

QUESTION 1

The Hon. PENNY SHARPE: There probably were not there then. Are you aware that in December 2015 the lessee of the quarantine station cleared an area of vegetation – I believe around 20 metres by three metres –near the restaurant?

Mr MARK SPEAKMAN: No, I am not personally aware.

The Hon. PENNY SHARPE: Is anyone from your department aware of this?

Mr BAILEY: Yes.

The Hon. PENNY SHARPE: Was that done with the approval of OEH?

Mr BAILEY: No, and we have been conducting an investigation into that matter

The Hon. PENNY SHARPE: That investigation has been going for quite a long time. It was December last year. What is the status of that investigation?

Mr BAILEY: Bear with me for a moment, Ms Sharpe. I will find details on that particular investigation.

The Hon. PENNY SHARPE: While we are there, you can also confirm for me whether, when this clearing occurred, there were juvenile penguins in the nesting boxes or around the site.

Mr BAILEY: That aspect I might have to take on notice, Ms Sharpe. My recollection is that the clearing of the site occurred in December last year. We have carried out the thorough investigations of that, and to inform you, that has concluded. It was conducted by our special investigations unit, which is our most senior set of investigators in the agency. There is no clear evidence in relation to the legality of illegality of the clearing.

Answer

At the time of clearing, there were juvenile penguins nesting at North Head. No penguins were impacted by the works. The area cleared was part of the habitat but not immediately adjacent to the nests.

QUESTION 2

The Hon. PENNY SHARPE: Minister, are you concerned that in this area where there is critical penguin habitat and where you in the past years have spent almost \$400,000 trying to protect those penguins, that the lessee on that site has simply cleared critical vegetation?

Mr MARK SPEAKMAN: It is a bit difficult for me to answer that question without getting a brief on what the facts are rather than relying on your report of it, Ms Sharpe.

The Hon. PENNY SHARPE: This is based on information, some of which has been answered in questions on notice, so it would be there. That is all right, we will move on. You will confirm whether there were also juvenile penguins there at the time when the clearing occurred?

Mr BAILEY: I will take that on notice and reiterate that the full investigation was conducted.

Answer

Answered in QoN 1.

QUESTION 3

The Hon. PENNY SHARPE: Minister, can you provide information to the Committee about how many section 121 occupier licences, that is permissions to harm native animals, have been applied for in the Sydney Harbour National Park?

Mr MARK SPEAKMAN: I will ask Mr Bailey to answer that.

Mr BAILEY: I do not know that I have that figure with me today, Ms Sharpe.

The Hon. PENNY SHARPE: Would you be able to take that on notice?

Mr BAILEY: I can take that on notice, yes.

The Hon. PENNY SHARPE: Would you be able to take on notice and provide to the Committee the full list of sections 121s in the past 12 months that have been signed off by the Government?

Mr BAILEY: Yes.

The Hon. PENNY SHARPE: Including the name and number of animals and the types of animals?

Mr BAILEY: Yes, those records are held.

The Hon. PENNY SHARPE: Are you aware whether there has been an application, again around North Head, for a section 121 to kill kookaburras?

Mr BAILEY: I am not familiar with that application, no. Sorry.

The Hon. PENNY SHARPE: Mr Wright, are you able to provide some-

Mr WRIGHT: I am not aware of that application either.

The Hon. PENNY SHARPE: Will you take it on notice and come back to me if there has been one?

Mr WRIGHT: I will take it on notice.

Answer

One s121 licence was applied for by a lessee in Sydney Harbour National Park.

The full list of s121 licences, including the number and types of animals, for 2015-16 is in the table below.

There was one s121 licence application to harm kookaburras at North Head, but a licence was not issued.

