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Standing Committee on Public Accounts

2023 Special Report, Auditor General:

Secretary of the Cabinet

Ministry of Municipal Affairs
and Housing

Ministry of Education

1st Session
43rd Parliament

Monday 6 May 2024

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et du Logement

Ministère de l'Éducation

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Lundi 6 mai 2024

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Clerk: Tanzima Khan

Président : Tom Rakocevic
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
PUBLIC ACCOUNTSCOMITÉ PERMANENT DES
COMPTES PUBLICS

Monday 6 May 2024

Lundi 6 mai 2024

The committee met at 1345 in room 151, following a closed session.

2023 SPECIAL REPORT,
AUDITOR GENERAL
SECRETARY OF THE CABINET
MINISTRY OF MUNICIPAL AFFAIRS
AND HOUSING
MINISTRY OF EDUCATION

Consideration of the Special Report on Changes to the Greenbelt.

The Chair (Mr. Tom Rakocevic): I would like to call this meeting of the Standing Committee on Public Accounts to order. We are here to begin consideration of the Special Report on Changes to the Greenbelt.

Joining us today are officials from the Secretary of the Cabinet, Ministry of Municipal Affairs and Housing and the Ministry of Education. For clarity, I want to inform the committee that the Deputy Minister of Education will be participating in this meeting in her capacity as the former Deputy Minister of Municipal Affairs and Housing.

You will have 20 minutes collectively for an opening presentation to the committee. We will then move into the question-and-answer portion of the meeting, where we will rotate back and forth between the government and official opposition caucuses in 20-minute intervals, with some time for questioning allocated for the independent member. Before you begin, the Clerk will administer the oath of witness or affirmation.

The Clerk of the Committee (Ms. Tanzima Khan): Good afternoon, everybody. I will start with the oath on Bible for the Secretary of the Cabinet, and then also Don Fawcett, the counsel to the secretary.

Michelle DiEmanuele, do you solemnly swear that the evidence you shall give to this committee touching the subject of the present inquiry shall be the truth, the whole truth and nothing but the truth, so help you God?

Ms. Michelle DiEmanuele: I do swear.

The Clerk of the Committee (Ms. Tanzima Khan): Thank you so much.

Mr. Fawcett, do you solemnly swear that the evidence you shall give to this committee touching the subject of the present inquiry shall be the truth, the whole truth and nothing but the truth, so help you God?

Mr. Don Fawcett: I do so swear.

The Clerk of the Committee (Ms. Tanzima Khan): Thank you so much.

I will now move on to the affirmations. I will start with Deputy Minister Martha Greenberg. Do you solemnly affirm that the evidence you shall give to this committee touching the subject of the present inquiry shall be the truth, the whole truth and nothing but the truth?

Ms. Martha Greenberg: I do so affirm.

The Clerk of the Committee (Ms. Tanzima Khan): Thank you.

I will now move on to the Deputy Minister of Education. Do you solemnly affirm that the evidence you shall give to this committee touching the subject of the present inquiry shall be the truth, the whole truth, and nothing but the truth, Kate Manson-Smith?

Ms. Kate Manson-Smith: I do so affirm.

The Clerk of the Committee (Ms. Tanzima Khan): Thank you.

The Chair (Mr. Tom Rakocevic): I would invite each of you to introduce yourselves for Hansard before you begin speaking the first time. Please begin when ready.

Ms. Michelle DiEmanuele: Hello. I am Michelle DiEmanuele, the Secretary of the Cabinet for the province of Ontario, clerk of the executive council and head of the public service.

Mr. Chair or Madam Clerk, could I also ask for a two-minute warning with respect to my 20 minutes?

The Chair (Mr. Tom Rakocevic): For sure—overall 20 minutes, yes.

Ms. Michelle DiEmanuele: Thank you so much.

Good afternoon. I'm pleased to be here today to address the Standing Committee on Public Accounts by providing an update on our progress on implementing the recommendations from the Special Report on Changes to the Greenbelt.

First, let me welcome our new Auditor General. The public service looks forward to our collective work in serving the people of Ontario. I have very much appreciated our early interactions as you conduct your important work and the work of this committee.

I want to emphasize that throughout the review from the Auditor General, I, my deputies and others who were involved collaborated diligently and co-operatively with the office of the Auditor General. In less than 90 business days, we have worked with the Premier's office and have taken meaningful action on all 15 recommendations in the report.

In a moment, I will share the actions that were undertaken on the recommendations that were within my authority as the

Secretary of the Cabinet. But first, I'd like to introduce the officials who are joining me today and who have been part of this important work: from the Ministry of Municipal Affairs and Housing, Deputy Minister Martha Greenberg and Assistant Deputy Minister Sean Fraser; the Deputy Minister of Education, Kate Manson-Smith, who is the former deputy of municipal affairs and housing; and I'm also joined by my general counsel, Don Fawcett.

The Ontario public service respects the important function of all officers of the Legislature and supports their work with honesty, integrity and partnership. Service excellence is only achieved through continuous improvement, and the Auditor General holds us to account and provides advice and recommendations on how to improve. That is why I welcome the opportunity to reflect on the many ways we can further improve and refine processes that support us in delivering on any government mandate to the people of Ontario.

As we do this work, we are guided by our Ontario public service code of conduct, which requires that we hold each other accountable and identify areas where we can do better. This includes having the courage to raise issues and have difficult conversations. This is why procedures exist to support and encourage these kinds of discussions.

As you may be aware, as Secretary of the Cabinet, I am also, by virtue of the Public Service of Ontario Act, head of the Ontario public service. In this respect, I wear several hats. As secretary, I support the Premier and cabinet in their policy setting and decision-making roles as members of the executive council. I'm also deputy minister to the Premier in the Cabinet Office, which is the Premier's ministry.

As head of the public service, I'm responsible for overseeing the effective operations of the Ontario public service, led by a team of deputy ministers who all report to me directly. In this respect, deputy ministers are directly accountable to me for the support and advice they provide to their ministers, the effective implementation of the government's priorities and the operations of their ministries.

Public servants have a fundamental role to play in serving Ontarians, their communities and the public interest under the direction of the duly elected government of the day, all in accordance with the Public Service Act of Ontario. As part of this role, we strive to serve the government of the day with the utmost professionalism and in a manner that upholds public trust. We support decision-makers by providing objective, non-partisan advice, options and recommendations while also identifying risks and benefits. We do so in accordance with legislation, regulation, guidelines and directives and the norms that have informed and guided the non-partisan public service for generations.

Having said that, at the highest level, I count on the deputy ministers and assistant deputy ministers to apply good judgment to the work before us. This report outlines how we can do better. As the head of the public service and the Secretary of the Cabinet, I am accountable for the work we do and accept we can do better, as outlined in the recommendations received.

As I communicated with the Auditor General's report when released, I am committed to addressing the report's recommendations. I do this with a view of augmenting the

existing robust processes and substantive and vital work the Ontario public service performs to support government decision-making. As I said, we take these recommendations seriously, and we have made progress on all 15.

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I will take the next few minutes to highlight the progress we have made and augmenting and clarifying our current practices and processes. I wish to reiterate that in accordance with the public service act, I am responsible for the non-partisan public service. Staff employed in ministers' offices and the Premier's office, referred to by the Auditor General in her report as "political public servants," are accountable to the Premier's chief of staff and are not within my scope.

In developing our response, I utilized a team of deputy ministers that include those with deep experience, one who is also a chartered professional accountant and another with relevant experience outside of government. I also sought input and advice from the previous chiefs of staff to Premiers or advisers. They are Mr. Chris Morley, Mr. Brian Topp and Mr. David Lindsay. In addition, we worked with Patrick Sackville and a small team of current chiefs of staff to ministers to provide input on how this government would use and actively implement changes. I wish to thank all of those involved, especially Don Fawcett, my general counsel, in particular for his overall stewardship.

I would like to now provide an overview of our responses.

Recommendation 1: The auditor's first recommendation asked that we clarify and document the role of chiefs of staff and the role of deputy ministers in policy development and operational decision-making. The auditor also asked that we clarify and document the distinction between policy development and operational decision-making aligned with normal business processes.

The external advisers I previously mentioned were particularly helpful with this recommendation. The new guidance includes advice on the role of the chief of staff as a strategic adviser to their minister and acting at all times with informed direction from the minister.

The guidance also provides instructions on working with the Premier's office and deputy ministers. The guide explains the role of the deputy minister, which is to manage the human fiscal information and program resources of the ministry operationally. The deputy is also responsible for overseeing the development of non-political advice and analysis needed by the minister and the government to make informed decisions. This includes providing advice on options, risks, implications and benefits. The guide also clarifies that the deputy minister is responsible for implementing and operationalizing government and ministerial policy directions and decisions. The guide provides further advice to chiefs of staff on how to support their minister by working with deputy ministers to keep the minister informed of operational and implementation matters.

Recommendation 2: The report recommended limiting the use of confidentiality agreements and creating greater transparency as to when it would be appropriate to ask a public service employee to sign a confidentiality agreement. To address these recommendations, we have introduced a new approach for public servants working on sensitive matters to be reminded of and acknowledge the

oath of office they took when joining the Ontario public service; the oath requires OPS employees to maintain confidentiality in the conduct of their work. We have also clarified the circumstances in which such a reminder may be deemed necessary. These include, but are not limited to, the development of sensitive legislation and regulation, large value procurements or other commercial transactions, and handling of third-party commercially sensitive information or large datasets of personally identifiable information. This acknowledgement of our oath serves as an impartial reminder of obligations throughout one's career.

