

BE QONS MARCH 2024

1. Forgone payroll tax following ITM's administration (pg 18-19)

The Hon. DAMIEN TUDEHOPE: Thank you, Mr Johnston. In relation to ITM, of course, you are aware that they are now in administration?

The Hon. COURTNEY HOUSSOS: Yes, I am.

The Hon. DAMIEN TUDEHOPE: Are you concerned about the implications for the appointment of administrators to that company?

The Hon. COURTNEY HOUSSOS: That's a decision of a private company. I don't think —

The Hon. DAMIEN TUDEHOPE: They're a publicly listed company, Minister.

The Hon. COURTNEY HOUSSOS: I don't think it's particularly helpful for me to provide commentary on the consequences of a legal ruling that upheld Mr Johnson's position.

The Hon. DAMIEN TUDEHOPE: Minister, how much payroll tax will be foregone in the event of the administration of this company or the liquidation of this company?

The Hon. COURTNEY HOUSSOS: We're not allowed to disclose the individual taxation arrangements of individuals. You would know, Mr Tudehope, as a former finance Minister, that there are quite strict rules. Indeed, we strengthened the rules last year in relation to the privacy provisions for individuals.

The Hon. DAMIEN TUDEHOPE: When proceedings were commenced by the commissioner to recover payroll tax from this particular company, how much payroll tax was sought to be recovered in those proceedings?

The Hon. COURTNEY HOUSSOS: That's a very specific question about a particular court case. I'm sure Mr Johnston can provide you with —

The Hon. DAMIEN TUDEHOPE: It's the same question.

The Hon. COURTNEY HOUSSOS: You can ask me questions and I can provide you with answers or you can continue to talk over me, Mr Tudehope.

The Hon. DAMIEN TUDEHOPE: It is the same question, Minister. How much payroll tax will be forgone in terms of the administration or liquidation of this company if, in fact, they are placed in liquidation?

The Hon. COURTNEY HOUSSOS: I'm happy to take that on notice or refer to Mr Johnston to get you an answer in relation to the specifics on that.

ANSWER:

I note that a response to this question was provided during the hearing by Mr Smythe.

2. Cost of removing contaminated mulch (pg 20)

The Hon. DAMIEN TUDEHOPE: The two questions: How much was spent on the purchasing and laying of mulch, which has now been found to contain asbestos?

The second question, which I anticipate you will take on notice, is the amount being spent by the New South Wales Government on removing contaminated mulch.

The Hon. COURTNEY HOUSSOS: Yes, I'd have to come back to you. I just make this point, Mr Tudehope: This is a really important issue.

ANSWER:

Based on available NSW agency invoices and contracts data, agencies have not disclosed any contracts or reported any direct spend with the supplier who is currently under investigation.

Questions on the removal of contaminated mulch are more appropriately directed to the Minister for Environment.

3. Point of Consumption tax on online gaming wagering (pg 24)

The CHAIR: Minister, point of consumption taxes is one of my favourite topics these days. Point of consumption taxes are a novel way for States to generate revenue. How much, over the forward estimates, is the Government predicting it will raise from the point of consumption tax on online gaming wagering in New South Wales?

The Hon. COURTNEY HOUSSOS: That's an excellent question, Mr Buckingham, in relation to our future projections. Before I pass to my Treasury colleagues to give you an accurate answer about exactly what we're projecting over the forward estimates, what I can tell you is this year in taxation we will be taking in almost \$45 billion. But in relation to the point of consumption, we might need to —

MICHAEL COUTTS-TROTTER: We might need to take that one on notice, Mr Buckingham, unless my colleague Joann Wilkie can magic up an accurate answer.

ANSWER:

At 2023-24 Half-year Review, point of consumption tax was forecast to be \$975.0 million over the three years to 2026-27.

4. Point of consumption tax modelling (pg 25)

The CHAIR: Thank you. Have Revenue NSW or the Treasury done any modelling on increasing point of consumption taxes over the coming years?

The Hon. COURTNEY HOUSSOS: Look, I'm not immediately aware of that, but we can take that on notice.

MICHAEL COUTTS-TROTTER: I'm happy to take that on notice.

