



The Hon Niall Blair MLC

Minister for Primary Industries
Minister for Lands and Water

OM16/2476

Budget Estimates Secretariat
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Sir / Madam

Please find attached answers to questions taken on notice during my Department's Supplementary Budget Estimates Hearing on 14 October 2016, and answers to supplementary questions from the Committee.

These answers are due to the Secretariat on Wednesday 9 November 2016 and I submit them accordingly.

If there are any issues with the attached, please contact Julian Luke on 02 8574 7190 as soon as possible.

Yours sincerely

The Hon Niall Blair MLC
Minister for Primary Industries
Minister for Lands and Water

QUESTIONS ON NOTICE: Budget Estimates 2016-17 General Purpose Standing Committee No. 5, Friday 14 October 2016

QUESTION (Page 3 of transcript)

The Hon. MICK VEITCH: What is the most recent assessment of the economic value of the New South Wales commercial fishing industry? I understand you might need to take some of these questions on notice. I do not expect you to be able to answer these off the top of your head.

Mr HANSEN: I will take the question in terms of the most recent figures on notice.

ANSWER

Please see the Fisheries Research and Development Corporation and the University of Technology Sydney report 'Social and Economic Evaluation of NSW Coastal Professional Wild-Catch Fisheries' (September 2016), which is publicly available.

QUESTION (Page 3 of transcript)

The Hon. MICK VEITCH: This may be answered by Mr Smith or Mr Hansen. Are you aware there was a proposal to establish a commercial shark fishing operation on the North Coast?

Mr HANSEN: No. I will have to take that on notice. I have not been aware of it

ANSWER

No.

QUESTION (Page 4 of transcript)

The Hon. PENNY SHARPE: Just on that, are you able to provide to the Committee with the number of Employee Assistance Program [EAP] referrals that have been made?

Mr SMITH: We will take that on notice.

ANSWER

Managers ensure staff are made aware of EAP services. The figures (below) represent EAP referrals which have been followed through:

- **July 2015 to Sep 2015 = 59**
- **Oct 2015 to Dec 2015 = 42**
- **Jan 2016 to March 2016 = 50**
- **April 2016 to June 2016 = 67**
- **July 2016 to Sept 2016 = 46**

QUESTION (Page 6 of transcript)

The Hon. PENNY SHARPE: I refer to the whale incident in Port Stephens with the Marine Fisheries issue—

The Hon. MICK VEITCH: The MARL—

The Hon. PENNY SHARPE: The MARL, the Marine Aquatic Research Lease. Yesterday in Parliament I asked the Minister about it and he provided us with some additional information. In particular, what advices have you received from OEH in relation to the operation of the MARL?

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

The Hon. PENNY SHARPE: The answer provided by the Minister suggested that there has been work between your department and OEH in relation to mitigating risks around whales and the location of the MARL. Will you provide information to the Committee about what mitigation risks are occurring?

Mr HANSEN: Yes, sure

ANSWER

The Office of Environment and Heritage (OEH) was consulted in the approval of State Significant Infrastructure application SSI (5118 Mod 1) to move two approved aquaculture leases further offshore. OEH also approved a Marine Interaction Management Plan and participate on the Marine Fauna Interaction Committee. This Committee comprises representatives from OEH, Macquarie University, Port Stephens-Great Lakes Marine Park, Huon Aquaculture and NSW DPI.

Risk mitigation includes:

- **Operating – observer protocols, monitoring, OEH appointed observer during lease deployment, incident response training;**
- **Infrastructure – tensioned cetacean visible mooring lines (orange 120mm), wildlife safe sea pens with predator exclusion, rapid fish mortality removal, regular cleaning of nets to prevent biofouling, structural and stability monitoring; and**
- **Reporting – data, annual reviews, stakeholder updates.**

QUESTION (Page 7 of transcript)

Mr HANSEN: We will be working with OEH in conducting that investigation, but in terms of activities at sea around whales, or dolphins for that matter, that is largely an area that OEH takes the lead on.

The Hon. PENNY SHARPE: I am still confused about who actually has responsibility for investigating and providing information in relation to this particular incident.

Mr HANSEN: Well, that is two things.

The Hon. PENNY SHARPE: This is not a hypothetical incident it is an actual incident.

Mr HANSEN: That is right, so that is two things: that is the investigation and the provision of information. We will obviously have a key part providing information. I will take that on notice to provide you with more details about who will do what part of that investigation.

The Hon. PENNY SHARPE: That is unclear. Is it correct that an OEH observer is involved in the trial?