Recommendation 3: I can confirm that the Premier's office implemented this recommendation by referring the matter to the Integrity Commissioner on August 8, 2023. In addition, to strengthen awareness of our existing conflict-of-interest rules for political staff, all training materials for political staff have been updated to reinforce that ministers' staff are public servants and are subject to the same legal, administrative and ethical framework of public servants employed in ministries. This includes the ethical rules established under the Public Service Act of Ontario respecting conflict of interest in political activity in administrative directives and guidelines established by the Management Board of Cabinet and the Treasury Board of Cabinet, and record-keeping requirements established by the Archivist of Ontario under the Archives and Record-keeping Act. In addition, we have clarified that a minister's chief of staff is responsible for ensuring their staff are aware and comply with these legal requirements.

Recommendation 4: In response to the Auditor General's recommendations regarding the lobbyists and the information they provide, we have developed a new process where relevant records that have been received by a minister's office or the Premier's office from a lobbyist or third-party stakeholder and that are being used in policy development or decision-making are uploaded into a portal that is now accessible to the relevant deputy minister. This process gives the deputy a line of sight into discussions and information provided by lobbyists and others that are relevant to the policy and decision-making process. We have requested also that deputy ministers and chiefs of staff meet regularly to discuss the contents of this portal.

Number 5: The auditor recommended that processes be put in place for deputy ministers to proactively raise matters with the Secretary of the Cabinet as their ethics executive that could give rise to a conflict of interest, including reputational harm to the public service of Ontario. We have reinforced the processes by which deputy ministers raise and seek advice about conflicts of interest with me in the new policy development handbook prepared for deputy ministers.

I also reminded deputy ministers, by way of a memo sent to my deputy team in December 2023, about our conflict-of-interest rules; the notification process was also sent. In addition, conflict-of-interest training is also part of the regular cycle of training we provide ministerial staff, which includes support from the Office of the Integrity Commissioner.

Notwithstanding these enhancements, I want to reiterate that deputy ministers also have several formal and informal

existing channels through which to raise and discuss concerns with me or key central agency deputy ministers regarding conflicts of interest or any risk they deem concerning.

Recommendation number 6: Shortly after the Auditor General's report was issued, on August 14, 2023, the Premier's chief of staff and I jointly sent a memo reminding all OPS staff and political staff to preserve and manage all records in accordance with our record-keeping requirements.

Further to the recommendations of the auditor, we also increased the regular cadence of records management training for staff in the Premier's office and ministers' offices. In this respect, general counsel in my office provided records management training to all senior political staff on October 26, 2023, to reinforce the obligations to maintain and preserve records, including emails, on our government systems, in accordance with Archives-and-Recordkeeping-Act-related policies.

We have also held additional training sessions for political staff in February and March of this year and are planning regular training sessions in June, September and December to ensure any new members who join a minister's office receive timely training.

Recommendations number 7 and 8: As part of the record-keeping training political staff have received, we have reinforced the requirement that all government business must be conducted on government networks and accounts. To encourage this requirement, we have also implemented a new annual record-keeping attestation for staff in the Premier's and ministers' offices. As part of this process, political staff are also instructed to forward any public records or communication inadvertently received on a personal account or device to their government account.

Each minister's chief has confirmed that their staff have now completed this attestation. Moving forward, staff will be required to complete annual attestations by December 31 of each year.

Recommendation number 9: The auditor's report recommended that we review and clarify the purpose of the public consultation period required under the Environmental Bill of Rights, 1993. The goal is to ensure that the consultation process respects public input within a time frame that supports and enables meaningful consultations about significant decisions impacting the environment. In response, we have created a best practice guidance to support ministries with consultations under the Environmental Bill of Rights. In December, we met with all deputy ministers and chiefs of staff—that's December 2023—to inform them about the guide. In January of this year, we posted it on the Environmental Registry of Ontario resource centre so that all ministries now have access to it.

Recommendation number 10: The auditor also made recommendations on the duty to consult. In our response, we have created a new duty to consult overview document for all ministries. It outlines consultation requirements and best practices. This supplements existing training and resources available to all ministries through the Ministry of Indigenous Affairs.

We have also mandated that all ministries participate in the Ontario Portal for Indigenous Consultation, OPIC, which

is an existing centralized information repository on Aboriginal and treaty rights in Ontario. OPIC provides guidance, maps and other tools that support consistent, coordinated approaches across government regarding consultation with Indigenous communities.

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Recommendation number 11: We have also responded to the special report's recommendations for consultations with stakeholders that may be impacted by government decisions. The report recommended, "Deputy ministers establish ... consistent protocols for engagement and consultation with" impacted and "affected groups." We have acted on this by creating a new guide to public participation in policy development for Ontario public servants. This document provides guidance to ministries regarding public and stakeholder consultation throughout the policy development and implementation process.

In December of last year, we met with deputies and chiefs to introduce the guidance and brief them on its contents. At that meeting, I also reinforced the accountability of deputy ministers to ensure that appropriate consultations are completed to inform ministry proposals and to flag when consultations cannot be completed due to circumstances beyond their control.

Recommendation number 12: I would now like to talk about the cabinet submission materials specifically. The Auditor General's report recommended that "procedures be put in place so that deputy ministers can raise to the Secretary of the Cabinet's attention submissions for which" they feel "they have not been able to fully conduct unfettered work."

The report further recommends that "sufficient time be given to cabinet members to fully read and review any material provided around significant and higher-risk decisions." In response, we have created a new comprehensive escalation guidance document for deputy ministers. This guide codifies existing expectations on ministries, deputies and ministers regarding requirements and processes to bring forward submissions for cabinet approval. It also offers additional guidance to deputies regarding how to flag and escalate any concerns with meeting the requirements and process.

Where issues cannot or have not been resolved at the official's level or where initiatives have significant implications or risks, deputy ministers escalate directly to me and/or their deputy counterparts at Cabinet Office, Treasury Board, the Ministry of Finance and/or the Ministry of the Attorney General, Cabinet Office and Treasury Board Secretariat. These are bodies where risks can be flagged and concerns identified for cabinet awareness overall. It is a practice to identify when more time is needed, and when this has been identified, I have found, with this and with all governments I have served either as a deputy or now as the Secretary of the Cabinet, that this is almost always accommodated.

The guidance also includes a revised process to reinforce deadlines for cabinet submissions to ensure that cabinet members have sufficient time to review materials as part of their decision-making process. Additionally, it provides revised submission templates to ensure that materials for

cabinet and committees are clear and concise, reflect a range of options and are supported by thorough analysis and considerations to inform the best course of action.

The Chair (Mr. Tom Rakocevic): Two minutes remaining.

Ms. Michelle DiEmanuele: I wish to reiterate, notwithstanding these important and enhanced actions, deputy ministers have many formal and informal mechanisms to raise issues with me, the Secretary of the Cabinet, and the cabinet office and other key deputies who play important controllership functions.

Number 13: As part of our new policy handbook, we have provided guidance to deputy ministers on how to flag and escalate, as I have indicated. We have also established a process in Cabinet Office to flag cabinet ministers when concerns have been raised by them.

Recommendation number 14: On October 16, 2023, Bill 136, the Greenbelt Statute Law Amendment Act, was introduced and subsequently received royal assent on February 11.

Recommendation number 15: The Auditor General's report recommends strengthening the oversight and powers of the Office of the Integrity Commissioner. That work is really in the hands of the Legislature.

In closing, as I have said, we take the recommendations in the report seriously, and I have made the necessary changes in consultation with a number of parties. We demonstrated this by the thoroughness and priority given to responding.

In less than 90 days, we have implemented meaningful measures on 14 of the 15 recommendations in this report for which we had either direct or indirect accountability. The remaining recommendation, as I indicated, is with the Legislature.

As the head of the Ontario public service, I am proud of the achievements of the 67,000-plus Ontario public servants. I see each and every day the commitment and professionalism they exude. Each day, I see leadership at all levels doing their best. Each day, I see competence and integrity, and I see a desire for fairness and equity.

That said, I also recognize it is not just about what we do, but how we do it. With this report, we welcome the opportunity to improve the work we do for the 15 million Ontarians we serve each day. And with this report, we welcome the opportunity to improve the work we do in concert with the Auditor General.

Thank you again for the opportunity to address you. I am happy to take questions, along with the team who is here to support me today.

The Chair (Mr. Tom Rakocevic): Thank you very much.

This week, we'll be proceeding in the following rotation: 20 minutes to the official opposition, 20 minutes to the government members. We will follow this for two rounds, beginning with the official opposition.

I recognize MPP Bell.

Ms. Jessica Bell: Thank you to all of you for coming in and speaking today.

Just for those that are watching: We're talking about the decision by the government to remove lands from the green-

belt. It's safe to say it was a very expedited process that was heavily influenced by political staff. The vast majority of the acres of land removed was land that was identified by developers, requested to the ministry. Most of those requests were approved. Those developers, it's estimated, had the value of their land go up by approximately \$8 billion, and there are clear linkages between these developers and donations to the PC Party, so there are a lot of concerns about how this process happened.