Species	Number of licences issued	Number permitted to be harmed	Number destroyed
Bell Miner	1	30	30
Black Duck	8	185	27
Black Kite	3	15	2
Brush-tail Possum	5	9	3
Common Wombat	22	113	18
Currawong	1	40	
Eastern Grey Kangaroo	1,193	108,298	39,723
Eastern Snake-necked	1	6	3

Turtle			
Emu	15	655	315
Galah	15	5,583	162
Great Cormorant	3	260	
Grey teal	2	20	9
Lapwing	2	14	0
Little Black Cormorant	2	240	
Little Corella	24	8,910	409
Little Pied Cormorant	3	155	
Long-billed Corella	6	1,100	241
Magpie	6	83	12
Magpie Lark	1	2	
Noisy miner	1	115	115
Pied Cormorant	1	10	40*
Raven	3	40	39
Red Kangaroo	59	5,020	1,827
Red-necked Wallaby	38	1,173	661
Silver Gull - Nest & Eggs	2	500	373
Sulphur crested Cockatoo	32	6,552	360
Swamp Wallaby	4	175	40
Wallaroo	132	3,515	1,267
Welcome swallow	3	0	0
Western Grey Kangaroo	25	2,047	610
White Ibis	2	25	
White Ibis - Nest & Eggs	5	370	835*
Wood Duck	16	290	31
Total	1,316	145,550	47,152

*These discrepancies are under investigation.

QUESTION 4

The Hon. PENNY SHARPE: Minister, has Migaloo been declared a special interest marine mammal in NSW under regulation 67 of the National Parks and Wildlife Act?

Mr MARK SPEAKMAN: I will have to defer to Mr Bailey.

The Hon. PENNY SHARPE: Mr Bailey, do you know?

Mr BAILEY: If I am incorrect, I will correct that and take it on notice. My recollection would be no.

The Hon. PENNY SHARPE: There is the ability to do that?

Mr BAILEY: I would have to check those particular prescriptions in the National Parks and Wildlife Act.

Answer

Not in the 2015-16 migration period.

QUESTION 5

The Hon. PENNY SHARPE: Minister, would you consider declaring Migaloo a special interest marine mammal in New South Wales?

Mr MARK SPEAKMAN: I will take that on notice.

Answer

Yes

QUESTION 6

The Hon. PENNY SHARPE: Minister, have any investigations been undertaken by the Office of Environment and Heritage for breaches of exclusions zones and approach protocols relating to whales in this most recent season? Mr Wright might know the answer.

Mr BAILEY: We will take that on notice, Ms Sharpe, but our normal operational practices are that when those matters are reported, we undertake compliance activities.

The Hon. PENNY SHARPE: Okay. I am not trying to be cute about this. I want to know how many complaints have been made and whether there has been any investigations of such. I am aware, particularly, of community concerns around Byron Bay as Migaloo made his way up the coast. There were a number of vessels and individuals who were very close, including a drone basically put over him to capture photos of him. I am seeking to understand whether any action has been taken and how the protocols are operating in New South Wales to protect whales.

Mr BAILEY: I am happy to do that and happy to provide some minor clarification of the protocols that we are talking about today. I suspect that the national protocol does not address drones. It is relatively recent, but we will have a look to see whether we need to have discussions with the Commonwealth.

Answer

During 2016 OEH received several complaints regarding approaches to large cetaceans by underwater photographers. All complaints were reviewed and two investigations are underway.

Drones are considered to be aircraft under the *Environment Protection and Biodiversity Conservation Act 1999* and the NSW National Parks and Wildlife Amendment (Marine Mammals) Regulation 2006, therefore the minimum approach distances for aircraft operations around marine mammals apply. No one has been charged in NSW under the regulation.

Information regarding permits for cetacean disturbance in Commonwealth waters can be found on the Department of the Environment and Energy website at: www.environment.gov.au/marine/marine-species/cetaceans/research-permits or the relevant state or territory authority website.

QUESTION 7

The Hon. PENNY SHARPE: In the Taylor report there is a lot of information on correspondence going backwards and forwards. Can you confirm to the Committee that it took until 5 August 2016 before the EPA finally wrote to Defence to request that it contain and remediate the contamination coming off the Williamstown RAAF base?

Mr GIFFORD: I would need to look at the documentation to be able to answer that question.

The Hon. PENNY SHARPE: There is a letter from Mr Buffier on the EPA website that seems to be the first piece of correspondence where the EPA wrote to Defence and said, "Will you contain and remediate the contamination coming off Williamstown RAAF base?"

