide us the advice in relation to the downward pressure on price as it relates to this scheme. We are relying on actuarial advice that has been provided by Ernst & Young and peer reviewed by Taylor Fry. The observation that I would make—and I come to this table as someone who has been injured in a motor vehicle accident—is that we have to prioritise the need of accident victims. I do not want to see rent-seeking occur in the scheme.

One of the problems we have with the current scheme is that it takes on average three to five years before an injured motorist receives the benefit from a compulsory insurance product. One thing I observed is that there have been excessive insurer profits in the past, but one reason for that is that insurance profits can materially change through the realisation of a claim because of no certainty in the scheme. Hence, the reason the Government was keen to move to a statutory defined benefits scheme in order to provide that scheme certainty. In that regard, not all insurance companies are 100 per cent happy. I have had representations from one insurance company expressing concern about the no fault component of the scheme. To that end the views vary across the spectrum when it comes to the proposed reform.

CHAIR: One of your services roles is managing the State's archives and records. Concern has been expressed that with a change of Government or Minister important files have been shredded or, if not files, emails have been removed from computers. I understand some new policy will guarantee emails can always be recovered when necessary. Can you comment on that?

Mr ANDREW CONSTANCE: Obviously, the transition between Minister Pearce and me has been managed by the Department of Premier and Cabinet. Of course, the Department of Finance and Services has an electronic management system, which ensures that records are kept. The key point that needs to be made is that the State Records Act is very clear: Cabinet documents are to be returned to, obviously, the Cabinet office. Any documents that belong to a department are to be returned to the department—again, I note the electronic management system that exists. All other documents again are the responsibility of the Minister. There is very clear delineation regarding those documents. Certainly, as I indicated, the Department of Premier and Cabinet handled the transition when Minister Pearce was stood down.

CHAIR: Have new technology procedures been put in place to ensure all emails will always be available even if they are removed?

Mr ANDREW CONSTANCE: I might hand that over to the director general.

Mr GLANFIELD: I would have to take that on notice. I am not aware of that, but I know that in fact all electronic document systems are backed up. I would imagine, as ICAC has found on occasion, it is not that hard to get copies of materials. I might add that we do retain copies of all materials that are sent to the Minister's office, as the Minister said, in our electronic document management system. The idea that any public records the department has are lost would not be the case. We would have copies of those. Emails essentially should be able to be found on backup tapes if that was required.

CHAIR: Apparently that has not been the system.

Mr GLANFIELD: As far as I know, it has been the system for some time. In fact, although you might delete an email, essentially 99.9 per cent of the time the email still exists. It just depends on what backups have been kept in relation to the material.

CHAIR: One area of concern always is collecting debts owed to the State Government. That is the role of the Office of State Revenue. What changes have been made to ensure those outstanding debts are paid?

Mr ANDREW CONSTANCE: We have seen a much improved performance when it comes to collecting outstanding money. Obviously, I do not want a situation where hundreds of millions of dollars are owing to the people of New South Wales by people who have not met their fine commitments. As at 31 July 2013 the total overdue fines debt in New South Wales was \$746 million, which was made up of \$526 million in Crown fines and \$220 million in commercial fines. The Office of State Revenue recovers an average of \$1 million in overdue fines debt each business day. The key point that needs to be made is that this compares to \$750,000 per day 24 months ago. A number of measures have been employed to address this, including, obviously, the centralising of debt management functions and the appointment of a Chief Recovery Officer. Private debt collection companies have been used to pursue those outstanding fines. Obviously, in ensuring unrecoverable debt, that is appropriately written off. We want to ensure that the message goes out to those who have outstanding fines due to the people of New South Wales. We are going to be pursuing you. Obviously, we want those who have outstanding fines to make their payments so that we can continue to operate the Government effectively.

Dr JOHN KAYE: I join the line of people congratulating you on your appointment to this portfolio and wish you the best.

Mr ANDREW CONSTANCE: Thank you.

Dr JOHN KAYE: I return to the complex issue of the Rouse Hill Water Infrastructure contract to try to get some clarity. Let us walk our way through it historically. Somewhere in the early nineties—perhaps Mr Young can help us out—am I correct in saying a north-west project development created some kind of contract right, it is now alleged, for Australian Water Holdings to provide that infrastructure? Is that correct? Perhaps with your permission Minister, Mr Young might answer?

Mr YOUNG: I think I need to be aware from what you and I and everyone else have read in the paper that there is potential for this to be covered under an ICAC inquiry. But I can confirm that contracts were signed in the early nineties with Australian Water Holdings and the Rouse Hill Infrastructure Corporation that conferred rights on that company to act on Sydney Water's behalf to project manage the works that were needed in the north-west growth sector where Sydney Water would need to construct major water and waste water facilities in pumping stations and rising mains. That contract was subject to a number of significant disputes and at least two mediations over time.

Dr JOHN KAYE: That contract predates the Water Industry Competition Act.

Mr YOUNG: That is correct. It does predate the Water Industry Competition Act.

Dr JOHN KAYE: Do you have any idea of the circumstances of that contract being signed?

Mr YOUNG: It is difficult for me to comment on the circumstances that led to a signing of the contract in 1990 and 1992. I cannot comment on that.

Dr JOHN KAYE: Can you take that on notice and try to get back to us with some information as to the legal head of power under which that was signed?

CHAIR: Is that possible?

Mr YOUNG: I am not sure that it is possible, looking back.

CHAIR: Going back so far to 1990 and 1992?

Dr JOHN KAYE: Will you undertake to attempt to do that?

Mr YOUNG: We can look. Of course, we have the original contract that was put in place at that time. I am just trying to understand the exact question you are asking. We have the detail, the nature of the contract that was put in place in 1990 and 1992 and we do understand. Are you asking what was the background on how that came about?

Dr JOHN KAYE: Under what law was that signed. It was not under the Water Industry Competition Act. Was it under Sydney Water's Act?

Mr YOUNG: I understand the question. We will look at that and tell you how that was put in place.

CHAIR: You will take it on notice?

Mr YOUNG: Yes.

Dr JOHN KAYE: We will fast forward. Sometime in 2009 or 2010 there was an attempt to push ahead with this infrastructure development by Australian Water Holdings for some number of hundreds of millions of dollars. Your predecessor rejected that position and caused the matter to go to the Keneally Cabinet, is that correct?

Mr YOUNG: I just want to clarify. There are two elements. The first you talk about is the contract that was put in place in the early nineties with respect to conferring a right on Australian Water Holdings to do project management services for Sydney Water Corporation for the north-west growth sector. Can we just clarify that original contract was for the north-west growth sector, Sydney Water's work undertaking project management services. There is a second element that I understood happened, which was an unsolicited proposal, more of a public-private partnership. That is completely separate from the contract that was in place where they were putting forward a proposal to Government that they could finance and take a broader ownership of the assets in that area, and I have limited information of that.

Dr JOHN KAYE: That is a 2009 proposal?

Mr YOUNG: Most of the information I have on that I got from Frank Sartor's book, *The Fog on the Hill*, where he comments in detail—

Mr ANDREW CONSTANCE: Page 155.

Mr YOUNG: Yes, well before my time but, as I understand it, there was an unsolicited proposal that was put forward by the company.

Dr JOHN KAYE: Which was rejected by Sydney Water and went to the Cabinet?

Mr YOUNG: I understand that Sydney Water reviewed this matter and, yes, rejected it, but I do not have details of what happened in Cabinet at that time, or how that was dealt with. I only know that it did not go ahead.

Dr JOHN KAYE: Let us go to the period where you are now the chief executive officer. In this period, there is similar unsolicited proposal that comes to you?

Mr YOUNG: No.

Dr JOHN KAYE: What came to you in 2012?

Mr YOUNG: That was not an unsolicited proposal. If we go back to the original contract, it was signed in the early nineties that conferred rights on that company to do project management services for Sydney Water. As I said, Dr Kaye, there have been many disputes over time and major mediations on that contract. My predecessor and I were of the view that the contract needed to be reshaped and it needed to be more commercial in value and provide greater value for the people of Sydney. The previous contract was alleged to be unlimited in time when it was originally signed. So that came to a head when—you are correct—I did take over the role of Managing Director of Sydney Water Corporation. We were at the end of a major mediation that occurred with the company and we had decided that we would take this contract to the market, and that was under major dispute. That led to some tough commercial discussions with the company where it was agreed that we would tear up the previous contracts and we would put a new contract in place that was limited in time, a contract that was commercial in nature that represented excellent value for the people of Sydney and our shareholders.

Dr JOHN KAYE: And it was a project management contract?

Mr YOUNG: It was a project management contract. It was not an unsolicited proposal again. I want those two things to be separate.

Dr JOHN KAYE: Thank you for clarifying that; I appreciate it. At some stage during that period, did you, your board or the chair of your board receive a letter from Arthur Sinodinos as the Chair of Australian Water Holdings?