My first question is to the Secretary of the Cabinet. This process for choosing greenbelt lands: How would you describe it? Is it normal?

Ms. Michelle DiEmanuele: Thank you for the question. I would say, notwithstanding the auditor's report on areas where she identified we could do better, the process did involve a ministry—which it typically would—working with its minister's office and its minister on developing options and providing an indication of the risks and issues around consultation. All of the things that were actually raised in the report, the ministry did in fact identify—with one exception, as you know; it relates to the actual selection process. You may want to follow up with a question later on that.

The second part of that process, then, would be to come into the cabinet decision-making part of that. We were informed on October 26 that we would be receiving something, based on a mandate letter—again, that's part of the process; it's normal for ministers to receive direction through their mandate letters, for ministries to then develop their response and then to go through the approvals process through the Cabinet Office. It was expedited, and that is a matter of record in the Auditor General's report.

I also want to remind the members that there were two parts to this process—in fact, three. The first part involved the initial cabinet discussion on November 1 or 2, and then a subsequent 30-day period of consultation, and then a decision for cabinet in December.

But there was another part of the process the Auditor General also referred to, and I think this is an important part of the process that should be understood. That is the facilitator's process. The Auditor General acknowledges that it was earlier days for that part to be acting upon, and in that part of the process it was envisioned that the facilitator would look at things like the value proposition of what taxpayers would get for that, how many homes could be built on that land, the environmental concerns. There was a part of this process that would have provided additional due diligence, but with the introduction of the act subsequently, on recommendation number 15, that part of the process never was completed.

Ms. Jessica Bell: Okay.

My next question is to Kate Manson-Smith, the Deputy Minister of Education. You were involved with the Ministry of Municipal Affairs and Housing at the time. I just want to clarify: In frequent documents, the terms "G*" and "special project" were used. What do those terms mean?

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Ms. Kate Manson-Smith: So those were short-forms that we were using at the time when the project was under way as a part of our work in the working team.

Ms. Jessica Bell: You're referring to the greenbelt project?

Ms. Kate Manson-Smith: That's correct.

Ms. Jessica Bell: Okay, thank you.

My second question—this is again to Kate Manson-Smith. The information about what greenbelt parcels were going to be removed from the greenbelt, it seems that that information, going by the Auditor General's timeline, reached the Premier's office in late October, essentially. Based on your experience, did the Premier's office receive any information about what lands were going to be removed from the greenbelt, as well as the criteria that were used to decide what lands were going to be removed to the greenbelt, prior to October?

Ms. Kate Manson-Smith: I did not have conversations with the Premier's office about the lands or the criteria prior to our briefing with them in late October, on the 26th and 27th.

Ms. Jessica Bell: But based upon the information that you received, the meetings that you've had, the emails that have gone and out of your account as well as the emails that have gone in and out of the staff that report to you, did you see any evidence indicating that the Premier's office knew about what greenbelt lands were going to be removed and what the criteria would be to decide that?

Ms. Kate Manson-Smith: The first engagement that I had with the Premier's office was at that time, at the end of October. I didn't hear from them prior. I did not engage with them prior on the subject.

Ms. Jessica Bell: Okay. So my next question—again, this is to you—did you or your office provide any information to the Premier's office prior to October—I believe it was October 26 and 27. Did your office provide or any of your staff provide information to the Premier's office about the list of lands that were to be removed and the criteria that we used?

Ms. Kate Manson-Smith: At the time of that briefing, we reviewed briefing materials. My office did not provide materials prior to that time.

Ms. Jessica Bell: Okay. Have any of your staff been questioned by the RCMP about the process to remove lands from the greenbelt, or have you?

Ms. Kate Manson-Smith: So it is my understanding that, if the committee does have questions about the RCMP's investigation, that those should be directed to the RCMP directly.

Ms. Jessica Bell: Okay, thank you.

My next questions are to Mr. Sean Fraser. Is Mr. Fraser here?

Ms. Michelle DiEmanuele: He is.

Mr. Sean Fraser: Sean Fraser, assistant deputy minister, planning and growth, Ministry of Municipal Affairs and Housing.

The Chair (Mr. Tom Rakocevic): Can you affirm?

Mr. Sean Fraser: Yes, I can affirm.

The Clerk of the Committee (Ms. Tanzima Khan): I'm just going to read out the affirmation before you begin. Do you solemnly affirm that the evidence you shall give to this committee touching the subject of the present inquiry shall be the truth, the whole truth and nothing but the truth?

Mr. Sean Fraser: I so affirm.

The Clerk of the Committee (Ms. Tanzima Khan): Thank you so much. Please go ahead.

Ms. Jessica Bell: Mr. Fraser, my questions are similar to the questions that I asked Kate Manson-Smith. My first question is—you're working at the Ministry of Municipal Affairs and Housing right now, correct?

Mr. Sean Fraser: That's correct.

Ms. Jessica Bell: Okay. Going by your work in the office, do you believe that the Premier's office received information about what greenbelt lands were going to be removed and the criteria that was going to be used to decide those lands? Do you believe the Premier's office had any of that information before October 26?

Mr. Sean Fraser: The earliest date that I can confirm that would be October 27, the date that we were briefing the Premier's office and the cabinet office.

Ms. Jessica Bell: With the Integrity Commissioner's report, on page 46, there is a statement there saying that you told the Integrity Commissioner that Mr. Amato would generally receive direction on policy details from the Premier's office. That's from the Integrity Commissioner's report. So do you believe that the Premier's office provide direction to Mr. Amato about the selection of sites for removal from the greenbelt? Given that that's what was said to the Integrity Commissioner.

Mr. Sean Fraser: Certainly. In discussions we had with Mr. Amato, who was the chief of staff at the time, he indicated that he had been in touch with the Premier's office, but we had just his verbal recollections to go from.

Ms. Jessica Bell: And Mr. Amato was in touch with the Premier's office before October 26?

Mr. Sean Fraser: According to Mr. Amato, there had been some communication.

Ms. Jessica Bell: This is again a question to Kate Manson-Smith. This also, I believe, refers to statements that you made to the Integrity Commissioner. On page 46 of the Integrity Commissioner's report, you said that you believe the selection of sites for removal from the greenbelt "was done in some capacity with the Premier's office." Could you clarify what you mean by that statement? Who was talking to who?

Ms. Kate Manson-Smith: As the secretary noted in her response to your question, the original direction in respect of removal and addition of lands from the greenbelt originates with a mandate letter, which comes from cabinet and the Premier's office is aware of that and engaged in that.

During the course of the work during the month of October, Mr. Amato did refer to conversations with the Premier's office, and that was the basis of my understanding, was his reference to conversations that he was having as described to me and Mr. Fraser.

Ms. Jessica Bell: Was there any other staff person aside from Ryan Amato that was involved in this dialogue between the Premier's office and the Ministry of Municipal Affairs and Housing about the greenbelt removal and the criteria?

Ms. Kate Manson-Smith: Not to my awareness, MPP Bell.

Ms. Jessica Bell: This is a similar question to you, Mr. Fraser: Was there any other staff involved aside from Ryan Amato between the Premier's office and your ministry?

Mr. Sean Fraser: I'm not aware of any other individuals, no.

Ms. Jessica Bell: Okay. This is a question again to Ms. Kate Manson-Smith. There were reports in the Auditor General's report talking about deleted emails. Based on your experience and your observations, did you see emails related to the greenbelt issue being deleted?

Ms. Kate Manson-Smith: No, I did not. And I would just take the opportunity to say that the staff in the ministry and, indeed, the whole of the OPS more broadly take their obligations around records retention, freedom of information etc. very seriously. That would not be a part of our practice, and if we were aware of it, we would have done something about it.

Ms. Jessica Bell: Thank you. So there's the bureaucratic staff and then there's the political staff?

Ms. Kate Manson-Smith: That's correct, yes.

Ms. Jessica Bell: When we're talking about the political staff, in your observations, did you see political staff delete emails or that you suspected deleted emails?

Ms. Kate Manson-Smith: Similarly to what the secretary said when she said that the members of the political staff are not—I believe she said—within her scope, that would be the same for me as a deputy minister. Staff within a minister's office are not within my scope of authority as the deputy minister. I did not have a line of sight on what they were and were not doing with their emails. It would not have been my purview.

Ms. Jessica Bell: Did you want to respond?

Ms. Michelle DiEmanuele: Yes, could I just add something to that? I think everybody is aware that the Information and Privacy Commissioner did issue a final order related to emails etc. I just want to quote where it is said: "I am satisfied that steps have been taken to secure the preservation of records relating to the decision to amend the greenbelt plan and that may be responsive to the request giving rise to this appeal. For the most part, these measures have been taken by the ministry as part of its response to the Auditor General's audit and, to a lesser extent, the inquiry by the Integrity Commissioner...." And it goes on to talk about that.

So I think, by virtue of that, I would just say that we have, as the Auditor General knows, co-operated very, very extensively in ensuring that all records we have have been turned over. We have also been reviewed by that and have been deemed to have fulfilled our obligations in that regard.

Ms. Jessica Bell: Thank you for that clarification.