The CHAIR: Some other States have introduced an addition to their payroll

ANSWER:

Treasury periodically assesses potential tax policy measures.

5. Number of local governments comprising coalmining regions for Royalties for Rejuvenation fund (pg 32)

The Hon. COURTNEY HOUSSOS: In relation to that fund, Royalties for Rejuvenation, the current balance is \$74.5 million. In this year's budget we have promised \$5.2 million over four years towards establishing our Future Jobs and Investment Authorities. When we discuss this fund, it's really important to note that it was your Government that made the decision that that money is tied up until 2028-29 or until it matures to a particular position. So that puts some requirements around—

The Hon. SARAH MITCHELL: Chair, this wasn't my question. I asked how much money was in the fund. The Minister has answered that. I'd like to move on to my next question.

The CHAIR: To that, Ms Mitchell, if you do have a concern with the answer, you should take a point of order.

The Hon. SARAH MITCHELL: Point of order: It was a very specific question, which is how much money is in the fund. The Minister has just told me it's \$74.5 million. I would like to ask the second question.

The Hon. STEPHEN LAWRENCE: To the point of order: I think there were actually two questions.

The CHAIR: I think there were two questions. There's a practice emerging of cutting short witnesses in giving answers. If you ask a question and the Minister is providing details and relevant information any Minister is at liberty to provide that information.

The Hon. SARAH MITCHELL: To the point of order: I haven't asked the Minister about what that money is being used for. I asked about when the money went in and how much money is in there, which she has answered. I'd now like to ask other questions. I've got very limited time, as the Minister well knows, having sat in this chair for a long period of time. How many local government areas comprise the coalmining regions covered in the regulation for that fund?

The Hon. COURTNEY HOUSSOS: That's an excellent question. There are a large number of local government areas. I could get you the specifics.

ANSWER:

The four regions include 14 Local Government Areas. These are prescribed in clause 89A of the Mining Regulation 2016.

6. Investment management of Royalties for Rejuvenation fund (pg 33)

Ms ABIGAIL BOYD: Just coming back to those jobs and investment authorities and the Royalties for Rejuvenation Fund, that's really interesting — I didn't realise that that was locked up until 2028-29. Can you tell me what it's invested in and what through? Is that a TCorp investment?

The Hon. COURTNEY HOUSSOS: I'd have to refer you over to the Secretary to the Treasury to give you the very specifics.

MICHAEL COUTTS-TROTTER: And I would need to take that one on notice, I'm afraid, Ms Boyd.

ANSWER:

The Royalties for Rejuvenation Fund is invested in the T-CorpIM Long term growth fund.

7. Point of Consumption tax on online gaming wagering hypothecation (pg 36)

The CHAIR: Following up on a further area I was asking questions about, the point of consumption tax on online gaming, how much of it is hypothecated for a specific purpose and what is the quantum of that hypothecation? I know that some goes to Responsible Gambling. Maybe you could take that on notice.

The Hon. COURTNEY HOUSSOS: I'd be happy to pass you to the secretary, if he can provide you with a specific answer on that.

MICHAEL COUTTS-TROTTER: I have a figure in my mind, but we'll check and provide a response on notice.

ANSWER:

In the 2022-23 Budget, the Government allocated \$5 million per year (increasing in line with inflation from 2023-24) to the Responsible Gambling Fund.

8. Stamp duty exemptions for domestic violence survivors (pg 37)

Ms ABIGAIL BOYD: Stamp duty exemptions for domestic and family violence victim-survivors, when they — I understand that, at the moment, you can get an exemption if you've got a divorce certificate, but it's not easy for anybody who has had a breakdown of relationship for other reasons. Is that something that you've investigated or looked into to make it easier for women to stay in their own home?

The Hon. COURTNEY HOUSSOS: Can I come back to you on that? That sounds like a really interesting idea but I want to get some advice and come back to you on that.

ANSWER:

Certain exemptions from paying transfer duty on matrimonial or relationship properties after a marriage, de facto or domestic relationship break-up are available.

Eligibility and application information is available on Revenue NSW's website: <https://www.revenue.nsw.gov.au/taxes-duties-levies-royalties/transfer-duty/family-transfers>

9. Procurement policy framework update (pg 42)

The Hon. CHRIS RATH: Minister, when was the Procurement Policy Framework last updated?