Mr GIFFORD: I do not have that available to me here. I will need to check the records.

The CHAIR: Just for the record, you are taking that question on notice.

Mr GIFFORD: Yes, I will take the question on notice.

Answer

The EPA communicated and corresponded with the Department of Defence on numerous occasions about the nature of the contamination and actions needed to address issues such as those contained in the letter dated 5 August 2016.

This included correspondence on 28 March, 29 May and 25 September 2013 and 15 April 2014. It also included formal meetings on 4 September 2014 and 12 August 2015 where the EPA advised the Department of Defence about actions needed to mitigate and/or remediate the contamination.

Further correspondence was provided by the EPA to the Department of Defence on 7 September and 10 September 2015. Also the EPA and the Expert Panel (which includes the EPA) advised the Department of Defence about actions required at meetings on 31 December 2015, 17 February 2016 and 23 March 2016.

The EPA did not receive notice of a complete human health exposure pathway until August 2015 and shortly thereafter the EPA proactively provided precautionary advice to the community.

The Hon. PENNY SHARPE: Please correct the record if there was other correspondence where it was clear the EPA actually asked Defence to stop what was happening. Stage one of the Taylor review lists various correspondence over a number of years regarding Williamstown RAAF base, almost all of which is between various Commonwealth and State agencies such as Defence and the EPA and water utilities such as Hunter Water. There is, however, one private company also mentioned in the correspondence claim, and that is Hunter Land Proprietary limited. The owner of Hunter Land Pty Ltd is Mr Hilton Grugeon, who has donated more than \$440,000 to the Liberal Party and its candidates since 2004, including the former Federal member of Parliament for the area covered by the Williamstown RAAF base and the former Liberal member for Port Stephens. Can you explain why one particular landowner was privy to information long before the rest of the community was?

Mr MARK SPEAKMAN: I am not aware of the correspondence, I am afraid. I cannot answer that question. I will take it on notice.

Answer

The property at 38 Cabbage Tree Rd, Williamtown has a covenant over a portion of the land in favour of the Commonwealth to receive discharged effluent from the Williamtown RAAF base sewage treatment plant (STP). This property is owned by B and M Ellison Pty Ltd and was notified to the NSW EPA under the *Contaminated Land Management Act, 1997* by Hunter Land Pty Ltd with the owner's consent. I am advised that Hunter Land Pty Ltd was acting as property developer on behalf of the land owner, B and M Ellison Pty Ltd.

The EPA requested information from Hunter Land Pty Ltd regarding contamination of the 38 Cabbage Tree Road property following the notification. Hunter Land Pty Ltd requested the Department of Defence, as the operator and responsible party for the effluent and STP infrastructure, to conduct contamination investigations in relation to the STP effluent lagoon area and the STP overflow area.

The EPA received correspondence from Defence dated 20 January 2013 regarding the Department of Defence's environmental investigations conducted on the land at 38 Cabbage Tree Road.

The EPA's review of the two assessment reports (in relation to the STP plant effluent lagoon and the STP overflow area) identified that the concentrations of PFOS and PFOA significantly exceeded site criteria immediately adjacent to both the STP effluent lagoon and the STP overflow area. The reports in question suggested that further investigation was required to understand if it was the STP effluent that contained PFOS and PFOA or the groundwater coming from the base. There was no evidence presented in these reports about an actual exposure human health risk from groundwater (as the 38 Cabbage Tree Road property did not have groundwater extraction bores on it, nor people living on it). However, due to the potential exposure risk to down-gradient receptors, in response on 28 March 2013 the EPA advised the Department of Defence that further investigations of PFOS and PFOA at the RAAF base should be conducted, as a high priority, to assess if exposure pathways existed. The EPA also requested further information from Defence regarding future actions to notify potential down-gradient groundwater users.

The Defence letter of 20 May 2013 to Hunter Land Pty Ltd followed the EPA's request for further investigations and notification to down-gradient receptors.