Help me out here: Emails were deleted leading up to the final decision around the greenbelt, but then, moving forward, recommendations have been made to follow appropriate protocol. Is that it?

Ms. Michelle DiEmanuele: I'll ask Don to switch out, and as the general counsel is switching out: Again, we have robust guidelines etc. and individuals have to assume that responsibility for the retention of records. That includes deleted records. We actually have turned over those records that have been deleted. I'll ask my general counsel to explain,

but I think, in essence, what the Auditor General found was a consistency around that, where there was a deleted record in one account but maybe not in another account. And so it was about a consistency, but those deleted emails were recovered and provided.

I'll ask the general counsel to just elaborate.

Mr. Don Fawcett: Sure. Don Fawcett, general counsel. I work with the secretary.

We have record-keeping policies that apply to ministries and ministers' offices, and under those policies, each individual is responsible for maintaining their records in accordance with those policies. Records can be deleted, but they're typically transitory records, so people have to exercise judgment when they do that.

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We've provided training in the past and in response to the—sorry, I don't mean to point at the Auditor General—recommendations of the Auditor General. We identified some augmented trainings particular to, for example, emails that would be beneficial. Accordingly, we've embarked on that cadence of trainings. I did the initial round with senior political staff in October, just to help navigate the exercise of judgment in terms of what you keep and what you can delete, and that is reinforced through quarterly training that we're doing going forward.

Ms. Jessica Bell: It's good to hear. In the previous government, there was an individual who went to jail because they deleted emails, so you would think that the process of not deleting emails would already be in order.

My second question is around the use of personal email accounts. Reading the Integrity Commissioner's report and reading the Auditor General's report, it did seem that, in particular, political staff were regularly using personal email accounts to communicate about the greenbelt removal process. This is a question to you, Kate Manson-Smith. Is that something that you saw in your work?

Ms. Kate Manson-Smith: No, that was not something that we observed. I think, similar to your last question, it is something that the Auditor General did provide recommendations on. The secretary may wish to elaborate—on Don, of course—on the subject of the instruction that has been provided to help political staff understand that. Don?

Mr. Don Fawcett: Yes, sure can.

Ms. Jessica Bell: I would be curious to hear your response—to the Secretary of the Cabinet—around the Auditor General's finding that there were some personal emails being used.

Ms. Michelle DiEmanuele: First off, I was not aware of any personal emails, so I'll answer the other question that the deputy answered.

Through the work that we did in responding to the Auditor General's fulsome report, we have provided additional guidance—the chief of staff to the Premier and myself—and reminded individuals, be it on the political public servant side or the non-political public service side, that the use of personal email—or personal devices beyond email, such as texts etc. on personal phones—should not be done. And if, inadvertently, that does occur—from time to time, you may get an email on your personal email—that should be

immediately forwarded to your government email so that it constitutes a record.

Ms. Jessica Bell: Did you have anything to add to that?

Mr. Don Fawcett: Sure do.

That was certainly part of the refreshed records management training we did in October and continue to do. As the secretary mentioned in her opening remarks, one of the other recommendations we've implemented is for ministry staff to do an annual attestation. As part of that attestation, they're confirming that they're managing their records in accordance with our record-keeping policy and that, if they've inadvertently received a record on a personal account—that may happen from time to time—that they take the appropriate steps to move those records over into our government system.

So the requirement is that all government business be conducted on government networks and systems, and the attestation that they've done and will be doing again at the end of the year is to confirm that they've taken those steps.

Ms. Jessica Bell: Okay.

My next question is to Kate Manson-Smith. In the Integrity Commissioner's report, Mr. Ryan Amato identified Patrick Sackville as the decision-maker in the Premier's office for the greenbelt project. Do you think that is an accurate statement?

Ms. Kate Manson-Smith: I did not have any conversations with Mr. Sackville outside of the briefings that are noted in the chronology, as set out by the Auditor General in her report, so I do not have any knowledge about the conversations within the Premier's office and between the Premier's office and the minister's chief of staff, other than as Mr. Amato described to me.

The Chair (Mr. Tom Rakocvic): One and a half minutes left, roughly.

Ms. Jessica Bell: This is my question, again, to Kate Manson-Smith: The process that was described in the Auditor General's report about how these greenbelt lands were removed—I would say, at best, it was highly unusual. The description that I would use is words like “suspicious,” “too politicized,” “possibly corrupt.” It's very concerning.

In your experience, have you ever seen a decision-making process like this before?

Ms. Kate Manson-Smith: So the process for removing lands from the greenbelt—

Ms. Jessica Bell: In three weeks.

Ms. Kate Manson-Smith: There are requirements that are set out in the legislation. If you're going to remove lands from the greenbelt, you have to add an equal amount of land. You have to consult for 30 days, as the secretary described, and that decision is a decision of cabinet. Those are the legal requirements. Those are the requirements that transpired.

As the secretary noted, beginning with the mandate letter, following from there, upon receiving further direction in the public service, we developed options. We identified risks, including risks around transparency, risks that might be raised around fairness. We undertook consultation and review of materials received in consultation, and the secretary also mentioned the work that was intended to follow by

the facilitator. So that is the process that we undertook on the public service part of the equation.

Ms. Jessica Bell: Have you ever had a situation where a political staffer has written the criteria for a decision, then rewritten the criteria for a decision and then told you, “These are the lands that you need to remove” or—

The Chair (Mr. Tom Rakocevic): Sorry. We’re at time.

Now moving to 20 minutes to the government side, beginning with MPP Crawford.

Mr. Stephen Crawford: Thank you to the presenters for being here today. I appreciate that, and I appreciate your public service.

My first couple of questions are related to the working group that’s been established, so, Secretary, perhaps you could answer. I just wanted to get a sense on when the working group was established.

Ms. Michelle DiEmanuele: This is the working group to respond to the Auditor General’s—

Mr. Stephen Crawford: Yes.

Ms. Michelle DiEmanuele: I would say, first and foremost, that the previous Auditor General and I worked very collaboratively as she was working through her investigation and report. As we were working through that, she would often give me an indication of generally where she was thinking about going, so I would say that prior to the report even being tabled, we had begun to review many of our processes. So it was a running start, if I could use that terminology.

But immediately upon receiving that report, the chief of staff to the Premier and myself each selected three individuals who would be forming part of this working group, working with my general counsel, and that was expanded to include those three individuals who I read into the record from previous governments who had worked for previous Premiers, both in and outside of Ontario.

With that, they began immediately to comb through our existing processes, guidelines, directives that were already guiding us through our work and making recommendations. That was then taken to deputy ministers across all portfolios to get their input. I know the chief of staff also sought input as well. That was then brought together in my office for a final draft of where we would respond.

That was then reviewed, both from a legal perspective and it was reviewed from a convention perspective. There are many norms that exist in parliamentary government that we wanted to make sure we were either augmenting or supplementing effectively.

Then, ultimately, I sat with the chief of staff to the Premier to indicate where I would be responding to those recommendations that were within my scope as the head of the public service and as the Secretary of the Cabinet. As you’ll know, the Auditor General gave that report to the chief of staff and me, so where there was mutual accountability, we worked through that. Where there was more of an accountability on the side of the political public service—for example, the training of chiefs of staff, as one example—we provided our best advice, and then Mr. Sackville has, as you have heard, implemented that advice with respect to more regular training as one example.

And where there was no direct accountability for either Mr. Sackville or myself and it would either rest with cabinet, such as the introduction of legislation, and/or with the Legislature, such as the guidelines and legislation governing the integrity and ethics commissioner, we provided some initial advice on how to respond and to move forward, including that I met with the Integrity Commissioner and so did my staff with his office early on to think through, notwithstanding legislation, where we can continue to work co-operatively to support the effective administration of government.

1430

Mr. Stephen Crawford: You touched on some of the people that were involved in it, but if I could ask more specifically—I don’t mean by name, but just in general, what people were involved in the working group, and how did you select those people? Again, in general, just give us some sense.

Ms. Michelle DiEmanuele: Not to sound trite about this, but it is an Auditor General’s report and it is a public accounts committee. Selecting a deputy who is a CPA, I thought, was a good first start to create that sense of audit response. It’s a well-established discipline to respond to an audit. It has the impact of effective controls and checks and balances. I thought having Deputy Alexander be part of that was an important first step.

Secondly, I think having a deputy minister who has very robust experience: We needed to continue to act as a learning organization and see this as an opportunity for us to reflect on decades of practice and how we can improve. So a certain deputy was selected who has private sector, public sector and government experience, in a way that I thought would challenge us and act as a challenge function so that we would push our thinking as far as we could go.

I felt it was important, as I’ve indicated, that I reached out to some additional people who had either been chiefs of staff to Premiers in this province or other provinces, of different political parties who had been elected, to get a very fulsome review. I did not want it to either appear or be true that somehow this was a captive conversation with only the government of the day. This is guidance that will govern and support governments for decades to come, and so I was humbled by the support that I received from previous chiefs of staff, who were really quite helpful and interested in ensuring that this report would be responded to in as thoughtful a way and as complete a way and as non-partisan a way as we possibly could.

And then I would just say lastly that Mr. Fawcett, my general counsel, again has decades of experience. He was also critical to the work we did on the transition of governments or potential transitions of government. He also reached out to other legal counsel who could provide us with both precedent and consistency.