The Hon. COURTNEY HOUSSOS: Let me have a look at that specific question. In relation to the Policy Procurement Framework, I would think it was probably updated when I issued my ministerial direction in November. But I'd probably take some advice, perhaps, from the deputy secretary in relation to that.

SONYA CAMPBELL: Yes, I'll be able to come back with a date on the most recent updates.

ANSWER:

The last administrative update to the Procurement Policy Framework was on 6 April 2022. Since that time three Ministerial Directions have been issued.

- 1) PBD 2022-01 support for flood affected communities
- 2) PBD 2022-03 support for flood affected communities
- 3) PBD 2023-03 support for small (and medium) businesses

DEPARTMENT QONS

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10	p.45	Russell Vale Rehabilitation Impacts Ms CATE FAEHRMANN: I'll come back to you, Mr Day, I think, as well. Let's stick with the rehabilitation costs. A question was asked about the Russell Vale Colliery in terms of its rehabilitation costs. I'm particularly concerned about what provisions have been made to manage and assess the ongoing loss of water from the water catchment of that mine, whether there's been any work undertaken by the department and whose responsibility that ultimately becomes, because there is polluted water, as we know, coming from the mine as well. Is there responsibility here, or is this all going back to the EPA? One thing we found during the inquiry was

		that responsibility for this did seem to slip through the cracks between agencies, to be honest. PETER DAY: I'll take that on notice, in terms of water management at Russell Vale. I'll come back later on with that one. But in terms of the actual work underway there, in terms of Russell Vale itself, part of the process at the moment is there is a prohibition notice in effect on the site for production. The company still has the option of submitting a response program to address that to potentially restart operations. They haven't done that as yet —
		ANSWER: Answered by Peter Day later in the hearing – refer to p.74 in the transcript.
11	p.49	Updates to "Skills, training and diversity in construction" directive The Hon. DAMIEN TUDEHOPE: In relation to the updated board direction on "Skills, training and diversity in construction", which was issued in August 2023, what are the main updates from the previous version of that directive? SONYA CAMPBELL: That is a good question, Mr Tudehope. I was looking at this myself yesterday. The Hon. DAMIEN TUDEHOPE: I'm disappointed you were anticipating my questions. SONYA CAMPBELL: I'm just well read, Mr Tudehope. I believe it is really reflecting the position that's been in place, but I might have to take that question on notice as to the specific differences between the previous position and the updated one.
		ANSWER: The new Procurement Board Direction on Skills, Training, and Diversity in Construction was published in August 2023. Additional requirements to report on the number of women in trade roles and non-traditional roles. These requirements will apply to all new construction project procurements over \$10 million. The requirements commenced on 1 July 2023.