QUESTION 8

The Hon. PENNY SHARPE: Stage one of the Taylor review mentions Hunter Land again, because on 26 October 2012 the EPA received a section 60 contaminated land management notification form for 38 Cabbage Tree Road, Williamtown. The notification was by Hunter Land:

'.....due to trade waste infiltrating the sewer effluent ponds that are situated within the easement lands' Contaminants of concern are listed as lead, mercury and zinc.

I have a copy of the most recent available list of contaminated sites notified to the EPA, dated 21 June 2016, and on page 51 there is a listing for the 38 Cabbage Tree Road site, named Hunter Land. Minister, why is this site still categorised as under assessment some four years from the time the EPA was notified of potential contamination?

Mr MARK SPEAKMAN: It probably doesn't surprise you, but I do not have personal knowledge of that site. I do not know whether Mr Gifford does.

Mr GIFFORD: No, I do not.

The Hon. PENNY SHARPE: This is a site that is adjacent to Williamtown, so I am surprised by that, Mr Gifford. Perhaps Mr Beaman knows.

Mr MARK SPEAKMAN: No, Mr Beaman does not deal with contamination.

Mr MARK GIFFORD: There is a number of contaminated sites listed on the website. I am not personally aware of the status of every single one of those sites.

The Hon. PENNY SHARPE: But you will confirm that it is still under assessment, it was notified four years ago and 38 Cabbage Tree Road belongs to Hunter Land Pty Ltd?

Mr GIFFORD: We will take that on notice.

Answer

The property at 38 Cabbage Tree Rd, Williamtown has a covenant over a portion of the land in favour of the Commonwealth to receive discharged effluent from the Williamtown RAAF base. I can confirm that the site 38 Cabbage Tree Road remains under assessment by the EPA. The site has not progressed to regulation under the *Contaminated Land Management Act, 1997* as the EPA does not have legislation that enables it to regulate the Commonwealth, which includes Defence who is the polluter in this case. If the EPA cannot identify the polluter or the polluter does not have the capacity to pay, the EPA can require the land owner to investigate and remediate contaminated land. This would not be appropriate here as the EPA knows Defence is the polluter. The EPA is working with Defence on PFAS (PFOS and PFOA) contamination issues related to the Williamtown RAAF Base.

QUESTION 9

Mr BAILEY: For the whole portfolio of OEH this year it is \$4.1 million. The efficiency dividend saving that I have in front of me is \$4.1 million. What I am noting is that the year-on-year forecast figures for 2015-16 versus 2016-17 show an increase for the parks and wildlife group.

The Hon. PENNY SHARPE: That is fine. That is not what I am asking. That is only for National Parks and Wildlife?

Mr BAILEY: No, the Office of Environment and Heritage is \$4.1 million. I can confirm that.

The Hon. PENNY SHARPE: You will be able to provide all of the others, Environment Protection Authority, Environmental Trust, Royal Botanic Gardens, etcetera, as you provided last year?

Mr BAILEY: If it is on notice, yes.

Answer

Summary of efficiency dividends by agency:

E&H Portfolio	2016-17 (\$M)
OEH	4.1
Royal Botanic Gardens Trust	0.3
Centennial Park and Moore Park Trust	0.2
Historic Houses Trust	0.2
Environment Protection Authority	0.0
Environmental Trust	0.0
Western Sydney Parklands Trust	0.0
Parramatta Park Trust	0.0
Zoological Parks Board	0.0

Of the \$4.1 million efficiency dividend for OEH, the National Parks and Wildlife Service will contribute \$2.2 million.

QUESTION 10

Mr BAILEY: So separating that out to it being sold, the sole component in its own right. The subsequent point that was made and is continuing to be worked through is work that we have been doing following amendments to the National Parks and Wildlife Act 2010 that allow for the – what I would describe as a set of opportunities for people to be able to access the park estate, to put those into commercial arrangements in a more simplified version, and that was the tenor of the amendments as they occurred in 2010, and we are continuing to act and look at what we can do in terms of making provision of accommodation, retail outlets, conferencing facilities, cafes and restaurants from the asset base that we hold, but they are consistent with those amendments that were put through in 2010, which require a series of environmental assessments and a series of heritage assessments to occur before we go to those leased activities.