Mr YOUNG: From memory, the answer is no. As I said, there were some very tough, hard commercial negotiations with the company following the mediation. I recall that there was a letter from Australian Water Holdings. The Government copy went to Sydney Water Board. I am looking at this matter, saying that there were tough negotiations going on, but I also recall that a letter came back to Australian Water Holdings, copied to Sydney Water Board that said it was a matter that was strictly a commercial matter for the Sydney Water Board in a commercial negotiation.

Dr JOHN KAYE: That was a letter from?

Mr YOUNG: I recall that it was a letter from, I think, Chris Eccles, who wrote that it was not a matter for the Government to be involved in this process, and that was correct, it was a Sydney Water Board matter.

Dr JOHN KAYE: That is not what I was asking you. In today's *Daily Telegraph* it is alleged that you, your board, or your chair received a letter from Arthur Sinodinos that was cc'ed to the Premier.

Mr YOUNG: No, I do not believe that is true, to the best of my knowledge.

Dr JOHN KAYE: Can you take it on notice and check your records? It is a substantial issue.

Mr YOUNG: Yes. I do not believe it is true.

Dr JOHN KAYE: You do not believe it is true. You have no recollection of receiving a letter from Arthur Sinodinos that was ccd to Barry O'Farrell, the Premier?

Mr YOUNG: I do not. I do not, to the best of my ability.

Dr JOHN KAYE: If that turns out not to be correct, you will get back to us and let us know?

Mr YOUNG: I can take that on notice.

Dr JOHN KAYE: At this stage you are on record saying you did not receive such a letter.

The Hon. MELINDA PAVEY: To the best of his knowledge.

The Hon. CATHERINE CUSACK: He has answered the question.

Mr YOUNG: I have answered the question.

Dr JOHN KAYE: To the best of your knowledge, yes. You would, therefore, feel honour-bound to correct that, if it was subsequently proved to be not true?

The Hon. CATHERINE CUSACK: John, that is enough.

Dr JOHN KAYE: I will decide that, Catherine.

Mr YOUNG: I am advised that the original writ contract was signed under Sydney Water's normal operating procedures and the procurement guidelines were in place at that time.

Dr JOHN KAYE: That was a contract to manage the development of or to manage the ownership and operation of?

Mr YOUNG: No, it was strictly that we would be undertaking capital works in the area to serve new homes as a major growth area and that required us to construct major infrastructure, and the contract that was put in place at that time would be they would project manage that infrastructure on our behalf, and that would require that all of that construction work would go to the market and be tendered. It was only the project management—

Dr JOHN KAYE: It was purely the project management of the capital development—

Mr YOUNG: Yes.

Dr JOHN KAYE: —of any infrastructure that was to be built in that area?

Mr YOUNG: I want to clarify that question, Dr Kaye. You would be aware that where there is significant new growth being built in an area, the developer would do the infrastructure within their subdivision, so they would be putting the pipes in the street, the water mains, the sewer mains, so that infrastructure would be organised through a new growth area by the developer. What does happen is that Sydney Water Corporation puts in place a major development plan where we need to look at regional infrastructure of major pipelines and public stations that need to be put in place to serve growth in the area. The contract that was put in place is strictly relating to Sydney Water's infrastructure under our—

Dr JOHN KAYE: I understand that, but it was managing the development of that infrastructure. The infrastructure would then revert to Sydney Water and be managed and maintained under a separate arrangement, either by Sydney Water or by contract to Sydney Water.

Mr YOUNG: Yes, I wanted to clarify when you said "all infrastructure" within the area.

Dr JOHN KAYE: I said, all Sydney Water infrastructure.

Mr YOUNG: All Sydney Water.

Dr JOHN KAYE: Yes, I understand.

Mr YOUNG: Thank you.

Dr JOHN KAYE: I will change topic and move north a bit. I will ask about some matters relating to Hunter Water. With respect to the new Lower Hunter Water Plan, Mr Wood, I do not think I had a chance to congratulate you on your public statements about Tillegra Dam and the direction in which it has gone. If I may, many of us are very pleased to hear a managing director of Hunter Water who has insight into this matter and who understands modern water planning. Mr Wood, when are we going to see the first draft of the Lower Hunter Water Plan?

Mr WOOD: There have been two rounds of public hearings already related to the development of that plan, Dr Kaye. The third and final round of public hearings will commence in the next several weeks. It is

intended that the Metropolitan Water Directorate will complete its work and submit the final report to Government by the end of this year. We understand it will be available to the public in its final form in February next year.

Dr JOHN KAYE: Will the public see a draft of the plan?

Mr WOOD: I believe the work has been discussed in partial form along the way, and I would expect that a draft will be available to the public later on this year or early next year.

Dr JOHN KAYE: We can take it that Tillegra Dam will not be included in that draft?

Mr WOOD: That is correct.

Dr JOHN KAYE: We can also take it there will not be any other large water storage project included in that draft?

Mr WOOD: The portfolios that are being collated and looked at by the Metropolitan Water Directorate do not include any new surface water sources whatsoever.

Dr JOHN KAYE: Desalination is not included in that draft?

Mr WOOD: Potable desalination may be one of the options. My understanding is that Hunter Water is not responsible for selecting the final portfolio—

Mr ANDREW CONSTANCE: It is the Metro Water Directorate.

Mr WOOD: It is unlikely to make the cut to the final selection.

Mr ANDREW CONSTANCE: John, the discussion paper will be released in the next couple of weeks and then the plan will be released later on in the year.

Dr JOHN KAYE: You are saying the discussion paper will be publicly released in the next few weeks?

Mr ANDREW CONSTANCE: Yes.

Dr JOHN KAYE: Thank you. If I can now address the issue of the State archives office. Minister, am I correct in saying that funding for the digital archive repository has been substantially reduced since it was originally proposed? I do appreciate, Minister, it is not a major component for you. It is a very important component of your portfolio, I do appreciate that. I would not take it amiss if you referred the matter to your director general.

Mr GLANFIELD: There have been two years of funding for this program and in the last year \$1.1 million was provided for the digital archive. Essentially, for those who are not aware, this is all about OpenGov NSW where we are trying to convert a lot of these archival materials into digital form and allowing ready access to them by members of the public. Already on that website there are a large range of these documents. It is an ongoing program. There has not been any money specifically earmarked for this program in this year but that is certainly one of the challenges that has been identified to me—to look at what we can do to continue to fund this exercise. From my point of view, can I say, one of the most exciting things about the Department of Finance and Services is the work that is being done in the information and communication technology [ICT] area. We really have some fantastic websites being developed—

Dr JOHN KAYE: It is fair to say that OpenGov NSW is a much broader-scoped activity than the digital archive repository project—

Mr GLANFIELD: It is a hub

Dr JOHN KAYE: But there is no funding for the digital archive repository for this year.

Mr GLANFIELD: There has been funding for it.

Dr JOHN KAYE: In the past, but not currently.

Mr GLANFIELD: No money has been earmarked but you have to remember that within the whole of the budget my obligations are to meet the general budget. So where there has been identified need, which there is here, that is one of the things I will be looking at in order to see if we can allocate some funding to continue that program.

Dr JOHN KAYE: So it is possible that there will be some funding but it will come out of the overall OpenGov NSW allocation, is that what you are saying?

Mr GLANFIELD: Within the department's allocations. We are embarking on a whole range of savings initiatives across the department. So if there is an opportunity to fund this—although it has not received capital funding this year—we are quite open to seeing what we can do. Securing that funding is one of the challenges that has been identified for me.

Dr JOHN KAYE: What is your estimate of the total cost of the finished product: the digital archive repository?

Mr GLANFIELD: I would have to take that on notice.

Dr JOHN KAYE: Could you get back to us as to how much has been spent so far? Is there a plan for completion of the repository?

Mr GLANFIELD: I am sure there is an end to it.

Dr JOHN KAYE: When it was originally mooted under the previous Government, from recollection, there was a completion date—

Mr GLANFIELD: There was an end date.

Dr JOHN KAYE: —which I think may have been this year.

Mr GLANFIELD: In any event I will take that on notice.

Dr JOHN KAYE: This is not the library.

The Hon. CATHERINE CUSACK: No. Are you talking about the convict records? Because the State Archives has kilometres of files.

Dr JOHN KAYE: No, I am talking about the digital archive repository, which is not the same thing.

CHAIR: Let the witness answer the question.

Mr GLANFIELD: Primarily this is about storage of electronic documentation and having a basis for the future. It is kind of pivotal to a range of initiatives designed to make this material more accessible into the future. That is why I say from my point of view I have identified this as being something that I will certainly be looking at in order to try to ensure it continues.

Mr ANDREW CONSTANCE: It is a very clear goal in the NSW 2021 strategy in terms of easy access to material. We have a very ambitious ICT strategy; this is part of that process. Certainly in terms of making it more effective for the utilisation of the community I think it is a key one.

Dr JOHN KAYE: It would be fair to say that even though it is goal currently it is not a funded goal?

Mr ANDREW CONSTANCE: Again, as the incoming Minister I will go and have a look at this. We have a \$2 billion program when it comes to ICT across this Government. It is very clear, based on advice that has been provided from the Auditor-General and a number of other reviews, that we expect sound project management. We certainly expect better integration in terms of data usage across government. To that end I am very keen to make sure as the incoming Minister that we deliver on that ICT strategy.