12	p.50	International businesses included on all-of-government supplier list The Hon. DAMIEN TUDEHOPE: Ms Campbell, Procurement Board Direction PBD-2023-04, "Mandated registration of all NSW government suppliers on the buy.nsw Supplier Hub", states that if an international business wishes to do business with the New South Wales Government, it doesn't have to supply an Australian ABN. There's a simplified registration process which must be completed. The kicker is this: The business will not be included in the all-of-government supplier list. Is that your understanding? SONYA CAMPBELL: That's what the direction says, Mr Tudehope. The Hon. DAMIEN TUDEHOPE: If an international business registers using the simplified process but is not included in the all-of-government supplier list, how would agencies be able to identify them? SONYA CAMPBELL: I might have to take that on notice, Mr Tudehope. ... SONYA CAMPBELL: Agencies can absolutely use that portal to search for suppliers, and there would be other tags through the buy.nsw hub that would enable them to identify suitable suppliers for the services that they are looking for. The Hon. DAMIEN TUDEHOPE: It appears, though, that if you're an international business without an ABN, you can register, but you just don't get listed on the Supplier Hub. SONYA CAMPBELL: Yes. I think that's a question of interpretation, and I'm happy to take that on notice. ANSWER: International businesses can obtain an ABN through the Australian Business Register. International businesses without an ABN can complete a supplier profile and find and respond to open opportunities.
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13	p.51	Foreign Surcharge Purchaser Duty and Land Tax The Hon. DAMIEN TUDEHOPE: The foreign surcharge issue, which we had some discussion about before—I take it the Minister would have been briefed as part of the incoming Minister's brief? It would have been included in relation to that issue? SCOTT JOHNSTON: Yes, I'd imagine that would have been correct. The Hon. DAMIEN TUDEHOPE: At that point, how many taxpayers had had refunds? CULLEN SMYTHE: What was that date, Mr Tudehope? The Hon. DAMIEN TUDEHOPE: The election was in March 2023. In March 2023, how many refunds had been made by Revenue NSW in respect of— SCOTT JOHNSTON: Just give me a moment to look at my time line. I'll confirm, but it was likely zero. ANSWER: The decision to refund foreign investors was made in February 2023 with refunds commencing in March 2023.
14	p.55	Foreign Surcharge Purchaser Duty and Land Tax The Hon. DAMIEN TUDEHOPE: In view of the bill, which is about to be debated by the Senate, it would be unlikely that you would make a refund. Isn't that the case? SCOTT JOHNSTON: A refund to? The Hon. DAMIEN TUDEHOPE: To a taxpayer who sought a refund today? SCOTT JOHNSTON: As I tried to explain, we would consider their circumstances, but we put, as Cullen— The Hon. DAMIEN TUDEHOPE: You've got a bill before the Senate which will act retrospectively. The Hon. BOB NANVA: Point of order— SCOTT JOHNSTON: If and when the law changes, we will have to consider our approach.

		The CHAIR: Sorry, Mr Johnston, a point of order has been taken by Mr Nanva. The Hon. BOB NANVA: Again, it's hypothetical. It's just conjecture as to what may or may not happen. The Hon. DAMIEN TUDEHOPE: These are the decision-makers. The Hon. CHRIS RATH: To the point of order: I think there's a difference between something that is blatantly hypothetical and something that is virtually inevitable and asking what contingency plans are in place for a department looking at federal legislation. I think they are very different concepts. It's not asking about pocket money or something like that, from an earlier example. This is an almost inevitable piece of federal legislation that we are asking the department about. The Hon. DAMIEN TUDEHOPE: And these are the decision-makers. The CHAIR: If the question was put in that way — what contingencies are in place for that circumstance — that's a better way to frame it and then you're avoiding any hypotheticals. SCOTT JOHNSTON: Firstly, if and when the law changes, and it requires a correction of our position, we will. In terms of current refunds, there was a question earlier about when was the last refund. We can provide that information but very few refunds are being currently paid outside of some discretion where they've come through later. ANSWER: As at 7 March 2024: - The most recent Land tax Surcharge refund had been paid on 5 March 2024. - The most recent Surcharge Purchaser Duty refund had been paid on 6 March 2024.
15	p.58-59	Expert Panels in relation to Funding The Hon. CHRIS RATH: Have the expert panels ever provided correspondence to the Government seeking a

		release of funding for projects or business cases in their respective regions? GEORGINA BEATTIE: The expert panels under the legislation can provide advice to the Minister, and that is required to be published on our website and, I believe, has been. There are a number of areas — if you just bear with me — that they have provided some advice. I think your question was specifically in relation to early release of the funds? The Hon. CHRIS RATH: That's right, yes. If you want, we can come back to it later. GEORGINA BEATTIE: I have it here, somewhere. Maybe I will come back. I just need to find it. The Hon. CHRIS RATH: That's okay. I'll move on from Royalties for Rejuvenation at some point, and then we'll come back to it later on maybe, or we can take it on notice. ... GEORGINA BEATTIE: The expert panels have met a number of times, but you're correct, they have not met since August last year. The panels are aware that the Government is consulting about the establishment of the Future Jobs and Investment Authorities, and they understand that is the focus of the Government at this point in time. As you heard from the Minister this morning, there have been a couple of round tables held — one in the Hunter, one in Lithgow, and there are two more round tables to be held. The expert panels haven't met since August. I believe they're allowing the Government to do its consultation for the establishment of the authorities.
		ANSWER: Answered by Georgina Beattie later in the hearing – refer to p.59 in the transcript.
16	p.59	Expert Panels Vacancies The Hon. CHRIS RATH: Are there any vacancies on the expert panels at the moment? GEORGINA BEATTIE: Yes, I believe there are. The Hon. CHRIS RATH: Do you know how many?

