



The Hon Paul Toole MP
Minister for Lands and Forestry
Minister for Racing

Budget Estimates 2017-18 - Wednesday 6 September 2017

Portfolio Committee No.5 Industry and Transport

Lands and Forestry, and Racing

Questions Taken on Notice

Pages 3 and 4

The Hon. MICK VEITCH: Do you think the administrator of the cemetery trust was aware that Michael Photios had been engaged as a lobbyist?

Mr PAUL TOOLE: That is a question for the trust that we could ask.

The Hon. MICK VEITCH: You can take it on notice.

Mr PAUL TOOLE: As you asked me the question, first of all as the Minister I have not met with Mr Photios in any way in relation to any work that he is engaged in with Rookwood.

The Hon. MICK VEITCH: What about your office?

Mr PAUL TOOLE: Not that I am aware of, but we can take it on notice.

The Hon. MICK VEITCH: Can you also take on notice what advice Mr Photios provided and what were the terms of his engagement?

Mr PAUL TOOLE: We can have a look at that. If he has met with my office I am happy to let you know what the content of that meeting may have been about. I have no problem in disclosing meetings that I have with individuals and stakeholders. As you are aware, my diary is published every quarter as well.

ANSWER

Neither the Minister nor his office have met with Mr Photios.

Mr Photios was engaged by the previous Rookwood General Cemeteries Reserve Trust (RGCR) to provide a response to the review of governance conducted by Elton consulting.

Mr Photios is not currently engaged by RGCR.

The Hon. MICK VEITCH: How much is the administrator of the trust being paid?

Mr PAUL TOOLE: I would have to refer to Ms Lees. She may have that information available for you today.

Ms LEES: I do not have that information available. I am happy to take that on notice.

ANSWER

The Administrator is paid by RGCRT and payments to Key Management Personnel, including the Administrator, will be reported in the Trust's Annual Report.

The Hon. MICK VEITCH: If you are taking things on notice, can you check to see if Mr Photios is still engaged by the Rookwood cemetery trust?

Mr PAUL TOOLE: We can have a look at that, yes.

ANSWER

There has been no engagement of Mr Photios by the current RGCRT management.

Pages 5 and 6

The Hon. MICK VEITCH: Has the department conducted any prosecutions or been made aware of illegal land clearing on travelling stock reserves?

Ms STONE: I will answer quickly generally and then I will come back to the specific question. We do have a lot of land in New South Wales that is Crown land. As I said, we often do get compliance reports from our staff, as they are travelling, from neighbours or from concerned individuals. In the illegal activity area, the sorts of things we get reported are land clearing, illegal roadworks, construction of dams and the like. I can say that last year roughly 240 compliance breaches were reported to our office. We go through a risk-based assessment to see which are of significance—obviously anything that threatens life and health issues. Asbestos and those sort of things are often top of the list of things we pay attention to very quickly, and anything that provides material harm to the land or the environment. Land clearing would be considered a fairly high-risk activity. Then our compliance staff and our authorised officers—we have upward of 50 authorised officers across the State—would go out to inspect and then look at what is the most appropriate course of action to remedy either the breach, for example, if a fence has been built on Crown land because people have not been aware of where the survey boundaries are.

The Hon. MICK VEITCH: I have a specific one that I want to ask about.

Ms STONE: They are easy to address through a show cause notice and we will fix that. Some of the other actions will require immediate action to make good or clean-up. Then other decisions are taken as to whether you would prosecute. At the moment our prosecution penalties are quite low.

The Hon. MICK VEITCH: The specific one I wish to ask about relates to Peter and Jane Harris. North West Local Land Services wrote to Mr and Mrs Harris on 2 July 2014 requesting that over a two-year period they peg the boundary for the TSR, allow the area to recover "and actively revegetate the area if natural recovery of the grassland does not occur in that two-year period". Has there been any follow-up by the Department of Lands since 2014 about the TSR that was illegally cleared on Peter Harris's property?