Dr JOHN KAYE: Can you give us a guarantee or an assurance that important information will not be lost, given that the OpenGov NSW site is less comprehensive than the archive system was originally intended?

Mr GLANFIELD: Can I just make one point? The original funding was provided for two years, I think it was, for this program. That was what they requested and they indicated any ongoing costs for the program would be met out of their existing resources. I think what has happened is that it has ended up taking more than they had expected it to, which is not unusual with these technology things. I cannot give the assurance that you are seeking but I recognise the importance of this project and, as I have said to you, I will do whatever I can to try to ensure that, if there are reasonable needs, it is completed.

Dr JOHN KAYE: The Property Asset Utilisation Taskforce published information which suggested that a target was being operated in the Government to reduce the amount of space allocated to each student in high schools and primary schools. Are you aware of that? Can you tell us whether the Government is pursuing a target on space per student in public high schools and primary schools?

Mr ANDREW CONSTANCE: Allow me to take that question on notice in terms of the report recommendation. But, as I have said from the outset, we very much want to ensure that we have appropriate asset utilisation in the best interests of everyone in the community.

The Hon. GREG DONNELLY: Earlier in answer to a question that I asked you in the first tranche you explained as to appointments that your understanding was that the criteria were based on merit and full Cabinet approval. This morning when we were looking at the same issue the Treasurer said that a third criteria is used—that is, applicants will be rigorously assessed. He said there are three criteria: rigorous assessment, based on merit and full Cabinet approval. Why do you not have the same understanding as the Treasurer about rigorous assessment being included as part of the criteria? Is that not something that has been explained to you as part of the process?

Mr ANDREW CONSTANCE: I would have thought there would be some sort of process to determine whether it is a merit-based appointment. The key point I would allude to there is that, as you know, guidelines are now available, fairly rigorous in nature, which have been released by the Department of Premier and Cabinet.

The Hon. GREG DONNELLY: We understand from your answers to earlier questions that you are not prepared to re-examine all the issues surrounding Mr Garling, even though it is within your purview.

Mr ANDREW CONSTANCE: Can I just say—

The Hon. GREG DONNELLY: But we will move on from that. In the first week of his job the WorkCover Independent Review Officer, Mr Garling—

Mr ANDREW CONSTANCE: A statutory officer, appointed by Cabinet, based on merit, and you want to talk about my purview.

The Hon. GREG DONNELLY: He was engaged by Mr Anthony Johnson, the husband of Mr Pearce's chief of staff, as the Acting Director of the Information Technology at the WorkCover Independent Review Office [WIRO]. We have some very cloudy circumstances around the appointment of Mr Garling in the first instance, which you are not prepared to review, and we also have this situation of the appointment by Mr Anthony Johnson. Can you specifically explain the circumstances about Mr Johnson's position? Have you looked at this or has it been brought to your attention?

Mr ANDREW CONSTANCE: Firstly, let me just say this. The WorkCover Independent Review Office is a key component of the workers compensation reform, as members of this Committee would know.

The Hon. GREG DONNELLY: This is about Mr Johnson's position.

Mr ANDREW CONSTANCE: Thank you. Can I just say that I was the disability Minister at the time; I was not the responsible Minister. I would make this observation that Mr Garling's appointment is that of a statutory officer.

The Hon. GREG DONNELLY: We are talking about Mr Johnson.

Mr ANDREW CONSTANCE: Sure. In terms of the arrangements in relation to contracts and what have you is very much the responsibility of the statutory office concerned. If it will help enlighten you, I can advise that the recent review of business needs that was undertaken by the—

The Hon. GREG DONNELLY: Are we getting close to hearing about Mr Johnson?

The Hon. CATHERINE CUSACK: You were the one who raised it, Greg.

The Hon. GREG DONNELLY: And I am waiting patiently.

The Hon. CATHERINE CUSACK: He is trying to answer your smears.

CHAIR: Let the Minister answer the question.

Mr ANDREW CONSTANCE: As I was about to say, following a recent review that was undertaken by the Safety, Return to Work and Support Division, Mr Johnston's agency contract has been concluded.

The Hon. GREG DONNELLY: When was it concluded?

Mr ANDREW CONSTANCE: I understand that it was this week.

The Hon. ADAM SEARLE: That is a coincidence.

Mr ANDREW CONSTANCE: A coincidence with what?

The Hon. GREG DONNELLY: How long was that contract for precisely?

Mr ANDREW CONSTANCE: I am not privy to this contractual arrangement.

The Hon. GREG DONNELLY: Are you prepared to take that on notice, Minister?

Mr ANDREW CONSTANCE: Please, let me finish my answer. Ultimately this is a decision for the Safety, Return to Work and Support Division in respect of the contractual arrangements, and that is where this has been handled. It is a matter for the statutory officer concerned and, obviously, a matter for that division.

The Hon. GREG DONNELLY: There is a cloud over that appointment in respect of conflict of interest. We have covered that, and you are not prepared to review that. It seems that we are not going to get an answer from you about the review of the appointment of this person, whose contract has just come to a conclusion.

I move to another matter which is related. On 2 August it was reported that the then Minister Greg Pearce had been sacked after he appointed Sydney University General Counsel Richard Fisher to a \$60,000-plus per year position on the board of Sydney Water. Mr Fisher was the former employer of Mr Pearce's wife, Shauna Jarratt. As we understand it, Sydney Water did not recommend the appointment. In light of these very cloudy circumstances around then Minister Pearce and these appointments, Minister, are you prepared to examine this issue of Mr Fisher's appointment closely and see whether it met these criteria that you claim are the criteria used in broad appointments?

Mr ANDREW CONSTANCE: Let me enlighten you about Mr Fisher. I remind you, again, of the approval processes. I do not appreciate the assertions that you have just made in your previous statement.

The Hon. GREG DONNELLY: Surely you are not saying that former Minister Pearce was following the criteria, Minister?

CHAIR: Order! Let the Minister answer the question.

Mr ANDREW CONSTANCE: As I indicated to the Committee earlier, and I will continue to refer to this, these are merit-based appointments and the appointments have the approval of Cabinet. Mr Richard Fisher

is General Counsel at the University of Sydney. He is an Adjunct Professor in the university's Faculty of Law. He is the immediate past chairman of partners at Blake Dawson. He specialised in corporate law during his 25 years as a partner of that firm. He is a former Commissioner of the Australian Law Reform Commission and international consultant to the Asian Development Bank. He is a member of the Library Council of NSW. He holds a masters of economics. I am advised he has been appointed to various roles by both sides of politics. That advice has been given to me by the Managing Director of Sydney Water. So if you are suggesting for one minute that he is not a merit-based appointment then say so. But as far as I am concerned he was appointed and approved by Cabinet on the basis of merit.

The Hon. GREG DONNELLY: And, as you see it, no conflict of interest is associated with this appointment at all?

Mr ANDREW CONSTANCE: In terms of your assertion, I say again: Cabinet approved this appointment. It is merit based. I refer you to my previous answers in relation to the appointment process.

The Hon. GREG DONNELLY: Can you tell me where the conflict of interest consideration comes in then when looking at these things, because we have gone through three examples now. Clearly there is a question here that needs to be looked at in terms of conflict of interest. You seem to be just batting that off as a consideration.

The Hon. CATHERINE CUSACK: Point of order: Again, the member is not asking questions relating to the Minister's portfolio. The Minister has repeatedly said this was a Cabinet decision. It is a matter for the Cabinet. The Minister is not the Premier. It is a Cabinet matter, and he has said that over and over again. The member continues to badger the Minister.

CHAIR: Order! These are upper House committees and members are entitled to ask questions. He is asking questions. If he wants to waste his time that is up to him.

The Hon. CATHERINE CUSACK: But we have a convention in this committee about repeatedly asking the same question and badgering the Minister for the purposes of smear. We must reach a point where the member is asked to move on.

The Hon. ADAM SEARLE: You are eating up our time. I understand the tactic.

The Hon. CATHERINE CUSACK: I am asking that the Chair ask the member to move on.

CHAIR: Order! Mr Donnelly has the call.

The Hon. GREG DONNELLY: I am trying to understand, Minister, precisely your explanation of conflict of interest and where it fits into these considerations because clearly with the three examples I have gone through there is a conflict of interest there, and it appears that you do not recognise it.

Mr ANDREW CONSTANCE: I have just outlined the merit-based process on which the Government worked in the case of Mr Fisher's appointment. If you are making suggestions that any of these appointments are not merit-based then that is a matter for you. Quite clearly, we have a merit-based Cabinet approval process. I observed that even some of the media coverage made it clear that there was no suggestion of any of these appointments not being merit based. If you want to make assertions against Mr Fisher, or anybody else for that matter, then that is a matter for you.