		GEORGINA BEATTIE: No, I'd have to take that on notice. The expert panels have up to a number of people. There are five and 10 members, so some of the panels were larger than others. That was just a result of the recruitment process for the panels at the time. ANSWER: Answered by Georgina Beattie later in the hearing – refer to p.59 in the transcript.
17	p.60	First Home Buyers Choice The Hon. CHRIS RATH: Okay. I might turn to the former First Home Buyer Choice program. How many first home buyers opted for the First Home Buyer Choice scheme, which was available between 16 January 2023 and 30 June 2023? I'll give you a minute. It's a very specific question. SCOTT JOHNSTON: So First Home Buyer Choice, how many — The Hon. CHRIS RATH: How many first home buyers opted for the First Home Buyer Choice — the property tax? SCOTT JOHNSTON: I've got this: 7,988 properties; individuals, because there is often more than one person involved, 13,361 — which I think was your question. The Hon. CHRIS RATH: Yes, individuals, properties — that's both. That's very helpful. Over that same time period — I don't know if you have it on hand — how many first home buyers were there over that time period? SCOTT JOHNSTON: I'll take that on notice. It's available, but I don't have that to hand. ANSWER: As at 29 February 2024, 13,361 customers had purchased property under the First Home Buyers Choice scheme.
18	p.60	First Home Buyers Choice The Hon. CHRIS RATH: Of that number — 7,988 properties — do you know how many were between \$1 million and \$1.5 million? Do you have it broken down by —

		SCOTT JOHNSTON: I don't have that on me for the moment, but I can get that on notice.
		ANSWER: 3,302 properties valued between \$1 million and \$1.5 million were purchased under the First Home Buyer Choice scheme.
19	p.61	Funding for Nurses and Midwives The Hon. CHRIS RATH: Great, thank you. I want to move to the budget. In the budget there is funding set aside for converting 1,112 full-time equivalent nurse and midwife positions, which were funded temporarily to June 2024, to permanent positions. How much funding was put aside for that? ELIZABETH LIVINGSTONE: That was \$572.3 million. The Hon. CHRIS RATH: How many years does that cover? ELIZABETH LIVINGSTONE: It covers three years — so it covers the forward estimates beyond 2023-24, which was already funded. The Hon. CHRIS RATH: What are the assumptions behind that in terms of the annual salary requirements of each of those 1,112 positions? ELIZABETH LIVINGSTONE: Mr Rath, I believe we took this on notice at the Treasurer's hearing, so we will provide that information.
		ANSWER: The cost of making the 1,112 nurses and midwives permanent is \$572 million over three years to 26-27. This assumes an average cost of approx. \$172,000 p.a. This cost includes salaries, superannuation, rotating roster penalties (i.e. weekend and night shift penalties), administration and other on costs for NSW Health.
20	p.62	Silicosis Cases in the Mining Industry Ms CATE FAEHRMANN: That is two confirmed cases. What about suspected cases of silicosis in Cadia? We'll go through the whole of New South Wales at this point. What about silicosis cases confirmed in New South Wales in terms of your industry, the mining industry?