Ms STONE: I do not have those details in front of me. I will take that on notice.

ANSWER

On 3 April 2014, the Office of Environment and Heritage reported alleged unlawful clearing of a travelling stock reserve (TSR) adjoining freehold land owned by Mr and Mrs Harris to the department.

The department contacted North West Local Land Services (LLS) who indicated that they intended to issue a direction under Section 72 of the Local Land Services Act 2013 to peg the unfenced TSR and cease cropping to allow for the regeneration of native vegetation. Since the direction was issued, North West LLS has inspected the area twice and is satisfied with progress in regeneration of the area, given the seasonal conditions.

Pages 8 and 9

The Hon. MARK PEARSON: I refer to the use of whips in horse racing. Dr Bidda Jones is the senior scientific adviser to the RSPCA. In speaking to a report put out by the RSPCA he said that horses will turn around to push away flies on their rump, so surely whips will cause considerable pain in that same area of high nerve enrichment. As we know, the purpose of the jockey's whip is to make horses run faster and to keep them moving, even when they are exhausted. In 1991 the independent Senate Select Committee on Animal Welfare said in its report on the racing industry that the committee would like to see the use of whips as a means of making a horse run faster eliminated from horse racing.

Even though this comes under the Prevention of Cruelty to Animals Act, it is an offence to abuse or override or cause unnecessary distress and pain. The key word is "unnecessary" as this is a sport. If you were to take your dog out onto the street or into your backyard and whip it in the same way as horses are whipped on the final stretch of a race you would be prosecuted. The use of the whip is to make a horse run fast even though it is exhausted. However, if any other animals were exposed to that same routine treatment the perpetrators almost certainly would be prosecuted. What exemptions, if any, does the racing industry operate under that allow the continued use of the whip?

Mr PAUL TOOLE: When I was appointed racing Minister I met with Racing NSW and I have been to a number of race tracks across this State. Certain measures and controls are in place relating to whip use and to the number of times a horse is to be whipped over the last 100 metres of an event. I will get Mr Newson to provide the detail, if he has it here.

Mr NEWSON: I would say at the outset, and I am sure Mr Pearson understands, that the controlling bodies, Racing NSW, Harness Racing New South Wales and Greyhound Racing NSW, but for the new integrity commission, supervise, regulate and control the commercial functions of the industry. Racing Australia sets the standards for thoroughbred racing around Australia. So I do not have the immediate details of the different measures that are put in place. But what I can say—and I can certainly take that on notice—is that I think clearly through some of the policies that are being implemented the controlling bodies are alive to this issue, the controlling bodies are alive to this contention, this commentary amongst the community that racing must evolve its practice over time to respond to community expectations. I am certainly aware that with the different codes, the Harness Racing board is considering this very issue: how should they use the whip in future?

The Hon. MARK PEARSON: The question is that the whipping that is happening today is really not accepted by the community in terms of animal welfare. Racing NSW is under your watch and this could well be something that could become very serious if the police decided to take on the issue in terms of it being a breach. So less whipping, padded whips—whipping is causing distress and harm to an animal unnecessarily and unjustifiably, that is the issue; it is alive right now before us. Should a civilised society be allowing these amazing animals to be whipped? That is the question.

Mr NEWSON: If I could briefly respond? The controlling bodies supervise the industries. The controlling bodies are clearly alive to and responding to community concern around this issue. Is there an abrupt and immediate change? Is it appropriate that there is an abrupt and immediate change? That is a question that they are looking into. They have certainly, as the

Minister said, implemented different policies to lessen the amount—fewer strikes and the like—and, as I think you referred to, the different structure of the whips. We can certainly take on notice what those specific policies are and how it has moved over time.

ANSWER

The controlling bodies for the two horse racing codes in this State, Racing NSW (thoroughbred racing) and Harness Racing NSW (**HRNSW**) (harness racing), are responsible for regulating and enforcing the rules in relation to whip use within their respective codes.