I will also say that Ontario is often looked to because we often lead in these areas. So we did consult informally with some other provinces, but truthfully, I do believe that we are leading in this regard.

Mr. Stephen Crawford: That’s good to hear. I appreciate that. It sounds like it was a fairly wide consultation in terms

of getting a diverse group of people in to hear their perspective, so that's appreciated.

In terms of the first recommendation, I know in part it was to clarify and document the roles of the public service and the political staff in areas of policy development and operational decision-making. I just wondered if you could clarify the roles for the chiefs of staff and the role of the deputy ministers in those areas.

Ms. Michelle DiEmanuele: Which recommendation is that, sir?

Mr. Stephen Crawford: Recommendation 1, so just the differentiation—

Ms. Michelle DiEmanuele: Yes, I understand.

Mr. Stephen Crawford:—and how the decision-making is between the chiefs of staff, who are political, obviously, and the deputy ministers and how that was formulated.

Ms. Michelle DiEmanuele: The individuals that I reached out to, as I mentioned, had all been chiefs of staff in other governments. With that, I found they've provided, truthfully, the most practical and helpful advice in this regard—so really building out that reporting relationship and sense of accountability, that the chiefs of staff in ministers' offices report to the chief of staff to the Premier, helping to augment and clarify the role between the chief and the deputy minister. The deputy does not report to the chief, nor does the deputy report to the minister. They report to the Secretary of the Cabinet.

We looked at the important role, as deputy ministers in the public service give non-partisan, evidence-based advice. The chief of staff and the staff in the minister's office, by the very role they play, are to provide that political lens and advisory function to the minister. That was respected and clarified. Within that clarification—and this gets at, really, what I think MPP Bell has referenced once or twice, and that is the importance of understanding the rules and restrictions associated with that political lens which one looks through. So, that was confirmed: the conflicts of interest, the retention of documents, all of that.

The role the chief of staff plays in overseeing that, as Deputy Manson-Smith said, it is not within my direct accountability to oversee that but to ensure that the chief of staff to the Premier is supported in that and to confirm what those rules were. It also looked at best practices: What should you do as a chief in terms of recognition of your staff, making sure that you are retaining records, ensuring that there are regular meetings between your deputy and your minister? These are best practices. And so, ensuring that that was understood.

Overall, I would say, this area—and you can appreciate that, as the non-partisan public service, it is not for us to dictate what the role of the chief of staff is. So we used convention, we used our consultation process and we used research to define that as best we could. Then I met with Mr. Sackville to review that, to assure that it was practically able to be implemented. He has accepted that. As you know, we communicated, as I said in my statement, in December and January with the chiefs and the deputies on those roles and responsibilities.

Mr. Stephen Crawford: Okay. Thank you very much. I'll pass my time along.

The Chair (Mr. Tom Rakocevic): MPP Rae, you have nine minutes, 40 seconds.

Mr. Matthew Rae: Thank you, Deputy Ministers, legal counsel and, obviously, Secretary, for your work on this. I know you mentioned in your remarks less than 90 days, and you implemented 14 of the 15 recommendations. I think that's great work by the public service to bring about those recommendations in such a timely manner. I know your office has done a lot of work with many other offices in the government.

Concerning recommendation 2 from the Auditor General's report, what steps have you taken to limit the use of confidentiality agreements?

Ms. Michelle DiEmanuele: If I could just make one comment with respect to the 90 days, I'm very proud of the work that the public service has done in one quarter to respond, I believe, effectively to this report, but I also want to say to all the members of this committee that that's just the beginning. These processes will need to be reviewed and calibrated, as any new process usually is. So I will be keeping a close watch on this in the weeks and months ahead as they are normalized into the work of the Ontario public service.

With that, on confidentiality agreements, as the auditor indicated, she wanted this reviewed. As such, we have.

I indicated in my statement that we are maybe going back to our roots with respect to the oath of office. That oath contemplates—just like we took an oath today, it contemplates that you will to the best of your ability perform your duties with integrity and with honesty and with competence. Confidentiality is a component to that. We take that oath which includes confidentiality. With that, we are augmenting, really, processes where there are key commercial, security, other kinds of aspects to any work that we do where we believe a reaffirmation of that oath of office is an opportunity for a public servant to reflect and to think about the work that they have to do before them. Some of our public servants take that oath of office many, many years earlier and may not have looked at it recently. So we're going to make it a much more active oath, if I can use that terminology, but there still will be a place for confidentiality agreements.

I do want to make one last comment: There is nothing about a confidentiality agreement or a non-disclosure agreement that prevents any public servant from seeking to consult with someone else. At any point in time, if I can describe the confidentiality agreement or the nondisclosure agreement in business as a circle of trust—you have said that these individuals can know certain things. There's nothing which prevents that circle from expanding. As the Auditor General noted in her report, even within the greenbelt conversation, even within the processes on the greenbelt, as things moved forward, there were additional individuals who became part of that circle of trust through signing a confidentiality agreement.

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Mr. Matthew Rae: Thank you. Sort of building on your comments there, Secretary, you mentioned that a deputy minister, for example, may have taken their oath a while ago and been in long service to the public. What's the new

process to remind public servants of their confidentiality obligations?

Ms. Michelle DiEmanuele: Don, I think probably you're best suited to do that.

Mr. Don Fawcett: Sure. As part of the working group, this is certainly something that we were looking at carefully and consulting across ministries and their legal directors, who would always have a line of sight into significant matters that may require enhanced confidentiality.

Collaboratively, we developed a confidentiality reminder and attestation document that we would employ strategically when there would be projects where we would want to remind public servants of the confidentiality requirements anchored in the oath and in our conflict-of-interest requirements, for example, under the Public Service of Ontario Act.

The first step is always just that reminder and the attestation that said, "Okay, yes, you're working on something important here. Here are the steps to maintain confidentiality." We provide some information about secure document management practices. As the secretary noted, it is not something that we do to stop people from collaborating where they need to. If you need to talk to someone or consult with someone as part of doing your job as a public servant, the attestation makes that clear that it's appropriate to do so.

In rare instances, when we have very sensitive commercial matters, we may undertake a non-disclosure agreement. Those are very carefully managed with the legal directors and myself to make sure that when we take them out to public servants, they understand the importance of it and they certainly understand confidential document management processes. But again, we're reiterating that where you need to talk to someone or consult with them to do the job, this isn't a barrier to that. It's just: We work on an informed basis. You check in with the program lead on those things.

Ms. Michelle DiEmanuele: One additional item, Mr. Rae: One of the things I introduced when the newly elected government's cabinet was sworn in—and I hope this will become a regular practice by subsequent secretaries of cabinet. Upon a new mandated government, I actually have all deputy ministers sworn in again. I think that practice in itself is a good way and an important way to begin a mandate with any government, where both ministers and deputies are taking their oaths.

Mr. Matthew Rae: Thank you.

I defer the remaining time to my colleague.

The Chair (Mr. Tom Rakocevic): MPP Dixon, you have three minutes and a half.

Ms. Jess Dixon: I'll direct this to whoever is best able to answer, and I think this is kind of going to a mix of your recommendations 6, 7 and 8.

When we're talking about training and staff, I'm curious about how it looks from a situational play through, like almost a role-play, because obviously there's ways to put guidelines and rules in place and then there's the real world, where things are messy and confusing and there's personalities and pressures, that type of thing. Do you have any strategy to run staff through what a real-world example would be?

Mr. Don Fawcett: Sure. Maybe I can give you a couple of examples of the scenario-based training that we did. One of the recommendations—I believe it was seven or eight with respect to the Integrity Commissioner. We worked closely with the Integrity Commissioner's office to set up that refreshed conflict-of-interest training session. The commissioner's office is quite good about how they present that. They do essentially scenario-based training. We also employed that with some of our records-keeping training too, which I'll talk about in a moment. But we have rules, especially the rules that are set out in our conflict-of-interest regulation, and they're very similar for public servants who work in ministries as well as ministers' offices. They essentially are aligned.

One of the scenarios that the commissioner's office took senior leaders through as part of that October training was the rule against receiving gifts of greater than nominal value. How they make that real for people who are working in ministers' offices on a day-to-day basis, they'll talk about scenarios, like a stakeholder may invite you to an event or they may invite you to lunch. They presented a couple of scenarios like that out to the group of people attending the session and asked, "What would you do in that instance?" So it puts people and thought into it. Naturally, you can imagine there were a number of responses. The commissioner's office then took that back and said, "Okay, so the rule is you can't accept a gift of greater than nominal value," where a reasonable person might perceive that to somehow influence a decision-making.

What does that mean practically? The indication from the commissioner's office was, accepting event tickets or a lunch could be seen—it's certainly of greater than nominal value. We peg it around 20 bucks, given as a token or expression of hospitality in some circumstances. That's an example.

Another example they would have employed is we all have a positive obligation to avoid the perception of conflict of interest. They noted that oftentimes there will be lobbyists and others who may go to a minister's office to ask questions, including questions about processes that may be in place in ministries, like a procurement process. We know through that scenario, we talk through—if you get a question in the minister's office about an active procurement being managed by the ministry, it's very important to redirect into the designated people in the ministry that specific question.