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

The Hon. PENNY SHARPE: Will you provide details of the role of the OEH observer when they are there? Is it an on-water observation role or a desk-top role or that type of thing?

Mr HANSEN: Certainly, yes.

ANSWER

An OEH appointed observer with ORRCA training was aboard the barge at sea installing two sea pens in Providence Bay. This was a consent condition. Their role was to observe and record and to mitigate any interactions with marine fauna. This included halting works until fauna had passed through the works area and to meet legislated approach distances to marine fauna whilst in transit.

The Marine Fauna Interaction Committee has reviewed an incident involving a whale with a rope on its back sighted in the aquaculture lease on Saturday 8 October 2016. An Incident Report and photographs were provided for the Committee by a tourist operator and the OEH observer to assess and consider response, mitigation and management options.

The Committee concluded that:

- the black rope seen on the whale's back was consistent with fishing trap equipment;
- the whale was not entangled in the Research Lease orange anchor deployment lines or mooring lines; and
- the incident was not reported through the emergency hotlines (OEH, NSW DPI/Huon).

QUESTION (Page 7 of transcript)

The Hon. MICK VEITCH: What is being done to assist those individuals who sought to engage in the preview process—namely, those who turned up and were unable to participate? A lot of them have turned up, it did not work and they have walked away. How are we going to make sure that they are able to participate when we go live with this whole process?

Mr HANSEN: I do not have the answer to that at the moment. I will take that question on notice.

ANSWER

Every fishing business that registered to participate in the preview market has been included and provided with the opportunity to participate. The trading platform has been operational for 100 per cent of the time that the preview market was open. Fishers have also been given the opportunity to appoint an agent where they felt they needed support and assistance or were likely to be in a position where they could not take time off work to place bids.

QUESTION (Page 8 of Transcript)

Ms STONE: The determinations have been made—for Bandjalang, it was 2 December 2013; for Yaegl, it was 25 June 2015; and for Barkandji, which is that large area in the south-west of New South Wales, 16 June 2015.

The Hon. MICK VEITCH: How long after the department was advised was the Minister advised?

Ms STONE: Of those determinations?

The Hon. MICK VEITCH: Yes, the final determinations.

Ms STONE: I would have to understand—

The Hon. MICK VEITCH: You can take that on notice. All I want is the date.

Ms STONE: —how we advised the Minister of those actual consent determination processes.

The Hon. MICK VEITCH: How and when?

Ms STONE: Yes

ANSWER

By late 2015 the department had identified the state wide significance of this issue. In 2015, the department commenced a structured approach to addressing this matter, as the issue was identified as having a broader impact on other licences. Meetings were held with legal, policy and business centre departmental staff to commence the considerable planning required to resolve the matters.

In mid-2015, the department moved to create a native title operations unit encompassing policy, legal and operational staff.

In October 2015, the department sought its first legal advice on the effect of the “termination” clause on existing licences within the three consent determination areas – Bandjalang, Barkandji and Yaegl.

Since then, over 10 legal advices have been sought and considered to confirm the legal status of the licences containing the "termination" clause; confirming the options available to validly re-issue licences; and identifying the processes the department needs to comply with in resolving this issue.

This has taken time.

Individual licences needed to be collected from across the state, and each individual licence assessed to understand whether the licence can potentially be reissued consistently with the NT Act. In many cases operational staff need to retrieve physical files of crown land tenures in each of the consent determination areas. This is a time intensive job.

I was briefed in June 2016 on the scope and scale of the terminated licence issue by the department. At that meeting I sought assurances from the department that the

approach was legally robust, and importantly, was considerate of all parties concerned – holders of terminated licences and native title holders.

The department has kept me briefed in June, July, August and September on progress on the matter. I was also briefed in advance of the making of the Barkandji and Yaegl native title determinations on, respectively, 21 May 2015, and 10 June 2015. Those briefings addressed:

- the terms of the proposed native title consent determination; and
- the date on which at that stage the Federal Court proposed to make the consent determination.

On 1-2 September, the department wrote to all 520 affected licence holders to firstly inform them that the department was reviewing all affected licences and subsequently to provide further information on the process for the review and likely timeframes.

QUESTION (Page 10 of Transcript)

The Hon. MICK VEITCH: What about rents that have been collected since the final determination? Have we had to repay to people any rents that we have collected?

Ms STONE: When we determine what we can or cannot do with each individual licence we will make a decision on whether rent is potentially refunded or whether it continues to be paid.