The Hon. GREG DONNELLY: I am trying to understand what the Government itself understands to be a conflict of interest and what that means. I cannot seem to get an answer from you explaining—

The Hon. CATHERINE CUSACK: A conflict of interest would be Eddie Obeid forcing the Premier to agree to the appointment of Ian Macdonald.

CHAIR: Order! Mr Donnelly is asking questions. He does not need a commentary from the members of the Committee. Mr Donnelly wants to have it explained. Let him have it explained to him.

The Hon. WALT SECORD: I will be brief. There are some new appointments coming up next month. On 10 May the O'Farrell Government placed advertisements in the *Australian Financial Review* for three board

appointments to Sydney Water. What is the status of these three appointments? They are at the final stage of the selection process and the term of those three positions comes to an end on 30 September.

Mr ANDREW CONSTANCE: First of all, there is a statutory requirement to advertise positions which relates to Sydney Water and you are reflecting on those advertisements.

The Hon. CATHERINE CUSACK: They are searching for a conspiracy.

The Hon. WALT SECORD: I have not asked my question yet.

Mr ANDREW CONSTANCE: That is the conspiracy. If you want to pepper me with questions in relation to conflict of interest then I can come back to discuss the issue of the appointment of Michael Williamson on 1 March 2011. There is a proud moment for all of you. You do not want to judge us by your standards, let me tell you, because we have a very clear process involving the Cabinet.

The Hon. WALT SECORD: Minister, I have a very simple question. Since becoming Minister have you reviewed the processes and decisions relating to these three new appointments, which are at the final stage and which the government was ready to make, from the previous Minister?

Mr ANDREW CONSTANCE: In terms of this process, let me be clear: I am a member of a Cabinet which makes the decisions in relation to approvals. It is a merit-based process. There is a simple answer to your simple question.

The Hon. WALT SECORD: These are three significant positions. We are talking about the Chairman of Sydney Water.

The Hon. CATHERINE CUSACK: They do not get it. They do not understand it, and they never have. You can tell them 100 times and it does not go in.

The Hon. WALT SECORD: Catherine, you would love to be in the chair answering these questions but please let the Minister answer.

The Hon. CATHERINE CUSACK: I would love to be hearing some new questions; that is what I would love to be hearing.

Mr ANDREW CONSTANCE: I would like to know at what time Cabinet met in relation to the approvals in terms of the sell off of electricity generators. I would like to know about the Cabinet processes related to 1 March 2011 appointment of Michael Williamson.

The Hon. WALT SECORD: I want to know who you are going to replace Sydney Water Chairman Dr Thomas Parry with.

The Hon. ADAM SEARLE: Congratulations on your appointment, Minister Constance. I would also like to congratulate Mr Glanfield on his appointment as Director General. Minister, you mentioned in the House yesterday your intention to press ahead with the controversial New South Wales Compulsory Third Party [CTP] scheme reform proposals of former Minister Greg Pearce. This is despite hearing widespread concerns at the recent roundtable that you convened when you were the Acting Minister. You have not outlined any changes to the Government's program for reform, have you?

Mr ANDREW CONSTANCE: Let me say on CTP that we have had a number of discussions, and I also hope to have discussions with the Labor Party because ultimately the Government does not have the numbers in the upper House. In that regard, one point I would observe is that we have a national debate that is taking place under the Gillard-Rudd Government involving the National Injury Insurance Scheme, which is a no-fault scheme. I am completely perplexed as to why the Labor Party at a State level is opposed to a reform that moves to a no-fault based scheme for compulsory third party [CTP] insurance. I think there is a direct conflict and anomaly between the approach being taken by State Labor versus Federal Labor. I look forward to having that discussion with your shadow Minister

The Hon. ADAM SEARLE: Minister, I will help you out here. Currently, the Motor Accidents Scheme provides a special benefit for all children aged under 16 years. Irrespective of the question of fault, their

treatment and expenses are met for life. Under your Government's proposals, where those injuries do not exceed 10 per cent whole person impairment those treatment and other expenses will be paid only for five years. Your Government's proposal seriously disadvantages child victims of motor accidents. You do not propose to abandon that, do you? You are just pressing ahead despite the concerns you have heard.

Mr ANDREW CONSTANCE: I have publicly expressed concern in relation to the situation as it relates to children. One of the reasons why we held the roundtable, why we have a report back from Paul McClintock and why we have a select committee is an acknowledgement that the Government did not do the consultation for this reform well. My reading of the upper House in relation to this is that there needs to be change as it relates to children. That has been identified.

The Hon. ADAM SEARLE: What do you propose to do about it? We are hearing all these fine words about you recognising concerns. You are very cooperative all of a sudden, but what do you propose to do about that nasty in your bill?

Mr ANDREW CONSTANCE: First and foremost I would like an indication from the Labor Party as to whether it is going to support the reform.

The Hon. ADAM SEARLE: I can assure you that we will not be supporting that particular aspect. You know that.

Mr ANDREW CONSTANCE: That is not my point. Are you supporting the reform or not?

The Hon. WALT SECORD: We ask the questions.

The Hon. ADAM SEARLE: Everyone whose injuries are under 10 per cent whole of person impairment, which is still pretty serious, have only a five-year window, for example, to claim for economic loss. That is bad enough for adults, but children, who largely are not in receipt of income, under your proposal will be entirely excluded from any benefit which they currently have. Do you propose to abandon that aspect of your reforms?

Mr ANDREW CONSTANCE: As you are indicating, it seems to me that the Labor Party is opposed to the bill. It is on that basis that we do not have the numbers in the upper House.

The Hon. ADAM SEARLE: I am just exploring some of the very negative aspects of your package with you. Despite all your fine words, all I am seeing is Greg Pearce in a different suit. You are not indicating any nasty areas that you are prepared to compromise on or back off from.

Mr ANDREW CONSTANCE: As I indicated, we have worked through a roundtable. We have heard those concerns. We have a select committee involving John Della Bosca and John Walsh, who was the Productivity Commissioner around the National Disability Insurance Scheme. He will be providing the Government with advice in this regard. As I indicated, I am keen to hear the views of the Labor Party, The Greens and the crossbench in this regard.

The Hon. ADAM SEARLE: All we can go on is your Government's package. Another nasty example is where a lump sum is awarded to a child or a person with a traumatic brain injury. Currently, those damages are managed by the Public Trustee or guardian or to a private trustee company that charges fees. At the moment, those fees are recoverable against the car at fault. Under your Government's proposal the cost of that investment will be worn by the victim. Is that something you are going to give on or is it just another nasty that you are going to keep in the package?

Mr ANDREW CONSTANCE: As I indicated to you, we are looking at it closely. I know that, based on the issues that you are raising, you are looking at it closely. In due course, obviously, the upper House will need to consider the legislation.

The Hon. ADAM SEARLE: The Insurance Council of Australia [ICA] submission, which I think they spoke to at the roundtable, indicated that over the past three years the price of CPT premiums has increased by more than 30 per cent.

Mr ANDREW CONSTANCE: It is 70 per cent in the past five years.

The Hon. ADAM SEARLE: The ICA's submission was that the increase was mainly due to falling investment returns for insurers rather than any other factor. Your proposal is really just about subsidising insurance company profits at the expense of injured motorists, is it not?

Mr ANDREW CONSTANCE: There are a number of reasons which are driving the price hikes, not just the low bond yield. There are a number of reasons affecting the price hikes. What I do know off the back of the Ernst and Young actuarial advice, which I would urge you to consider closely, is that we will see the average price of a green slip increase from \$518 this year to \$570 next year. If action is not taken to put downward pressure on prices, which are set by insurers, then New South Wales motorists will be subjected to higher CPT prices.

The Hon. ADAM SEARLE: The Ernst and Young report says at page 23 that it is not possible to predict whether the claims experience of the proposed scheme will reflect the claims experience of the reference scheme, including adjustments made. Ernst and Young reports that there is significant uncertainty about how the proposed scheme will be implemented and this adds to the uncertainty in their cost estimate. It further says, and this answers a point raised by Taylor Fry in its report, that Ernst and Young has not been requested by the Motor Accidents Authority [MAA] to estimate costs involving transitioning to the proposed scheme for operational changes such as staff retraining and IT system changes.

Your actuaries give a very qualified opinion. In fact, the head of the Insurance Council of Australia, Robert Whelan, said at the roundtable that your proposal has aspects which in theory should be able to bring downward pressure on prices, but then he said, "But what that precisely could be I couldn't tell you because we just don't know the detail to be able to put that forward." Your proposal is full of holes, is it not?

Mr ANDREW CONSTANCE: The actuarial advice was not released at that point. It now is available.

The Hon. ADAM SEARLE: Has it been rewritten?

Mr ANDREW CONSTANCE: No.

The Hon. ADAM SEARLE: The actuarial advice is dated 29 July. The roundtable was 24 July.

Mr ANDREW CONSTANCE: That is right. The cover sheet shows that.

The Hon. ADAM SEARLE: Is that the only change that has been made?