The Hon. PENNY SHARPE: Would you be able to provide the Committee with a list of those leases that have been let in the past 12 months?

Mr BAILEY: Yes.

The Hon. PENNY SHARPE: Minister, is the National Parks and Wildlife Service currently undertaking an organisational restructure?

Mr MARK SPEAKMAN: I believe so.

The Hon. PENNY SHARPE: Can you inform the Committee about the nature of this restructure?

Mr MARK SPEAKMAN: I would like the head of parks to answer it, if I may.

Mr BAILEY: Like all agencies, we are making sure we are compliant with the Government Sector Employment Act at the moment, so that is something-

The Hon. PENNY SHARPE: Sure. I am not suggesting that you are not. I am interested in the nature of the restructure, in particular: the number of rangers you currently have, the regions in which they operate and whether there will be (a) fewer rangers and (b) whether they have to cover a greater area of the parks?

Mr BAILEY: Let me clarify. We are doing a series of things that we will look at around the organisational structure where, at a management level, we are looking at how we can make it most efficient and effective. When I talk rangers, it is important for us to note in a nomenclature sense that there are rangers-

The Hon. PENNY SHARPE: And there are field officers...

Mr BAILEY: -and there are field officers.

The Hon. PENNY SHARPE: Yes, I am very aware of that, Mr Bailey.

Mr BAILEY: I want to make sure that we are using-

The Hon. PENNY SHARPE: I am happy for you to provide figures on both of those. I was going to ask you about field officers next.

Mr BAILEY: We maintain a long-term average of 725 staff in those two categories, and then I would also acknowledge that many of our other staff have a direct front-line role in responsibility as well. I would be happy to provide those numbers on notice.

Answer

Leases let in the last 12 months

Type of lease	Location
Commercial	Perisher Blue Guthega Quad Chairlift, Perisher
Commercial	Kyilla Lodge, Perisher
Commercial	Australian Golf Club Ski Lodge, Perisher
Commercial	Munjarra Co-op Ski Club, Perisher
Commercial	Sonnenhof Chalet, Perisher
Residential	Manager residence – Diamond Head Campground, Crowdy Bay National Park
Retail	Trial Bay Kiosk, Trial Bay
Retail	Parc Café, Jindabyne
Retail	Cape Byron Lighthouse Café , Byron Bay

The number of field officers and rangers employed (by headcount) as at 28 August 2016 is:
rangers: 238, field officers: 733

QUESTION 11

The Hon. PENNY SHARPE: Thank you. Minister, are you aware that Cadman's Cottage at Circular Quay, one of the oldest and one of the few original buildings that remain from the earliest times of colonial settlement celebrates its 200th anniversary this year?

Mr MARK SPEAKMAN: Yes.

The Hon. PENNY SHARPE: Are you doing anything for that?

Mr MARK SPEAKMAN: I will take that on notice.

Answer

The government is considering options for improved use and activation of the site.

QUESTION 12

Dr MEHREEN FARUQI: Minister, can you give any justification for only having five trustees for nine months?

Mr MARK SPEAKMAN: If there is a statutory requirement to have more, then I will address that urgently.

Dr MEHREEN FARUQI: There is a statutory requirement, so surely you should, as the Minister for the Environment, be aware of that. How many were there before the five, do you know, like in 2015? How many trustees were there?

Mr ELLIS: I will have to take that on notice, Minister.

Dr MEHREEN FARUQI: Sorry?

Mr ELLIS: I will have to take that on notice.

Answer:

Attendance at Trust meetings is published in the Trust's annual report.

QUESTION 13

Dr MEHREEN FARUQI: That is all right. I am just going back to the Q Station and the removal of the critical habitat there. Because Mr Bailey responded to the previous questions, Mr Bailey, could you confirm that it has been cleared? Did you say that the critical habitat had been cleared in December 2015?

Mr BAILEY: What we noted and acknowledged was that there was an impact on vegetation in that area and that it was fully investigated, including the investigation being conducted by our special investigations unit.

Dr MEHREEN FARUQI: Sure. You are not clear on whether it was critical habitat that was cleared?