		PETER DAY: I'd have to take that on notice in terms of actual numbers, but we normally get about anywhere between six to 10 notifications a year that we would investigate. They're preliminary detections and that doesn't always then translate into a confirmed case of silicosis. That's through the entire sector. That's coal, metals, mines, quarries and so on.
		ANSWER: Since June 2019 to February 2024 there have been • 15 adverse health reports in the coal sector, of which 4 cases were confirmed as silicosis. • 11 adverse health reports in the non coal sector, of which 6 were confirmed as silicosis.
21	p.62	Confirmed Silicosis Cases Ms CATE FAEHRMANN: About 60 per cent of cases per year is what you get. Right now in the State, how many people have silicosis as a result of mining or silicosis that you're aware of? PETER DAY: I'd have to take that one on notice. From the point of view of our investigation, we're predominantly looking at where there may have been a failure or a causal factor from the mine operations on that work. The issue with silicosis is that it has a long latency time and the requirements for airborne contamination are fairly recent in terms of workplaces, especially in the mining industry. We're far ahead of other sectors but, in terms of airborne contamination, some of the requirements around monitoring, measurement and control factors only came into effect from about 2016 onwards. That's pretty recent, because a lot of the damage could have been done some time ago for workers, as you would imagine.
		ANSWER: As per the response to Question 21
22	p.63	Spirometry Testing Process Ms CATE FAEHRMANN: The Lung Bus itself that every single worker, as I understand, yearly, goes through and the screening that takes place, which you described as — what did you call it?

		PETER DAY: Spirometry testing. Ms CATE FAEHRMANN: What does that look out for? What does that test? PETER DAY: I would take it on notice. I can give you a very basic answer. That's not my area of expertise. It's basically looking at lung function and in terms of how well their breathing ability is working. That can also be impacted by a number of things — even occupational hazards, like smoking and so on. What they're looking for is something that triggers a further investigation into why someone's lung function may have deteriorated. ANSWER: The icare Lung Bus provides lung function screening, which includes: • Chest x-ray • Lung function test (spirometry) which measures oxygen absorption; lung volume; and detects lung restrictions or obstructions. • Consultation with a doctor regarding work and medical history.
23	p.64	Compliance checks at Cadia mine Ms CATE FAEHRMANN: Have you got the data around — say, for the last five years — how many unannounced compliance checks happened at Cadia? By that I mean the regulator's people going to the mine, doing the checks, taking the air monitoring deep underground and in other spots. When did that last happen without Cadia knowing that you're doing it? PETER DAY: I will take that on notice in terms of that time frame, yes. ANSWER: During the period from September 2019 to December 2023 a total of 14 site visits were made to Cadia mines to assess air quality dust and other airborne contaminants, and the sites health control plan. The most recent unannounced inspections occurred at Cadia on 2 August 2023 and 23 January 2023, 1 June 2022, and 15 September 2020.

24	p.67	EV Road User Charge Revenue The Hon. DAMIEN TUDEHOPE: Mr Johnston, in relation to EV road user charge, which will no longer be collected, how much had Revenue anticipated collecting in relation to electric vehicles road user charge. SCOTT JOHNSTON: We're not currently collecting that, so I think, from a forecasting perspective, that would be a question for Treasury. The Hon. DAMIEN TUDEHOPE: Ms Wilkie? JOANN WILKIE: I'll have to take on notice the exact forecast. It will be the costing of the original proposal because it's not within the forward estimates yet. It's not scheduled to be started to be collected until 1 July 2027. ANSWER: The 2023-24 NSW Budget includes \$2.3 billion over the planning years for EV road user charge revenues.
25	p.68	Independent Legal Advice Regarding Foreign Investors The Hon. DAMIEN TUDEHOPE: Mr Smythe, in respect of the view that you formed in relation to the foreign investor surcharge duty, did you obtain any legal advice independently to confirm that view? Or Mr Johnston? SCOTT JOHNSTON: Yes, we did The Hon. DAMIEN TUDEHOPE: Are you prepared to make available that legal advice? SCOTT JOHNSTON: I will take that on notice. ANSWER: Legal advice was obtained from the Solicitor General in September 2022. Based on this advice, the then Government decided to refund foreign purchasers. This decision was taken in February 2023.
26	p.69	COVID Small Business Grant Overpayments The Hon. DAMIEN TUDEHOPE: In respect of a question on the COVID small business grants, are the audits in relation to those concluded yet? SCOTT JOHNSTON: The audits have concluded, yes.