Mr ANDREW CONSTANCE: The cover sheet shows that. I am happy to allow Mr Nicholls to add to this debate. The key point is that the Government is working off the actuarial advice provided by Ernst and Young, which was peer reviewed by Taylor Fry. The point that has to be made is that we are not relying on the advice of insurers. I do not think you can give any qualification in relation to this because we are yet to see what amendments the Labor Party, The Greens and the crossbench might bring forward in this regard.

The Hon. ADAM SEARLE: At the moment we are dealing with your proposal, Minister.

Mr ANDREW CONSTANCE: This has been released to clearly show the reform process and why the Government reached this position. That is the process. I have met with stakeholders and will continue to meet with stakeholders.

CHAIR: As you know, there has been a great deal of concern about allegations of bullying at WorkCover and there is now an inquiry. What action has WorkCover management taken internally to eliminate bullying wherever it occurs within the organisation?

Mr ANDREW CONSTANCE: The Committee is aware of the parliamentary inquiry into the allegations of bullying at WorkCover. The inquiry will examine the culture at WorkCover and its role as the State regulator of workplace health and safety as it relates to bullying in the workplace. Submissions have not yet closed and hearings are scheduled for November. Members will appreciate that it is inappropriate to discuss individual matters here. Of course, members will also appreciate the provisions of the Privacy and Personal Information Protection Act 1998, which regulates the collection and use of an individual's personal information, precluding information regarding personal affairs being discussed or released to others without consent.

That said, I want to send a clear message that workplace bullying in any government agency is not to be tolerated. I certainly expect the Safety, Return to Work and Support Division within the Government, which has put in place a number of improvements, to build on the culture that should arise as a result of those changes. Following an independent review of WorkCover's internal culture by PricewaterhouseCoopers it was acknowledged that some long-term cultural issues needed to be addressed. The PricewaterhouseCoopers review report released in March 2011 outlined the need for clear internal communication and engagement strategies, transparent recruitment processes, robust performance management, an effective grievance handling framework and strengthened leadership capabilities. All of these recommendations were accepted.

A multifaceted approach to address the findings has commenced, which includes the introduction of the Growing Our Culture framework, which comprises seven key elements including wellness, safety, achievement, innovation, capability, leadership and customer experience. The framework underpins a variety of positive initiatives to improve communication, engagement and leadership to support cultural change; new business rules to provide for consistency and greater transparency in the recruitment processes; an enhanced performance management system which facilitates and enables authentic conversations between employees and supervisors; and a comprehensive suite of actions to ensure best practice management of any discipline, bullying and grievance issues.

The approach is reinforcing to all staff, including all levels of management, there is to be no tolerance as it relates to bullying behaviours or misconduct of any kind. In addition to these measures, the 2012 employment engagement survey was conducted in April and May. A participation rate of 82 per cent of employees was achieved. The purpose of the survey was to obtain an accurate picture of the culture and environment across the Safety, Return to Work and Support Division and to establish a benchmark for employee engagement and satisfaction levels. The survey identified both the strengths of the organisation as well as areas of development. The results have been communicated to staff. Steps have been taken to ensure action plans will assist in the achievement and measurement of strategies aimed at working towards creating an exemplary organisation with a positive working environment.

I know that the division provides regular reports to the Safety, Return to Work and Support executive, the Safety, Return to Work and Support Board, the Public Service Commissioner, and me in my capacity as the Minister for Finance and Services. As I indicated at the outset, I do not think any government, regardless of political persuasion, wants to see workplace bullying occurring within any agency of the public sector. It is a question of how the matter is responded to. Obviously, given the impending inquiry, we see that as an important process to continue to build on the work that has been undertaken in recent times by the Safety, Return to Work and Support Division.

CHAIR: Thank you. We are pleased that positive action has been taken within WorkCover. Obviously there are strategies in place to eliminate bullying. Are those strategies being passed on by WorkCover now to other government departments in case there are some similar trends?

Mr ANDREW CONSTANCE: Out of all the agencies in which you would want leadership, obviously this is the one. In terms of best practice when it comes to responding to workplace bullying, that obviously has been driven by the Public Service Commissioner. No doubt, as I indicated, there is information flowing through to the Public Service Commissioner from the division.

Mr GLANFIELD: Can I add that the Public Service Commissioner who undertook the people matter survey has in fact required all agencies to present anti-bullying programs to them in terms of what they are doing.

CHAIR: Good.

Mr GLANFIELD: That covers the whole of the public sector. There also is an enormous sharing between all of the human resource areas about what people are doing—essentially, developing respect and respectful cultures within organisations. The Public Service Commissioner is really pushing that very strongly.

CHAIR: I was concerned that best practice should be followed by all departments.

Mr GLANFIELD: Absolutely.

CHAIR: That will be happening now.

Mr GLANFIELD: Yes.

CHAIR: Very good. Another area that the Minister is responsible for is land tax. There is often some controversy over the land tax method of valuation of properties. What is the current situation? Has it resolved itself? Are there still many unhappy people out there who are not happy with their valuations?

Mr ANDREW CONSTANCE: I might allow the director general to respond firstly and then I will follow.

Mr GLANFIELD: Just in general terms, in terms of valuations, of course there is a committee report, to which the Government will be responding shortly once the Minister and I have had a chance to look at it. It makes a range of recommendations in relation to this area. But the key issues tend to be around that issue of review objection and looking at a streamlined improved process for people to be able to raise an objection and have that tested in an effective and cheap, quick way. That is certainly one of the things that we will be looking at.

CHAIR: That will make an efficient way of handling objections, but will there be a review process automatically?

Mr GLANFIELD: I think the Government's response to the report will set out what it intends to do to try to ensure consistency in valuations. There are suggestions, for example, that the Valuer General might issue guidelines because the valuations are not undertaken by the Valuer General himself. They are contracted through the Land and Property Information group who have valuers in the community and who undertake this work on a contracted basis. But giving them guidance so that they make consistent decisions is certainly something he has been doing. He has a newsletter. He has other issues. But there may be room for that to be strengthened. The Government's response to the Committee's report will identify clearly what are the strategies that it is going to adopt to improve both the consistency in decision-making but also improving the review process.

Mr ANDREW CONSTANCE: Mr Chairman, I think you are absolutely right to identify an expectation of the community to see an improved performance in this area. The Government is, of course, in the process of weighing up the recommendations out of the parliamentary inquiry. Obviously, we will be responding in due course. I am yet to sit down with the Valuer General, but when I do obviously I will be making it very clear to him that there is that expectation in terms of the community and of course also the Government.

CHAIR: What I am getting at is this: If there is a strong objection to a valuation, there is a need to not only hear the complaint but also undertake a review of that particular valuation.

Mr ANDREW CONSTANCE: There is an appeals process currently in terms of that. My understanding is that when someone does seek an appeal, it is done independently of the Valuer General. I do not want to pre-empt where we are at in terms of responding to the parliamentary inquiry. But I think you are right to identify the concerns that have been raised by the community. Obviously, we want to improve the performance in this area.

CHAIR: Good.

Mr DAVID SHOEBRIDGE: Minister, congratulations on your appointment.

Mr ANDREW CONSTANCE: Thank you.

Mr DAVID SHOEBRIDGE: I think that is how we have to start this. Is that right?

Mr ANDREW CONSTANCE: It is very different from Disabilities, let me tell you.

Mr DAVID SHOEBRIDGE: I will ask you first of all about compulsory third party insurance [CTP]. The one model you have been able to point to where there is a privately underwritten no-fault scheme is in the New York State scheme. Is that right?

Mr ANDREW CONSTANCE: As I understand it in terms of that scheme in particular, the reason it has been identified particularly by the motorcycle community is that motorcycles are not incorporated into the no-fault component of that scheme. That is as I understand it. Mr Nicholls may be able to shed some further light on that.

Mr DAVID SHOEBRIDGE: I was just asking whether that is the one scheme you can point to around the world with no-fault insurance privately underwritten.

Mr NICHOLLS: No. I think, just for a point of clarification, I should say that the New York scheme is a privately underwritten no-fault scheme, but it is a first party scheme. The difference between a first party scheme and a third party scheme is that with a first party scheme, you bring your claim against your own insurance. It operates a little bit like comprehensive motor insurance.

Mr DAVID SHOEBRIDGE: That is the basic model you are proposing with your reforms.

Mr NICHOLLS: That is the model that we are proposing but there are—

Mr DAVID SHOEBRIDGE: I am asking if there is any other example around the world that has a privately underwritten no-fault first party scheme.

Mr NICHOLLS: I am given to understand that there are a number of other jurisdictions—

Mr DAVID SHOEBRIDGE: Such as?

Mr NICHOLLS: —in North America that have privately underwritten no-fault schemes, but they are not first party schemes. They still operate as third party schemes. But I am happy to take on notice some example jurisdictions.

Mr DAVID SHOEBRIDGE: Minister, it is the only one that is comparable to the scheme that has been put up, admittedly by your predecessor. Would you be horrified to know that the average price paid by a New York motorist for their green slip coverage is \$2,432—vastly more than the proposed scheme?