Why is that important? First of all, they have a process in place to record all questions, and any answer that's given is shared out amongst the entire proponent community, so there's no issue about whether information—

The Chair (Mr. Tom Rakocevic): Thank you. We are at time.

Mr. Don Fawcett: Okay, thanks.

The Chair (Mr. Tom Rakocevic): We will go now to the final round for the official opposition, beginning with MPP Burch.

Mr. Jeff Burch: Thank you all for appearing today.

I want to go to the theme of public officials acting for purposes other than the public good, because that, to me, is what this is all about. We're all paid for by the public.

We're supposed to be working for them and doing what's best for the public good.

I'd just like to start my questions with Ms. Manson-Smith. In a November 4, 2022 statement announcing the greenbelt removal proposal, former minister Steve Clark claimed that the sites were selected based on criteria that included: "Affected areas must have the potential for homes to be built in the near future" and "Affected areas must be on or near readily serviceable land, with local infrastructure upgrades needed to service the projects to be funded entirely by the proponents."

But the Auditor General reported that ministry officials removed those criteria when selecting the sites because, "They could not assess infrastructure availability or servicing ... within a three-week time frame ... without contacting municipalities..." That's on page 9 of the AG report. Why did the ministry tell the public that the proposed sites had been selected based on those two criteria when ministry officials knew that that was not true?

Ms. Kate Manson-Smith: Thanks for the question, MPP Burch. The word "criteria," in retrospect, reflecting on that and the advice of the Auditor General and the assessment that she undertook, perhaps was not, at the outset of the work, the best word. These were matters for consideration.

You're talking about, if I understood your question correctly, the part in the process where, subsequent to the removal of the lands from the greenbelt, they would be developed and infrastructure would be provided. The secretary did speak to the work of the Provincial Land and Development Facilitator, who was to be working with the landowners and with the municipalities in order to secure those benefits in respect of affordable housing, in respect of the infrastructure. I think that that's the part of the process that you're referring to, and that was intended to part of the work of the Provincial Land and Development Facilitator, working with the landowners, working with the province, working with municipalities and other stakeholders that would be involved in further permitting around development approvals and construction of infrastructure.

Mr. Jeff Burch: Okay, but the government told people that they were moving land from the greenbelt to build 50,000 homes in the near future. That's what they told people.

And then the criteria was, building 50,000 homes in the near future, and that it needs to be funded entirely by the proponent and near readily serviceable land. When they found out that that wasn't the case, they just removed those criteria. Instead of pulling back, they removed the criteria. Did the Premier's office review the language of that statement before it went out?

1450

Ms. Kate Manson-Smith: MPP Burch, there are a number of things to unpack in your question there and you might need to repeat the first part for me.

As a matter of course, before news releases are issued, usually there is, but I cannot recall the specifics in this case, in respect of the language. In respect of the specifics of your question about those criteria, which I believe—I'm sorry, could you just repeat what you said there again?

Mr. Jeff Burch: Yes, sure. They said they wanted to build 50,000 homes—

Ms. Kate Manson-Smith: The 50,000 homes and the infrastructure—

Mr. Jeff Burch: —with their removal from the greenbelt. But the problem was that the land wasn't near serviceable land or land that was already serviced. So there was absolutely no way that they could do that in the near future, so they just started removing criteria.

Ms. Kate Manson-Smith: I think those matters were in the quick development of housing, and the provision of infrastructure to support that housing continued to be a part of the government's plan and part of the undertaking. They were not dropped. That was part of the work of the Provincial Land and Development Facilitator.

I might just see if my colleague, Sean Fraser, wants to add anything.

Mr. Jeff Burch: That's okay. I only have so much time, so I think I'll go on. Maybe I'll explain a little more as I go on.

Ms. Kate Manson-Smith: Okay, sure.

Mr. Jeff Burch: On page 47 of the report, the Auditor General discusses the removal of the Duffins Rouge Agricultural Preserve from the greenbelt. She writes, "From our work, we know that the province recognized that the release or amendment of covenants or easements would allow these lands to be sold at much higher developable land prices going forward. The province, and by extension the public, gave up potentially billions of dollars in opportunity costs that had been previously forfeited in the name of supporting local agriculture and protecting the environment. Those profits will now flow to the DRAP lands' private owners and developers, with no immediate offsetting compensation to the public."

In fact, a staff note that we obtained by FOI indicates that Mr. Amato acknowledged that the owner of the Cherrywood property in the DRAP would get an unfrozen \$3-billion asset once their property is open for development.

You can see how this is moving forward. There's the removal of those criteria; they decide to go forward anyway, even though they know that these lands cannot be developed in the near future, that they will not contribute to 50,000 homes being built.

My question is: Do you believe that, at that point, Mr. Amato was acting for the public good when he pursued a greenbelt removal scheme? He knew it enriched one single property owner by \$3 billion, with no offsetting compensation to the public, that had forfeited billions in profits previously in order to protect that land. There are no immediate homes that are going to be built in the near future and somebody is making \$3 billion, and what's being told to the public is completely different than what's happening behind closed doors. Is that happening in the public good?

Ms. Kate Manson-Smith: I would not be in a position to speak to Mr. Amato's mindset. What I can tell you is that the land use planning process is agnostic to property values. When land use planning designations are changed, land use values can go up if land becomes more developable. If

land, for example, were added to part of a flood plain map, the value of that land would go down. I cannot tell you what was in the head of any other individual, but I can tell you that land use planning in Ontario, and indeed in every other jurisdiction that we're aware of, is agnostic to the value of the land. The land was not in public ownership and the increase or decrease in the value of the land is not something that is considered in determining the use of that land.

Mr. Jeff Burch: Okay. We were talking about the public good as I started out my questions. Perhaps I could ask the Secretary of the Cabinet: Was cabinet provided with the information on the value of the public asset? Were they provided with the information that the public had foregone all of this value on the land when it was put in, and that, in removing it, they were transferring billions of dollars from the public to private developers? Is that something that the Secretary of the Cabinet would inform the cabinet about?

Ms. Michelle DiEmanuele: I think the deputy has already answered what the role of public services, both for this government and other governments, has been with respect to land use planning and value. But I do want to remind the member, as I said in a previous answer, that the facilitator's work—and in the Auditor General's report, she acknowledges that this was not complete when she filed her audit. The facilitator's work was looking at timing—so shovels in the ground. You did raise the timing issue; shovels had to be in the ground within the next year. The servicing issue had to be dealt with; that would be a return of value back to the public by servicing. There had to be affordability of houses; that was being negotiated on the part of the facilitator as well. To get to that 50,000, it had to be a range of affordability of homes. As well, we were looking at community benefits—parkland as an example.

Had the facilitator completed her work, I believe we would have been able to go back to the minister, through the deputy minister at the time—or now Ms. Greenberg. We would have gone back to the minister, based on the work of the facilitator on what that value proposition was, before the minister would have made his final determination that that removal would stick. Remember: There was that indication that those lands could be returned through this process if certain things weren't met. That work was never completed, and that is why the public service has not been able to bring forward that value proposition which you have outlined.

The Chair (Mr. Tom Rakocevic): Ten minutes remaining.

Mr. Jeff Burch: Okay. I'm going to change my questions to Mr. Fraser. I guess I'm just going to start by asking you: Do you believe that Mr. Amato was acting in the public good?

Mr. Sean Fraser: The information that I have about Mr. Amato's actions is limited to what he spoke to me about and what documents he may have provided. I think the process itself was acting within the public good, but I have no particular professional perspective on what Mr. Amato's motives were. I can't put myself in that place.

Mr. Jeff Burch: Okay. I want to talk to you about the Cherrywood lands in Pickering. The ministry knew that the Cherrywood lands in Pickering could not be opened up for development without repeal of DRAP by the Minister of Natural Resources and Forestry. You told the Integrity Commissioner that Mr. Amato had reached out to his counterpart at MNRF to request the repeal of the DRAP Act. Was this counterpart the minister's chief of staff, Adam Bloskie?

Mr. Sean Fraser: I don't know for certain if it was Mr. Bloskie, but it would have been a colleague in the minister's office at the Ministry of Natural Resources and Forestry.

Mr. Jeff Burch: Do you know when that occurred?

Mr. Sean Fraser: The specific date? No, I don't. I know that we did bring to Mr. Amato's awareness the fact of the DRAPA protections on those lands, and I think it was at that time that he may have initiated those discussions—so in October.

Mr. Jeff Burch: You told the Integrity Commissioner: “I was given direction to make connections to the officials in MNRF to dial them into our discussion’ and to explain that ‘if this is going to happen, your ministry would need to repeal this act...’ and that in time, those other officials ‘operationalized that.’” Who gave the direction to make those connections?

Mr. Sean Fraser: That would have been Mr. Amato, coming out of those meetings in October. For instance, I would have then reached out to my colleague in MNRF at the official side, the assistant deputy minister responsible for policy.

Mr. Jeff Burch: I'm struggling to understand why MNRF would repeal one of its statutes based on a request from the chief of staff of an entirely different ministry. Did anyone at MNRF check with Minister Graydon Smith or the Premier's office to confirm that they had authorization to undertake that appeal?

Mr. Sean Fraser: I can't speak for MNRF on the particulars. I know that my colleague certainly followed up with his minister's office and with his deputy minister at the time in terms of next steps.