		The Hon. DAMIEN TUDEHOPE: And how much is currently outstanding as a result of overpayments? SCOTT JOHNSTON: Sorry, just one moment. Can I come back to that?
		ANSWER: As at 29 February 2024, the outstanding amounts were: - \$49,957,884 remained outstanding for JobSaver, and - \$9,402,507 remained outstanding for Business Grants
27	p.69	Prosecution in Relation to Fraud by Service NSW and Police SCOTT JOHNSTON: Service NSW, in conjunction with police, is the agency that deals with the fraud. Any cases where we might have identified through compliance or other means, we refer that to Service NSW. The Hon. DAMIEN TUDEHOPE: How many cases fit into that category? SCOTT JOHNSTON: I'm not aware of how many because, again, Service NSW looks after that part. I'll take it on notice to see how — The Hon. DAMIEN TUDEHOPE: How many have actually been referred by your agency, Revenue, back to Service NSW? SCOTT JOHNSTON: It would be very few, but I'll take that on notice.
		ANSWER: Revenue NSW's Grants Compliance team referred the following to the Service NSW Fraud team: • 4 JobSaver customers • 4 Business Grant customers
28	p.72	Review of Environmental Factors Pertaining to Exploration Licenses Ms CATE FAEHRMANN: The specific exploration licence which was granted ultimately to Peabody is exploration licence 9399. It's the big one that's over — well, a lot of them are big — 1,668 hectares of agricultural land. The

		one that is around Wollar village. Are you aware of the one I'm talking about? PETER DAY: No, I'm not actually. Ms CATE FAEHRMANN: This is a big licence that, as I said, covers almost 1,670 hectares of agricultural land, basically in the Mudgee region. I've got a couple of questions around the process in terms of the level of transparency for these exploration licences, in terms of the role of the regulator. I understand that you're responsible for the regulation of exploration activities, which includes things like conducting probity and compliance checks on applicants as well as conducting site inspections and investigations and things like that. Is that throughout the period that the company owns the exploration licence?
		ANSWER: Yes.
29	p.72	PETER DAY: We'll do a range of activities, starting with activity approvals — the actual application itself — and apply conditions onto that. From that, as part of that application process, we will consider the review of environmental factors and publish our own on the website if it meets that criteria under section 5A of the planning and assessment Act. In terms of compliance activities post that, we do a range of activities predominantly focusing on audit arrangements, and also we do other investigations if we receive complaints as well. Ms CATE FAEHRMANN: I understand that the proponent here, the leaseholder, has an extensive drilling program in terms of exploration drilling. Do you think they'd normally be required to do a review of environmental factors for that? PETER DAY: They would have to have done a review of environmental factors as part of their application for an activity approval, yes.
		ANSWER: To meet the requirements in the <i>Environmental Planning and Assessment Act 1979</i> the Resources Regulator prepares a Review of Environmental Factors for Assessable Prospecting Operations. Two Assessable

		Prospecting Operations have been approved for EL 9399, on the 2 August 2022 and 1 May 2023. A Review of Environmental Factors was completed for both approvals. Since then, approvals have been granted to extend the project end date for these activities.
30	p.72	Ms CATE FAEHRMANN: The REFs are always public, aren't they? PETER DAY: It depends on if they are public in terms of a public interest test or if they meet criteria, are more than \$5 million, or have other licences under that process as well. Ms CATE FAEHRMANN: Just explain the public interest test to me. You're saying there can be a review of environmental factors for some exploration licences that don't become public because they're minor and there's no interest in making them public? PETER DAY: Yes, that's correct. There's criteria there under the planning and assessment Act. Ms CATE FAEHRMANN: This one, 1,668 hectares of agricultural land surrounding Wollar village in the Mudgee region, granted May 2022, undertaking extensive drilling — that does sound like it would be in the public interest. PETER DAY: My understanding is that the requirement to publish it came into effect on 1 July 2022. Ms CATE FAEHRMANN: I am being told that, in fact, if there is a review of environmental factors for the exploration program, it's not publicly available — if, indeed, it's been done. If you're able to check that for me. PETER DAY: Yes, I'll take that on notice. ANSWER: The REFs prepared for the two Assessable Prospecting Operations for EL 9399 were not published at the time it was determined, but were available upon request. They are now available on the Resources Regulator website. In the interest of transparency, Mining, Exploration and Geoscience determined in December 2023 to publish all new REFs for determined Assessable Prospecting Operations on its website. This is currently being implemented and will commence from April 2024.