Mr ANDREW CONSTANCE: But can you also explain to me whether the United States scheme also has an attachment known as the Lifetime Care and Support Scheme, which also is a unique feature in terms of this process? I have said consistently in terms of this reform that it is important that we take the steps forward in terms of a national injury insurance scheme. We have a situation where various jurisdictions have various approaches here in Australia. Comparisons can be made left, right and centre.

Mr DAVID SHOEBRIDGE: But the only international comparison you have raised is New York. I will let you know some other features about that comparison.

Mr ANDREW CONSTANCE: No, that was raised by the motorcyclists.

Mr DAVID SHOEBRIDGE: It is \$2,400-odd for the average green slip and the maximum cover for any accident, no matter how many people are injured, is \$50,000 and all payments cut off after three years.

Mr ANDREW CONSTANCE: Well again, I think you are comparing apples and oranges.

Mr DAVID SHOEBRIDGE: \$50,000 where there are multiple injuries.

Mr ANDREW CONSTANCE: I think you are comparing apples and oranges. Obviously the issues that have been raised here by members this afternoon—and again, I am happy to meet with you individually as we have done to continue to discuss this. The point that I would make is that the advice that we are working off in terms of a scheme here in New South Wales is that of the independent actuaries. We are not comparing to other jurisdictions when we embark upon this reform process. Either way, the one key point that I would make—and I know you were not in the room when I said it before—is we have two key principles in relation to this reform. Firstly, we want to put downward pressure on prices and, secondly, we want to ensure that there are timely benefits provided to injured motorists regardless of the cause of the accident. I am yet to hear from anyone in terms of supporting the no-fault scheme when it comes to the Opposition and the crossbench, in the

Upper House and I think it is an absolutely critical and important facet of this reform. I think we should have a no-fault scheme.

Mr DAVID SHOEBRIDGE: I think many stakeholders have approached you. They would include the Bar Association, the Law Society and a variety of other stakeholders who have come and said they would be happy to sit down with you and talk at first principles about an Act that would work, but it cannot start with the starting point which is the deeply flawed bill that you inherited. That would be a fair summary of a number of representations that have been made to you.

Mr ANDREW CONSTANCE: In terms of you being right, yes, I have been listening and continuing to meet with stakeholders. I have still got more meetings to have and I will continue to have those.

Mr DAVID SHOEBRIDGE: I have got to say for the record, I appreciated the round table and I know many people I spoke to appreciated the round table.

Mr ANDREW CONSTANCE: I think the round table was a success. I have to say that it is a shame that it did not happen earlier.

Mr DAVID SHOEBRIDGE: When are we going to get the report on the round table?

Mr ANDREW CONSTANCE: I will be releasing that very, very soon. I have received it in the last couple of days. I want to have a read through it first, because obviously I have been fairly busy this week.

Mr DAVID SHOEBRIDGE: That seems fair enough. So we can probably expect it what, within days or weeks?

Mr ANDREW CONSTANCE: Yes, certainly fairly soon. I do want the select committee to have a look at it early next week and then release it to everyone. I want to ensure that it is open and transparent in terms of the information that is being provided. That is why I was very pleased to see the Motor Accidents Authority [MAA] release the Ernst & Young report.

Mr DAVID SHOEBRIDGE: All you had to do was seriously twist their arm and the MAA released it.

Mr ANDREW CONSTANCE: I do not seriously twist anyone's arm.

Mr DAVID SHOEBRIDGE: People have been asking for that report for months.

Mr ANDREW CONSTANCE: I think it is very important to again indicate the Minister under the legislation cannot direct the Motor Accidents Authority to do anything. I think that is an important point that needs to be made. It would not matter whether it relates to pricing or the release of actuarial advice. Again, the point that I would make is that the actuarial advice has now been out for the last couple of weeks and people are still considering that. The Bar Association and the Law Society have again, as I understand it—I forget which one, one of them or maybe even both of them—have requested to meet with me again and I am happy to do that.

Mr DAVID SHOEBRIDGE: Could I perhaps ask either Mr Nicholls or yourself, one of the things that are apparent from the Ernst & Young report is the change to the Workers Compensation Scheme and the abolition of journey claims has pushed up premiums for CTPs. How much has it pushed up premiums?

Mr ANDREW CONSTANCE: I would make the point though that under the former Workers Compensation Scheme there were also journey claims which were still coming in under CTP, over 1,000.

Mr DAVID SHOEBRIDGE: A notoriously litigious area between the two schemes, I understand.

Mr ANDREW CONSTANCE: I am happy to hand that over to Mr Nicholls.

Mr NICHOLLS: At this point we have not seen any significant change to claims that are coming into the system.

Mr DAVID SHOEBRIDGE: But Ernst & Young factored in the same rise that happened in Victoria.

Mr NICHOLLS: Yes, correct.

Mr DAVID SHOEBRIDGE: So what would that mean in dollar terms?

Mr NICHOLLS: If I can answer the question. The CTP Scheme has a period of some months before claims can be made in the system. There is a six-month period and then often there are a number of claims that come in late. At this point there has not been a significant impact of journey claims coming into our system.

Mr DAVID SHOEBRIDGE: I am asking about the estimates for the next year's premiums; what is the estimate?

Mr NICHOLLS: The estimate is somewhere in the range of, say, \$15 to \$30.

Mr DAVID SHOEBRIDGE: On every green slip because of the Workers Compensation Scheme reforms?

Mr NICHOLLS: If there is no change to the current system, but I hasten to add that at this point those trends have not occurred and Ernst & Young's analysis was on a fully mature basis, so it would be expected that there would be some time before there would be an impact.

Mr DAVID SHOEBRIDGE: Minister, you might take this on notice. Was the Government aware of this likely impact on CTP premiums when it put through its Workers Compensation Scheme reforms? It was before your time; you might want to take that on notice.

Mr ANDREW CONSTANCE: I think it would be fair to say anyone looking at the removal of journey claims in terms of workers compensation and someone having a car accident, obviously in terms that they would come into the CTP Scheme, but they also pay—

Mr DAVID SHOEBRIDGE: It is just your predecessor forgot to tell anyone.

Mr ANDREW CONSTANCE: No, no, but they also of course pay third party insurance. So it is important to note. The other point that I was making before is that under the former Workers Compensation Scheme there were also claimants who came in under CTP, over 1,000 as I understand it and Mr Nicholls might have further information in relation to that. Obviously the actuarial advice is key to that. That is why with its release it is enabling people to consider very closely the cost components of the scheme. The other observation I would make in relation to the cost components is that certainly issues around gratuitous care, which have increased significantly over the last 10 to 12 years, is an area where I am learning, having sat down with the Bar Association and others, is being used in ways which do not necessarily reflect—

Mr DAVID SHOEBRIDGE: Novel ways of meeting the threshold I think would be a fair description.

Mr ANDREW CONSTANCE: It is being used in ways to potentially cross-subsidise other components of the scheme in terms of economic loss, in terms of legal fees. I think it is fair to say everyone has a desire to ensure that we continue the engagement and work through this process.

Mr DAVID SHOEBRIDGE: Mr Nicholls one further question to either you or the Minister: The other extraordinary figure in the Ernst & Young report was the fact that medical costs paid for by the New South Wales third party scheme are 44 per cent higher for the same service that is provided in Victoria. Can you explain to me (a) how it has got to that position under your watch and (b) what that means as a cost for the average green slip?

Mr ANDREW CONSTANCE: Can I enlighten you from a personal perspective? I do not think medical costs were properly examined through the round table process either.

Mr DAVID SHOEBRIDGE: Absolutely not.

Mr ANDREW CONSTANCE: We are seeing accident victims getting assessed under the American medical guidelines in ways which lawyers and insurers and their respective doctors are not necessarily reflecting the true extent of the injury because it is based around compensation. It is not based around obviously recovery

and rehabilitation, which is where this overall national reform approach which the Federal Labor Government has suggested that we head is very important.

Mr DAVID SHOEBRIDGE: I think it is fair to say everyone agrees that the Australian Medical Association has got its own objective.

The Hon. ADAM SEARLE: David, time is up.

Mr DAVID SHOEBRIDGE: But Mr Nicholls was going to answer my question.

Mr NICHOLLS: Very briefly in view of the time.

Mr DAVID SHOEBRIDGE: No, feel free.

Mr NICHOLLS: Medical costs are higher in general in New South Wales.

Mr DAVID SHOEBRIDGE: Forty-four per cent higher according to your own audit report.

Mr NICHOLLS: That is not just in the Motor Accident Scheme, that is what medical professionals are charging in New South Wales, generally higher—

Mr DAVID SHOEBRIDGE: Are you seriously saying medical services as a rule are 44 per cent higher?

Mr NICHOLLS: Let me finish answering the question.

CHAIR: Mr Shoebridge, your time is up.