The Hon. MICK VEITCH: Have we done any preparatory work on that to see the State Government's exposure on this?

Ms STONE: We have looked at the amount of rent that is collected off those licences, but I do not have that figure in front of me.

The Hon. MICK VEITCH: Are you able to take that on notice?

Ms STONE: I can, thank you.

ANSWER

The annual value of the rent for the terminated licences is \$246,027.22 as at 25 October 2016. On 5 September 2016, debit suppressions were placed on all terminated licences to ensure rent was not being charged to these accounts until further notice.

QUESTION (Pages 10, 11 of Transcript)

The Hon. MICK VEITCH: The department provided some figures regarding outstanding rents and other moneys for Crown leases to an inquiry. As you know, there was a Crown lands inquiry and then there was the budget estimates hearing, and there was an inconsistency. More interestingly, there was an inconsistency with the numbers in what I would call the Auditor-General's scathing report into the management of leases on Crown lands. You may need to take this on notice. I am trying to get to the bottom of why there is an inconsistency. There could be a very good answer for it. As of today could you provide a breakdown of what money is owing on Crown lands in leases, licences and acquisitions, if that is possible?

Mr SMITH: Yes, we will take that on notice.

Ms STONE: If I could clarify, there were two figures quoted. One figure was for outstanding debt on all tenures and one was in relation to leases. We will take it on notice.

The Hon. MICK VEITCH: Is that the inconsistency?

Ms STONE: Yes, but we will provide you with the correct figures.

ANSWER

- 1) **Leases - \$7.676M**
 - a) **Western lands leases \$0.524M**
 - b) **Special Leases \$1.995M**
 - c) **Perpetual Leases \$1.808M**
 - d) **All Other Lease Types \$3.349M**

2) **Licences - \$8.139M**

3) **Acquisitions - \$1.978M**

These numbers are as at 30 September 2016.

QUESTION (Page 12 of Transcript)

Ms STONE: If I could add two quick points and we will follow up with a detailed response. First, the approvals process sometimes includes the Environment Protection Authority because we are dredging contaminated land. There is often a requirement to source places that will take contaminated disposal and in some instances the only place that takes contaminated spoil is Queensland, curiously enough.

The CHAIR: That is not curious at all.

Ms STONE: Secondly, there are multiple sources of funding. We must ensure that if council or Federal Government funding is involved the processes aligns, so you have the full cost of the dredging covered before you commence the processes.

The Hon. MICK VEITCH: Could you take on notice any details you believe will assist? I am trying to understand how it works.

Mr SMITH: We can respond by way of a facts sheet that explains how it all works.

ANSWER

Dredging and the approval of such activities can be differentiated by reference to the purposes for which it is undertaken.

Dredging can be categorised as being for navigational boating access (Category 1 and 2), environmental dredging (Category 3 and 4) or for private (Category 5) or commercial benefit (Category 6).

**SUPPLEMENTARY QUESTIONS: Budget Estimates 2016-17 General Purpose
Standing Committee No. 5, Friday 14 October 2016**

Supplementary Questions from Mr Justin Field MLC

Deployment of shark nets in northern NSW

Based on the Premier's announcement on the 12th of October, 2016, when he said he would be, "writing to the federal government asking for a six-month trial of (shark) nets on those north coast beaches,"

1. Had the Department of Primary Industries provided advice to the Minister or Premier on the numbers of sharks and other marine life likely to be killed by the installation of shark mesh nets on the North Coast before that announcement was made? Or

ANSWER

The exact numbers of each species cannot be determined as such a trial has not been undertaken on the North Coast before. The trial will be designed to minimise bycatch.

2. Has the Department of Primary Industries subsequently provided advice to the Minister or Premier on the numbers of sharks and other marine life likely to be killed by the installation of shark mesh nets on the North Coast?

ANSWER

As above for Q.1

3. If advice has been received, what are the anticipated species and number of each species likely to be caught or killed by the installation of shark mesh nets?

ANSWER

As above for Q.1

4. Have likely net locations been considered or decided?
(a) If yes, what are these locations?

ANSWER

Yes. The locations where the nets will be trialled are Lighthouse Beach, Sharpes Beach and Shelly Beach at Ballina, Seven Mile Beach at Lennox Head and Evans Head Beach.

5. What will be the rate of checking the nets for entanglements?

ANSWER

Nets will be checked frequently.

6. Will the installation and servicing of nets be conducted by the Department or a private contractor?

ANSWER

A private contractor, with oversight of the contractor by the Department of Primary Industries.