The *Thoroughbred Racing Act 1996* provides that Racing NSW is the independent body tasked with controlling, supervising and regulating the thoroughbred racing industry in NSW. Racing NSW does not represent the Crown nor is it subject to direction or control by or on behalf of the Government in the exercise of its functions.

The *Harness Racing Act 2010* provides that HRNSW is the independent body responsible for controlling, supervising and regulating the harness racing industry in NSW. HRNSW does not represent the Crown and is not subject to direction or control by or on behalf of the Government in the exercise of its functions.

Thoroughbred racing

The Australian Rules of Racing (**Rules**), which include rules governing the use of whips (**AR137A**), are administered by Racing Australia (**RA**), and are informed by best practice standards of integrity and animal welfare.

RA has amended the Rules in relation to the use of whips in 2009, 2012, 2015 and 2017, including to limit the number and manner of whip strikes.

On 28 July 2015, RA announced that following lengthy consideration of the issues and consultation with various industry stakeholders, including the Australian Jockeys Association, major amendments to AR137A would apply from 1 December 2015.

The amendments removed the distinction between forehand and backhand whip strikes so that there is a limit of five forehand or backhand whips strikes prior to the 100 metres, and introduced stronger penalties for whip offences, including greater emphasis on suspensions for serious breaches and for breaches in Group and Listed races.

Racing NSW has been proactive in ensuring that thoroughbred welfare is a high priority. Apart from its stringent control of whip use by jockeys, it has recently introduced a number of long term initiatives to further address the welfare of thoroughbreds.

Harness racing

HRNSW has been at the forefront of discussions in relation to modifications to the use of the whip in harness racing, and on 12 July 2017 held a forum with state and national stakeholders with a view to reaching a national consensus on the use of whips in harness racing.

On 30 August 2017, Harness Racing Australia (**HRA**) announced in-principle agreement between Australia's harness racing jurisdictions to move towards a wrist-only use of the whip in racing following extensive consultations with industry participants. The finer details of the reforms are yet to be determined, however HRA advised that it would include strict penalties for breaches of the new rules as well as a further review of the design and composition of the approved whip.

Ms STONE: We do not set a sales target every year but we do, within our resources, look at what sales are achievable. We have a three-year rolling sales program. We get a number of requests every week, month and year, from individuals who express interest in purchasing Crown land from the State. We have a large number of requests for that. Generally we sell land specifically in accordance with the Crown Lands Act when it is of no further strategic purpose or use to the Crown and sometimes when we have a liability on Crown land and the incumbent tenant can deal with that piece of land more efficiently.

The Hon. MICK VEITCH: Are you able to take on notice and give us a breakdown on Crown land sales going back to 2011?

Ms STONE: I may have that information.

The Hon. MICK VEITCH: You can take that question on notice. Based on the response to my first question I suspect that there may be a list, so I am happy for you to take that on notice.

Mr PAUL TOOLE: We will take it on notice.

ANSWER

Sales completed by financial year under section 34 of the *Crown Land Act 1989* are listed in the table below.

Financial Year	Number
2011/12	40
2012/13	78
2013/14	53
2014/15	47
2015/16	30
2017/18	37

Ms DAWN WALKER: As the Minister for Forestry, do you know how many audits and investigations the Forestry Corporation was subject to in the last financial year?

Mr PAUL TOOLE: I do not have those figures with me. I will ask Mr Roberts if he has those figures available.

Mr ROBERTS: I do not have the number of audits. I can provide that on notice. My recollection is that there would have been more than 100 audits during the last financial year.

ANSWER

Forestry Corporation NSW's operations are externally audited by the Environment Protection Authority, the Department of Industry – Lands and Forestry Plantations Assessment Unit, the Department of Primary Industries and the Department of Primary Industries – Fisheries and information about the number of audits and investigations each of those agencies is held by those agencies. In addition, Forestry Corporation undertakes hundreds of internal and external audits and ongoing compliance monitoring every year.