Mr NICHOLLS: The Victorian TAC Scheme has operated a no-fault statutory benefits scheme for 30 or so years. In that period they have developed a very substantial program of managing medical expenses and developing rehabilitation strategies for people who are injured in car crashes in a very efficient way. We are coming out of a common law system. The current common law system involves negotiation and at the end of that negotiation a large payment is made for future payments for medical expenses, not based on actual expenses, but a negotiation between solicitors and insurance companies. It is not necessarily reflective of the actual costs that will ultimately be expended. We are starting on a journey similar to the TAC. They have had a 30-year head start to where we are in New South Wales and our actuaries are conservatively estimating that there will be some lead time before we start to see the sorts of efficiencies that Victoria has achieved after 30 years.

CHAIR: I always thought the Victorian scheme was a model, not New York.

The Hon. ADAM SEARLE: Minister, you indicated that one key foundation of your proposal—I assume one of the non-negotiables—is that it be no fault. At the moment I think your estimate is that some 7,000 at-fault victims would come into your system. This proposal would involve taking benefits away from the approximately 14,000 motor accident victims who have benefited currently. What work has your agency or anyone done to analyse which of the innocent class of victims will lose benefits? How many? When will you release that information?

Mr ANDREW CONSTANCE: I think that people right across the community have an expectation that should you have an accident you enjoy the full benefits of the CTP scheme. That is not the case currently.

The Hon. ADAM SEARLE: It has never been the case, has it?

Mr ANDREW CONSTANCE: That is why the actuarial advice shows that 7,000 of those claimants will come into the new scheme. Of course, the other point I make is that well over a thousand of them are actually going to be motor bikes. To that end, obviously when you move from a scheme in which people are waiting three to five years, a scheme with an enormous amount of uncertainty to one of a statutory defined benefits scheme, some of the friction costs associated with the scheme will come out of it. My observation in that regard is first and foremost, as the proposal is, this obviously relates to new claims. Second, in terms of the scheme efficiency, there is nothing fair about the fact that the actuarial assessments show that 50 cents in the

premium dollar is actually being returned to those who are injured and the rest of that is being taken up in scheme costs. That compares to other jurisdictions where 65 cents to 80 cents is being returned to the claimant. The other point I make is that typically with smaller claims, those under \$50,000, the figures are worse: 30 cents in the premium dollar is being returned to the injured motorist.

The Hon. ADAM SEARLE: That figure you have quoted ignores the level of medical benefits. It does not include those, does it?

Mr ANDREW CONSTANCE: Sorry?

The Hon. ADAM SEARLE: That 50 cents in the dollar figure you quoted does not factor in medical benefits?

Mr NICHOLLS: It does.

Mr ANDREW CONSTANCE: It does.

The Hon. ADAM SEARLE: The fact is that none of the licensed insurers in the CTP scheme has said they can in fact deliver a premium reduction based on your package. That is the case, is it not?

Mr ANDREW CONSTANCE: I do not know where they have said that.

The Hon. ADAM SEARLE: They have not said it anywhere, have they?

Mr ANDREW CONSTANCE: That was not the question you asked. You said that they had said that they could not deliver a premium benefit to motorists. I am not quite sure.

The Hon. ADAM SEARLE: No, listen carefully, Minister. I said that none of the scheme insurers has said that they can deliver a better premium reduction based on your package.

Mr ANDREW CONSTANCE: Again I would point to the fact that their peak body gave reference that they could not guarantee at the roundtable.

The Hon. ADAM SEARLE: Yes.

Mr ANDREW CONSTANCE: But that—

The Hon. ADAM SEARLE: So you are embarking on this reckless package of reforms with no knowledge of what is going to happen. You say it is about putting downward pressure on premiums, but none of the scheme participants and their peak organisation has said they can actually deliver a premium reduction based on your package. That is the case, is it not?

Mr ANDREW CONSTANCE: You seem to be now questioning the professional integrity of the actuaries who developed the necessary actuarial report that we are working off.

The Hon. ADAM SEARLE: Not at all.

Mr ANDREW CONSTANCE: We are not relying on insurers for advice and savings associated with this scheme.

The Hon. ADAM SEARLE: It is a privately underwritten scheme. The insurers are the ones who set the premium. If they cannot commit to delivering on your package, your package is worthless. You are slashing the benefits of 14,000 innocent motor accident victims—

Mr ANDREW CONSTANCE: We are not slashing the benefits of 14,000 innocent victims.

The Hon. ADAM SEARLE: —and you cannot even guarantee that premiums will be reduced. Your package is reckless, is it not?

Mr ANDREW CONSTANCE: You obviously have not read the Ernst and Young report in that regard.

The Hon. ADAM SEARLE: I have. I have read both the Ernst and Young reports.

Mr ANDREW CONSTANCE: I do not see anywhere in here that talks about 14,000 people having their benefits slashed. I will hand over to Mr Nicholls.

The Hon. ADAM SEARLE: There are roughly 14,000 no-fault victims per year and there are roughly 7,000 persons—

Mr ANDREW CONSTANCE: Are you asserting that every single one of those will have their benefits slashed?

The Hon. ADAM SEARLE: My question to you earlier, which you ignored, was: What analysis has been done of who will lose under your proposed new scheme? Who will lose and how much? What work have you done on that issue?

Mr ANDREW CONSTANCE: Again, it is clearly shown in terms of the actuarial advice—

The Hon. ADAM SEARLE: Minister, what is clearly shown is that you have not done this work because you would give a straight answer. What work has been done to analyse who will lose under your package?

Mr ANDREW CONSTANCE: We are working through a very clear process, which at the moment has engaged a steering committee, has round tabled—

The Hon. ADAM SEARLE: Your bill has been through the lower House.

Mr ANDREW CONSTANCE: I can ask you—

The Hon. ADAM SEARLE: It is government policy. What work has been done that shows—

The Hon. CATHERINE CUSACK: Point of order.

The Hon. ADAM SEARLE: What work has been done to show—

The Hon. CATHERINE CUSACK: Point of order.

CHAIR: Point of order.

The Hon. CATHERINE CUSACK: Can I just ask—

The Hon. ADAM SEARLE: What work has been done to show who will lose under your package?

CHAIR: Point of order, Mr Adam Searle.

The Hon. CATHERINE CUSACK: Can Mr Searle please give the Minister the opportunity to answer the question before he talks over the top of him with new ones.

Mr ANDREW CONSTANCE: As I have indicated throughout this process, I am very keen to work with the upper House and very keen to work with relevant stakeholders and all concerned with the legislation. I will now hand over to Mr Nicholls.

Mr NICHOLLS: Just in relation to the question about prices, I should add that in the bill before the upper House additional powers are given to the Motor Accidents Authority to regulate prices and put caps and controls on costs and expenses. Those powers are not there now. They establish transitional powers for the Motor Accidents Authority to ensure that the pricing is in line with the actuarial assessments and for a period of time, up to three years, the regulator plays a very active role in ensuring that the prices set are being driven by

the regulator. So there will be a period of time where insurers, while we would be looking at their performance, the Motor Accidents Authority will have stronger control in delivering the price outcomes.

The Hon. WALT SECORD: Minister, shortly after Minister Pearce was removed by the Premier on 1 August we read that you launched a review into Sydney Water's website and the tap program. My attention was drawn to the small reference in the IT media earlier this week that said, "Constance said Sydney Water's \$56.57 million capital budget for information technology projects this financial year will also be independently reviewed." What prompted you to also review Sydney Water's capital budget for IT projects?

Mr ANDREW CONSTANCE: The cost of the website.

The Hon. WALT SECORD: What other decisions or things have you reviewed regarding Minister Pearce and Sydney Water?

Mr ANDREW CONSTANCE: As I indicated, the audit is going to be commissioned by the Department of Finance and Services. Sydney Water customers are right to expect value for money when it comes to marketing and ICT. Obviously, we have seen these issues canvassed very publicly. I note that you welcomed the audit.

The Hon. WALT SECORD: Yes I did.

Mr ANDREW CONSTANCE: I am glad that you have because I make no apologies that I expect improved performance right across government when it comes to issues around ICT and, of course, any other marketing programs. As with all of these things, if an assessment needs to be made we will look for improvements. Obviously, we will look very closely at the way in which budgets work in this regard. As I said, it is about making sure that the community is satisfied that it is getting value for money when it comes to the market and the ICT associated with Sydney Water.

The Hon. WALT SECORD: In the past three years Sydney Water's capital budget has been reducing. Sydney Water's Statement of Corporate Intent 2012-13 states that it was spending \$649 million on its capital budget. That is a reduction of \$58 million from \$707 million in 2011-12. Why are you reducing Sydney Water's capital budget?

Mr ANDREW CONSTANCE: I might hand that over to Mr Young.

Mr YOUNG: I think the reality of our capital budget is that it goes before IPART on a four-year price path. IPART reviews prudently through independent external consultants determining what is value for money. In each case what we are allocated by IPART is the amount seen as prudent to meet our standards for the community. That is what we do. In the last price path IPART again went through our capital program and viewed that in the current market efficiencies could be gained.

The Hon. WALT SECORD: You think that Sydney Water is doing a good job where you can cut capital spending?

Mr YOUNG: Mr Secord, in the current market, what is true is that we can procure cheaper than we have in the past and we can deliver the same value for less. I think the Independent Pricing and Regulatory Tribunal's view was that there are significant efficiencies that can be obtained and we support that and that is what we are going for.