Of course, repealing legislation is actually a decision of the Legislature, as opposed to a particular ministry.

Mr. Jeff Burch: Do you know if anyone in the Premier's office provided direction, either to the Ministry of Municipal Affairs and Housing or MNRF, concerning the repeal of the DRAP Act?

Mr. Sean Fraser: I don't have any specific awareness of—

Mr. Jeff Burch: You're not aware of that?

Mr. Sean Fraser: No.

Mr. Jeff Burch: Okay.

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I think I'll go back to the Secretary of the Cabinet, Michelle DiEmanuele. I think it's unfortunate that government members of this committee didn't extend an invitation to MNRF officials to hear their side of the story, so to speak. But as Secretary of the Cabinet, perhaps you can help me understand how these sorts of inter-ministry requests work. Was it consistent with acceptable standards and prac-

tics for public officials in that ministry to undertake or repeal a statute in another ministry solely because the chief of staff of another ministry asked them to?

Ms. Michelle DiEmanuele: I'll defer to the deputy in a second. What would normally happen is where a ministry—I'll speak more agnostically—is undertaking something that is more cross-government, the chief of staff and deputy of that ministry would engage in a conversation as part of the overall workup to a cabinet decision-making process, and my expectation would be that the deputy minister of the day in that ministry would contact their colleague in that other ministry to begin that dialogue at an official level.

Then—just to generically say against the backdrop of your question—if the deputy at MNRF had such a conversation, which I believe did happen between the two deputies, that deputy would then engage their chief of staff and their minister as they worked through that process. That would normally be how it happens. We work across departments all the time, but it is from deputy to deputy and deputy to minister and across.

Mr. Jeff Burch: In her report, the Auditor General proposed that the Integrity Commissioner conduct an investigation of Ryan Amato, but also other officials, under the Public Service of Ontario Act. Did those investigations ever happen, and what were the results?

Ms. Michelle DiEmanuele: The Auditor General and I had extensive conversations, and there is nobody she indicated to me that we're not aware of with respect to the reference to the ethics commissioner and Integrity Commissioner that I have had to follow up on. I've had several conversations with the former Auditor General as she was tabling her report as to any actions I needed to take, and that included a conversation with my Deputy Attorney General.

Mr. Jeff Burch: You've had some conversations back and forth about deleted emails which I was trying my best to follow. The Auditor General observed that greenbelt-related emails were being regularly deleted by political staff and that it was contrary to the Archives and Recordkeeping Act. So what consequences have been imposed on political staff that are alleged to have violated the ARA?

Ms. Michelle DiEmanuele: I do not have direct accountability or any accountability associated with the performance of non-elected political public servants. That is under the purview of the Premier's chief of staff.

Mr. Jeff Burch: Okay. Can anyone who's here answer that question?

Ms. Michelle DiEmanuele: We are responsible for the work and the actions of public servants.

Mr. Jeff Burch: Okay.

There are some questions more broadly that came out of the AG's report and recommendations. Under the new confidentiality, undertaking and acknowledgement process, what criteria will be used to determine when confidentiality agreements are going to be used in the public service?

Ms. Michelle DiEmanuele: I think there are three or four that we've highlighted, and Mr. Fawcett will augment it if I've missed anything—for example, our budget processes or tax information, which is very important and can affect markets across this country if we are not careful, so

budget processes would be one. Something that might constitute a security risk could be another one. Something where we might deem there to be a commercial or procurement value—I think I referenced in my remarks as well.

Having said that, judgment always has to be applied and, with that, I would expect that if there wasn't a clearness of that, a deputy or others would escalate that through a number of the processes available for them to do so.

Don, is there anything you want to offer?

Mr. Don Fawcett: I think the secretary covered it. We're looking at sensitive transactions and commercially sensitive information, also noting that within government, we hold large datasets of personally identifiable information. As you know, we are mindful of the need to protect the security of that and, as part of that, it's a refresher to staff who have direct access, and that's always carefully controlled. This would be something we would be doing going forward just to say, "Just reminding you again of your oath and confidentiality," and then taking them through some situations, scenarios about when you may have a question about how you apply this confidentiality requirement.

Mr. Jeff Burch: Okay. Turning to what has happened over the last couple of years as this issue has progressed, in the period of time between December of 2022, when greenbelt lands were removed, and December of 2023, when Bill 136 came into effect, were any sites altered for the purpose of development, and have the environmental impacts of that been assessed?

The Chair (Mr. Tom Rakocevic): One minute remaining.

Mr. Sean Fraser: I can certainly take that question. I'm not aware of any development happening on any of those sites, and then the lands have since been returned, as you've said.

Mr. Jeff Burch: Okay. Also very important, obviously, and missing from a lot of this has been the input from Indigenous communities. Was the duty-to-consult overview document prepared with input from Indigenous communities, and have they had an opportunity to review its final form and provide their feedback?

Mr. Don Fawcett: The Indigenous consultation documentation that was prepared was done directly in consultation and with the leadership of the Ministry of Indigenous Affairs, Ontario. It reflects their best practices that they have worked many years to develop in a long-standing tradition of consultation. It's that knowledge—

The Chair (Mr. Tom Rakocevic): We're out of time. Thank you very much.

Now moving to the government members: MPP Martin.

Mrs. Robin Martin: Thank you, everybody, for all the interesting information you're providing to us today. I was interested in conflict-of-interest recommendation number 4. I guess, really, it would be helpful to start with, prior to the auditor's report, what kind of processes related to the receipt of third-party materials existed for ministers' offices? If you could enlighten us a bit on that.

Mr. Don Fawcett: Sure. Specifically, we're talking prior to the implementation of our records repository?

Mrs. Robin Martin: Yes, the report and your implementation.

Mr. Don Fawcett: Okay. I'll go back and talk about this, because my training has always been in records management prior to joining the secretary's office. Each minister's office has a record-keeping schedule that we've trained on, so any materials that they are getting from third parties—obvious—that are relevant to their decision-making are business records that they would keep within their particular operation. I'll talk a bit more, because you may ask me, about the process that we've implemented, but certainly there was awareness of those records, and they manage them in accordance with their records retention schedule. Those are business records that we would keep.

Mrs. Robin Martin: Okay. What have we changed now going forward?

Mr. Don Fawcett: What we've changed is—those records sitting in the minister's office, we've given a line of sight now into the deputy's office. We've established an electronic portal so that when ministers' offices are receiving information from a third-party stakeholder or lobbyist information and it's relevant to their decision-making within that office, either in policy development or a particular decision, that would be the trigger, then, to take that subset of records and import them into the portal. What that does is it then gives the deputy's office a line of sight into what the minister's office has received that they are actively considering. As the secretary mentioned, this is an opportunity, then, for the deputy and the minister and the minister's chief of staff to discuss what's ongoing. Really, it doesn't replace the record-keeping requirements; it's just an additional step that gives the deputy a line of sight into what's happening.

Mrs. Robin Martin: And then sort of a similar question: For record-keeping and archive training, what existed for ministers' staff before the AG report, before the changes?

Mr. Don Fawcett: I can speak to that. I had some involvement with that. We've been providing records management training to political staff, I can remember, as far back as 2019. There would be in-person, scenario-based records management training.

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And then, we've also created a portal which is a repository of records that are used to on-board new staff. Our records-keeping training modules are a part of that. When ministers' staff come into the office—and this is part of the responsibility of the chief—they would go through and work through those training modules.

We have provided refresher training since I first joined this office. Then, certainly in response to the auditor's recommendations, we did some more focused training in October with the senior chiefs of staff and their senior leadership in the ministers' offices. Then we've rolled that out within new training modules for all staff in ministers' offices, and we are doing that on a quarterly basis to make sure that anyone new who's coming on board gets that opportunity for that interactive training. It's one thing to look at a document; it's another thing to live it when you have someone taking them through those training modules. Also, it gives them an

opportunity to ask questions, so that's something that we reinforce.

I talked a bit about there's an exercise of judgment, because you know best as a public servant your records, how they're relevant and how they relate to the development of a policy or decision-making. Sometimes you may have a question, and part of my role, and other legal directors' and others' in the ministries, is that when you have a question, you sound it out. Training is one of those opportunities to say, "I'm one of the people you can talk to."

So that's how the public service continues to support ministers' offices in terms of their obligations and how to implement these requirements.

Mrs. Robin Martin: I heard you say that it's more focused now, and you've maybe done it more often—

Mr. Don Fawcett: I like to think—

Mrs. Robin Martin: —since the Auditor General's report.

Mr. Don Fawcett: Okay, I won't personalize it. What we've done is recognize that there are technicalities to our record-keeping. Quite frankly, their policy is to focus in on the essence of—when you're sitting there as a public servant, and you have a record in front of you, and the question is, "What should I keep?", then we're very specific in terms of talking about those scenarios.

As a rule of thumb, what I like to tell staff is, "Ask yourself: 'If I were to go back and look at the development of a particular policy, what were the key records that?'"—sorry, I didn't mean to poke my head, but as an aid to memory—"What were the key steps, and have I got the records that document that?" Essentially, keep the records that tell the story of how we landed in a particular position.