Mr BAILEY: Well, my view would be that if it was critical habitat and our view had been formed that it was within the definitions of the Act, we would have perhaps concluded differently; but the advice that I have through the investigation is that it would be difficult to prove lawfully that it is critical habitat.

Dr MEHREEN FARUQI: But whatever vegetation was cleared, was it cleared by the lessee?

Mr BAILEY: It was an activity by the operator on the property, yes.

Dr MEHREEN FARUQI: Why were they doing the clearing? What were the reasons they were doing the clearing for?

Mr BAILEY: I do not have that information in front of me from the investigation Dr Faruqi I am sorry.

Dr MEHREEN FARUQI: Could you take that on notice, please – just why the lessee was clearing the land?

Mr BAILEY: We will look at that, yes.

Dr MEHREEN FARUQI: Thank you. It has now been 10 years since that particular lease began with the current lessee. Have there been any significant issues in that time in terms of payment, let us say, or any other relationship with the national parks, for instance? Have there been any particular issues over the past 10 years with the lessee?

Mr MARK SPEAKMAN: Can you clarify what you mean by “issues”? Do you mean issues in relation to non-

Dr MEHREEN FARUQI: Yes, non-payment of rent. I might be more clear. How much is the lessee paying annually for that lease?

Mr BAILEY: I would have to take that on notice; I do not have that in front of me, and I will clarify the commercial-in-confidence nature. I do recall that we did some questions on notice recently that outlined some of that advice, Dr Faruqi.

Dr MEHREEN FARUQI: Do you know if the lessee has paid the rent on time during this time?

Mr BAILEY: Again, Dr Faruqi, I wish to take the question on notice to get clarifications around those periods of payment.

Answer

The clearing, to remove weeds, was undertaken by a contractor for the Quarantine Station lessee. The lease and variation are registered documents with Land and Property Information which detail the rent payable. The question on whether the rent is paid on time is commercial-in-confidence.

QUESTION 14

Dr MEHREEN FARUQI: Just going back to the vegetation clearing, has the area been revegetated?

Mr BAILEY: There has been a series of mitigation steps that we have put in place to look at what could be best done for that area and how that could be best delineated between the penguin colony to maximise the protection of the penguin colony. Yes, there is work, certainly, done on site.

Dr MEHREEN FARUQI: And that is revegetation work?

Mr WRIGHT: That does include some replanting.

Mr BAILEY: And, I think, some stronger definitions through screening and other things as well, Dr Faruqi.

Dr MEHREEN FARUQI: Who has paid for that work?

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

Dr MEHREEN FARUQI: Are you aware that National Parks has paid for that?

Mr BAILEY: I am not aware of who has paid.

Dr MEHREEN FARUQI: If you could take that on notice that would be great.

Answer

The National Parks and Wildlife Service paid for the work and will invoice the Quarantine Station lessees for these costs.

QUESTION 15

The Hon. PENNY SHARPE: Mr Bailey, you have talked about leasing and market testing in relation to National Parks and Wildlife. Can you confirm that the market testing is for running an expression of interest (EOI) process in relation to running large events in three or four locations within national parks?

Mr WRIGHT: We have put out an expression of interest seeking interest in events, not necessarily large events, in certain national parks.

The Hon. PENNY SHARPE: Where is that up to?

Mr WRIGHT: We are still waiting on responses from the market.

The Hon. PENNY SHARPE: When are they due?

Mr WRIGHT: I cannot give you the date; we can take that on notice.

Answer

The events expression of interest closed on 3 August 2016.

QUESTION 16

The Hon. PENNY SHARPE: Minister are you aware of the issues around Ginninderra Falls?

Mr MARK SPEAKMAN: No.

The Hon. PENNY SHARPE: Ginninderra Falls is located in NSW, but it is only accessible through the ACT. A large development is going in on the ACT side of Ginninderra Falls, a very special place. There has been discussion over the years about it becoming a national park. Are you able to provide information to the Committee about the likelihood of that occurring?

Mr MARK SPEAKMAN: I will have to take that on notice.

Answer

Land near Ginninderra Falls was considered by NPWS but the values were not sufficient to make the land a priority for acquisition at this time.