The Hon. WALT SECORD: There has been a recent spate of breaks. There is a crater in Wollongong. There have been problems involving sewage in the Sutherland Shire in Bonnet Bay and Kurnell. At Albion Park Rail they have had sewage geysers in their households. What are you doing about those three problems I have just highlighted?

Mr YOUNG: I would have to say that what happens within our business is that there will be major breaks that occur. We have 21,000 kilometres of mains and 23,000 kilometres of sewer mains and, putting them end to end, it would go all the way to America and back and probably hit across the rest of the country. There will be, from time to time, major breaks that occur. What I can say is that we are investing heavily in that area and we have a substantial commitment under our current price path to invest in critical water main replacement, sewer replacement and relining of sewers. We are also investing heavily in research. I think we are one of the

leaders in the country in research to look at this area of critical water mains techniques to predict where phase is going to occur. Like any agency around the world, they will occur.

Mr ANDREW CONSTANCE: It is worth putting it into context again.

The Hon. WALT SECORD: He gave us context.

Mr ANDREW CONSTANCE: I am happy to talk about the 10,046 leaks in 2005.

The Hon. WALT SECORD: I am mindful of time here. I want to ask you about the Blue Mountains sewage pump-out.

Mr ANDREW CONSTANCE: Blue Mountains sewage pump-out?

The Hon. WALT SECORD: The Blue Mountains sewage pump-out system.

Mr ANDREW CONSTANCE: I will hand over to Kevin in relation to that specific program.

The Hon. WALT SECORD: On 22 July, Minister Pearce wrote to the Blue Mountains City Council, saying that he had put the charge from \$600 a year to \$4,900 a year. He said he was going to put it on hold for 12 months. In fact, it is only on hold until October. What is the status of this massive increase in the Blue Mountains?

Mr YOUNG: You would be aware that what happened in that area was that it was agreed by the Government to provide sewage services to the Blue Mountains, and there was a subsidy provided to people who were on pump-out services until the scheme was delivered. We finished the Blue Mountains scheme at significant cost. About 14,000 properties have been sewered in the Blue Mountains. It cost about \$300 million, but there are 72 properties that will never connect to the scheme that have got the benefit of the rebate, but Minister Pearce said that there would be a 12-month delay, and that has been made public. We would have a moratorium of 12 months, and I would say then those 72 customers will be consistent with all the other people throughout New South Wales who do not receive a rebate for pump-out services.

The Hon. WALT SECORD: Minister, the bills go from \$600 a year to \$4,900. According to Sydney Water's statement of corporate intent, it says on page 6 that the entire program is \$300,000 a year, and there was no consultation with the community about these increases.

Mr ANDREW CONSTANCE: Again, I know that Rosa Sage, the local member, had been raising this issue of concern. There has been a \$300 million investment into the Blue Mountains. The managing director has just made the challenges crystal clear in relation to those 72 properties. Again, the Government is striving to invest in a very large piece of infrastructure to make sure that it continues to provide services to communities all over Sydney, the Illawarra and Blue Mountains.

Mr YOUNG: In a reasonable manner.

The Hon. WALT SECORD: They are going to get a one-year moratorium, but they will still end up with bills of \$4,900 a year.

Mr YOUNG: At the end of the moratorium we have indicated that we will bring forward the subsidy that is normally paid over a reducing subsidy—three years—and we will make an up-front payment to people who would look to shift from a current pump-out system to other schemes on site, so that will be part of our negotiations with the community.

The Hon. WALT SECORD: Thank you.

The Hon. ADAM SEARLE: Minister, some 5,192 work capacity notices have been issued since work capacity testing has been introduced, overwhelmingly reducing or discontinuing financial and medical benefits. Can you say how many of the 34,000 claimants receiving weekly benefits have been subjected to a work capacity assessment?

Mr ANDREW CONSTANCE: I will hand over to Geniere for that.

Ms APLIN: In terms of work capacity assessments, it obviously was focused on encouraging and assisting early return to work. I got some updated data today. There have been 6,741 work capacity decisions.

The Hon. ADAM SEARLE: How many assessments have been done by the licensed insurers?

Ms APLIN: That is 6,741.

The Hon. ADAM SEARLE: That is the decision. What about the assessment?

Ms APLIN: Decisions.

The Hon. ADAM SEARLE: There is the assessment first.

Ms APLIN: Which leads to a decision.

The Hon. ADAM SEARLE: Correct, so there are nearly 7,000 decisions. How many assessments have been done? How many more can we expect around the corner?

Ms APLIN: Around about 10,000 more claims are in the existing tail, but whether all of those will go to an assessment—what we have found is we started with a number that reduced the tail, for example 24,000 of the claims that had an injury date pre-October 2012, and that reduced to 17,000 prior to us starting because people return back to work or have changes in their circumstances.

The Hon. ADAM SEARLE: On this work capacity assessment, the employer does not have to have a job for them, and there does not in fact have to be a job in existence. The assessment of suitable duties includes theoretical jobs, and the evidence is that employers overwhelmingly terminate the employment after the six-month injury protection period, and new employers will not hire an injured worker. So there is, in fact, nothing in this package that actually has helped injured workers return to work, is there?

Ms APLIN: I would dispute that, because out of the work capacity decision, it ultimately does not necessarily mean that the person's benefits are terminated.

The Hon. ADAM SEARLE: Can I give you an example? An injured truck driver in Sydney may theoretically be able to perform work as a clerical officer on a construction site in Brisbane or Perth. Under your scheme, that person—the injured truck driver—can have their benefits cut or reduced on the basis that there is a theoretical job available somewhere out there.

Mr ANDREW CONSTANCE: If we are going to deal in hypotheticals, that is inappropriate. If you have a specific instance that you want me to look at as the Minister, then bring it forward.

The Hon. ADAM SEARLE: I have got several, Minister. I will not take up the time now. I will bring them to you.

Mr ANDREW CONSTANCE: I am happy to see them, because if there are concerns then I want to know, but I do not think it is appropriate that you start to identify individual examples or hypotheticals while questioning the officials at this budget estimates hearing.

The Hon. ADAM SEARLE: I will give you a real-world example.

The Hon. MATTHEW MASON-COX: Why not take them on notice?

The Hon. ADAM SEARLE: I will take up the Minister's invitation. In the past, many people resolved their workers comp disputes by entering into deeds with the insurer or the employer. I will give you an actual example of a former neighbour of mine. Under the deed—

Mr ANDREW CONSTANCE: Again, I do not know whether you have approval to raise your neighbour's personal situation.

The Hon. ADAM SEARLE: I am not going to mention his name.

The Hon. MATTHEW MASON-COX: We know where you live.

Mr ANDREW CONSTANCE: I just do not think it is appropriate.

The Hon. ADAM SEARLE: I will ask you this. The law that your Government brought in has had this effect: matters that were settled and resolved years ago but where insurers have ongoing obligations to the injured worker—to replace prosthetics for the rest of their life, for example—those insurers are now saying your law has meant that they cannot continue to provide those benefits to those injured workers, even though those matters occurred and were resolved legally years before the change in the law. That was either a deliberate intention of your Government, and if it is not—and I am happy to give you examples—will you reverse that unintended consequence?

Mr ANDREW CONSTANCE: We inherited a legacy deficit from the Labor Party in excess of \$4 billion. It was unsustainable.

The Hon. ADAM SEARLE: Point of order: This is not responsive to the question.

Mr ANDREW CONSTANCE: If you continue on that path, you end up in a situation where it collapses.

The Hon. ADAM SEARLE: He is not being responsive to the question.

Mr ANDREW CONSTANCE: So the Government had no choice but to take action. That is exactly what occurred. As I indicated to you, if you want to elevate hypotheticals or individual's personal circumstances you should do so in the appropriate forum. The point that I would make is that the deficit that was continuing under the former Government would have collapsed the scheme, first and foremost, and then no-one would have been getting any assistance. Let us just deal with the realities of that. I would also note very clearly that as a result of these reforms there has been a significant drop in the deficit. If we can get it into a sustainable situation to benefit everybody that is also a critical and important point that needs to be made.

CHAIR: That brings us to the conclusion of the hearing into Finance and Services.

Mr YOUNG: With the Chair's indulgence, could I correct something that was asked earlier?

CHAIR: Yes.

Mr YOUNG: Dr Kaye asked me a question about a letter that had been sent to Dr Parry. I said that to my best recollection I thought Dr Parry would copy that. I do have the letter here and it was to Dr Parry. I am happy to table it. The letter notes that we are at the end of mediation. I had put an offer on the table to say that I had previously said that I was going to the market to seek competitive quotes. I did put an offer on the table to say that I would extend that for a two-week period if they would come back to the table and we could further commercially negotiate. That was the coverage of the letter. But the other matters that I referred to as a follow-up to that are still quite clear that from the New South Wales Government's position it was a matter to be dealt with solely by Sydney Water Corporation and its board.

Document tabled.

(The witnesses withdrew)

The Committee proceed to deliberate.