31	p.74	Peabody Ms CATE FAEHRMANN: Okay. The issues in that suitability assessment — there were quite a few different environmental issues, water issues and other things that needed to be taken into consideration with that exploration licence. You look at this and you think there certainly should be a public review of environmental factors actually, considering what was identified in this suitability assessment. For example, it said that the Wollar initial suitability assessment identified quite a few issues that would need to be addressed in an exploration or mining, including the need to avoid, minimise and offset any impacts on endangered ecological communities or threatened species, including regent honeyeater habitat, in accordance, obviously, with the Biodiversity Offsets Scheme. There was the heritage and biodiversity conservation of the Goulburn River National Park, managing potential impacts to surface water quality and things like having open and transparent communication with the Wollar community. I understand quite a few people in the little township of Wollar have, of course, been displaced, but there are still people living around Wollar that are very concerned about this activity. Avoiding impacts on significant environmental heritage — and we go on and on. But there's been zero transparency around Peabody's current exploration program regarding any of these issues. My question is to the department today: Why is there zero transparency around Peabody's exploration activities when all of this was identified early on in the piece under the former Government? GEORGINA BEATTIE: Every titleholder has requirements under its title to comply with the various conditions and, as Mr Day has outlined, the Resources Regulator has various activities to ensure that compliance. The specifics of this particular title — the Peabody title around the Wollar area, and I recall a couple of years ago when that was issued — we'll need to take that on notice, and we can come back to you with the details around that. I'm just not familiar with the specific details of the transparency.
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		ANSWER: As a condition of an exploration title, the holder must comply with the Exploration Code of Practice: Community Consultation. In accordance with the Code, the licence holder must carry out community consultation in relation to the planning and conduct of activities under the licence. Within two months of their prospecting title anniversary date, title holders must publish their annual community consultation report online or make it available on request within 14 days. The first annual Community Consultation report (2022/2023) is available on the Wilpinjong Coal Mine website. The next annual Community Consultation report is due to be published by 3 July 2024. The Code can be accessed on the Resources Regulator website Exploration codes of practice NSW Resources Regulator
32	p.74	Peabody Continued Ms CATE FAEHRMANN: I can tell you there is zero transparency. The community can't see the review of environmental factors. They can't see anything underpinning it – the work plan or anything. There were these strict conditions, if you like, saying that this area is suitable as long as all of these values are protected, and then there is absolutely nothing that anybody can look at from the community to ensure that those values are being protected. I hate to say it, but we know that when the community actually is able to look at a lot of these activities, that's when sometimes not-so-great activities by mining companies are exposed. It's not surprising, is it, that the community is concerned at the lack of transparency. Why wouldn't there be? This sounds like a big exploration licence. It's a big company, it's a big area and it's a sensitive area. Would there be a reason it wouldn't be – GEORGINA BEATTIE: I understand your concerns, I'm just not familiar with that particular work program. We'll need to take it on notice, and we can come back to you with some details around what activity is occurring there under the title, what transparency is required and whether they're compliant or not.

		Ms CATE FAEHRMANN: Okay. As part of that, I wondered if you could also just have a look at the Wollar suitability assessment. Where it says, "Quite a few issues would need to be addressed in any exploration and mining, including the need to have open and transparent communication with the Wollar community", do you have any further information on that in terms of what is open and transparent communication? Are there guidelines to ensure that the mining companies, when that needs to be addressed, do what's required — to make sure that they are communicating? It does seem quite extraordinary. I hear you've taken it on notice. I've just given you a little bit more to take on notice. That's it from me, once this is done. GEORGINA BEATTIE: I might just add, there are requirements to engage with the community. There is a code of practice for exploration, and we certainly expect that title holders, when they're exploring, they are communicating with landholders and with the community around their activities. But, again, I will need to take on notice the specifics of that particular title.
		ANSWER: As above. The Wollar Initial Suitability Assessment was undertaken as part of Government consideration to release a large area for coal exploration, approximately 80 sq km, under the Strategic Release Framework. This area was not to released. EL 9399 covers a much smaller area in the same vicinity, 1,668 ha, and was issued under the Operational Framework. The titleholder must comply with all the conditions in their exploration licence, including the Exploration Code of Practice: Community Consultation.