Mrs. Robin Martin: Was the Premier's office co-operative? Did they work well with you as you trained ministers' office staff and made sure that they understood these obligations?

Mr. Don Fawcett: Oh, yes. For sure. There's a deputy chief of staff who is responsible for HR matters. We worked with her and her office very closely to set up the training opportunities. They've been very consistent in following up with all the chiefs of staff to ensure that everyone has been involved in the training opportunities and, for example, the attestation. So we're very much in partnership, and this really flows, as the secretary said, from the working group that we developed. It has been a collaboration between the political staff side and the ministry side. I think, ultimately, that's the most effective way to implement change.

Mrs. Robin Martin: Thank you.

I'll cede the rest of my time to someone else.

The Chair (Mr. Tom Rakocevic): MPP Skelly.

Ms. Donna Skelly: Thank you all for joining us this afternoon. I'm actually impressed that so many of the recommendations have already been completed.

I wanted to talk about some changes to procedure when it comes to deputy ministers raising concerns to secretary and to cabinet. What changes have been made? How does it differ from prior to the recommendations and the latest AG report?

Ms. Michelle DiEmanuele: Thank you, Ms. Skelly. First off, there existed many formal processes prior to the Auditor General's report. For example, I meet monthly with deputy ministers. That's an opportunity for us to go through issues or maybe even emerging issues. Once a week, all deputy ministers come together. That's an informal opportunity to pull me aside and to say, "Listen, I'm noodling an issue," or "I'm thinking through something that I wouldn't mind your advice on." I give those two examples by way of formal and informal to be able to raise things with me directly, but we also have a number of other processes.

There are several central-agency deputies who I would say have a controllership function. If there are financial issues, as an example, that one wants to think through—a transfer payment agreement, or an issue related to the accounts that we have—that could be raised with our deputy of finance or our deputy of the Treasury Board, who both would have that kind of controllership/central-agency function.

If there was a legal issue, as my legal counsel said, we can consult with directors of legal in each ministry, but you can also—I referenced this with MPP Burch: I call the Deputy Attorney General to get advice, and to see through and escalate an issue if I want to understand maybe some of the nuance associated with a legal issue.

There is our Cabinet Office proper. That Cabinet Office proper has two individuals in it in particular who bring a wealth of experience and knowledge: One is the general counsel; the other is my deputy minister of policy and performance. And of course there's me in Cabinet Office, as well, and my executive adviser, who is also there if issues need to be raised.

There are formal processes that all governments have used. We call them multi-corners, where when issues may need to be discussed between a deputy, the minister's office, the Premier's office and Cabinet Office, we pull those multi-corners together. A deputy can call on multi-corners and have that conversation at any time, and so can the political non-elected staff call multi-corners if they're concerned. Those all existed prior to the greenbelt.

What I think is different is, we've codified it a little bit more in a document that outlines all of these avenues. The Auditor General also recommended the ability for a deputy minister to write to me, and for me to write to the government, if we have not been able to perform our duties to the best of our ability that in any way would reflect on the professionalism and the integrity of the public service and the government, and so that is new in this. The opportunity within the cabinet submission proper to identify where one has not had enough time is also, I would say, more amplified in the rework that we have done on the cabinet submission process that I outlined in my opening remarks.

So I would say, principally, there was a good process that existed prior to the Auditor General's report. As with all AG reports, they always have an ability to help us enhance, reflect, learn and do better, and we've adopted that and we will continue to monitor that. Again, as I said in my opening comment, at the end of the day, I do count on deputies to exercise their judgment when they can raise these issues, and all public servants—all public servants—have the ability

to use protections under the public service act with respect to anonymously raising through whistle-blowing.

Ms. Donna Skelly: At what point would you raise this and bring it to cabinet, and what is the process?

Ms. Michelle DiEmanuele: Raise what?

Ms. Donna Skelly: Any issue.

Ms. Michelle DiEmanuele: Any issue? So, if the issue came in to me directly from the deputy minister, say in a one-on-one conversation or a phone call, typically my first stop would be to my left here to just say, "An issue has been escalated. I just want you to be aware."

My second stop would be down the hall, which is to my deputy minister of policy, who runs my cabinet process, including the deputy clerk who is part of her area. We would have a conversation as to trying to identify what is at the crux of this issue. Is it a timing issue? Is it an issue of legal rights and responsibilities? Is it an issue of competing interests across government that would need to bring together individuals to try to resolve that? We would define what that issue was and why a deputy felt it was necessary—because I can tell you, I'm very proud of the work the deputies do to try to resolve issues at their level within their departments, but as I indicated again to MPP Burch, things happen across a very complex organization as we are. So when—Deputy Fuller is my deputy in Cabinet Office. Once we kind of defined the problem, understood who we needed to have in the room, we would pull that first group together. That almost certainly would involve somebody from the Premier's office, either the deputy chief of staff—there are two or three—that would be in this area, and/or the chief of staff directly if I felt it wanted him immediately. We would talk it through, work it through.

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As, I'm sure, with all secretaries of cabinet, I was an associate secretary of cabinet some 15 years ago. My experience has been when secretaries of cabinet raise issues directly with government and directly with chiefs of staff—my observation has been those are almost always worked out through the existing processes we have to be able to both document and articulate those issues and information necessary for a government of the day and an elected cabinet to make good decisions.

Ms. Donna Skelly: I have one last question. If a deputy minister had raised a concern with the process regarding the greenbelt, what would you have done?

Ms. Michelle DiEmanuele: I've just explained the process in some length, so I won't repeat that. But I will say, had any public servant, not just a deputy minister—had any public servant in any ministry raised with me directly or my office directly, I believe we would have exercised a number of existing processes from which to bring to the attention of cabinet the necessary information that they would need to make a decision and/or to calibrate or recalibrate processes as the government working alongside me—in this case, the chief of staff to the Premier and myself working together to calibrate or recalibrate processes to ensure that we were doing our job to the best of our ability. As the Auditor General's report points out, that did not happen; it was not raised with me, and so those processes did not ensue.

Ms. Donna Skelly: Thank you. Those are my questions.

The Chair (Mr. Tom Rakocevic): Okay.

MPP Wai, you have four minutes and 30 seconds.

Mrs. Daisy Wai: Thank you very much. It's really impressive to see how you have the 15 recommendations done very quickly, and I appreciate that. I'd still like to launch on what MPP Skelly has said, about how if there is something raised to you by deputies, you will immediately discuss among yourselves. But how would the cabinet practically be made aware of some of these concerns so that they can act on it, as well?

Ms. Michelle DiEmanuele: In the case of potentially where a recalibration occurs or a change in direction or a mitigation of that risk and so the risk no longer exists, likely, cabinet would not necessarily be informed in that, because it's actually been dealt with. And you can appreciate, through this entire process, when you start at the beginning of a process, there are all sorts of things you need to be filling in as you move forward. So, often, we are able to mitigate those risks or answer those questions with certainty that wouldn't require it being raised in the way that I think you're thinking. Having said that, where there are risks or where there are issues that have been escalated, where the public service may have taken a position by virtue of the facts and the information before us. When I say "a position"—not a recommendation or not a direction in any way we would wish to give to government; that is not our role. But rather, if that information, I felt or the deputy felt, was so relevant it must be in a cabinet submission, we would put it in the cabinet submission.

And in cabinet, the Cabinet Office, separate from the ministry, provides a cabinet briefing note. And it's in that briefing note where any relevant information that either myself or my staff that I work with closely or the general counsel deems necessary to be in that note outside of the submission—it would be placed in that note as well.

And I also have the opportunity, sitting in cabinet, if there is a point of clarification that is needed, I can seek to have standing with the chair of cabinet to offer that clarification verbally in the cabinet as well. So there's a number of ways in which we can actually make it known to the government.

Most importantly, the chief of staff and the staff would always have that ability, and together we would determine how we would move forward, if unresolved.

Mrs. Daisy Wai: So from what I understand, the cabinet will have thorough understanding and briefing, and you will be there at the cabinet meeting to inform or give them any information that they require.

Ms. Michelle DiEmanuele: Correct. And if I don't have that information at hand, I will be afforded an opportunity to get that.

Mrs. Daisy Wai: Thank you.

I also have one other question on the confidential agreements. How do you make the public service leaders aware of this process or the changes that you have made? And when will you use the reminders for them?

The Chair (Mr. Tom Rakocevic): One minute remaining

Ms. Michelle DiEmanuele: I've written to the deputy ministers I believe on two occasions about the confidentiality agreements. They have a copy of that guidance available. They have the availability of the general counsel to seek advice. They were also part of developing that process. And as I indicated to MPP Rae, I believe on a semi-regular basis we need to be reaffirming our oaths of office as well.

Mr. Don Fawcett: I'll add to that. As part of the rollout of this process, we also had an occasion to bring all the legal directors together in a meeting and walk through this process. Because ultimately, deputies and others may call on the lawyers in their ministries to assist with this process, so it was really important to have a common understanding. Also, it gives my office an awareness of when we might be engaging in—

The Chair (Mr. Tom Rakocevic): Thank you. We're at time.

That concludes the two rounds of questions. I'd like to thank all of you for appearing before the committee today. You are dismissed.

We'll now pause briefly as we go into closed session so that the committee may commence report-writing.

The committee recessed at 1529 and later continued in closed session.

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