



The Hon Paul Toole MP

Minister for Lands and Forestry
Minister for Racing

Budget Estimates 2017-18 Supplementary Hearing - 17/11/2017

Portfolio Committee No. 5 Industry and Transport

Lands and Forestry, and Racing

Questions Taken on Notice

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The Hon. MICK VEITCH: Thank you. Can you confirm that the public housing stock at Millers Point was first transferred from the Sydney Harbour Foreshore Authority [SHFA] to Crown Lands before it was transferred to Property NSW?

Mr SMITH: I do not have those details to hand.

The Hon. MICK VEITCH: What I am saying is did any of the Millers Point real estate go through Crown Lands before it got to Property NSW?

Mr SMITH: I am not sure.

Ms STONE: Not that I am aware of, but we would need to check on that.

The Hon. MICK VEITCH: Can you take that on notice?

Ms STONE: Yes.

ANSWER

Public housing stock at Millers Point has not been land managed under Crown Land legislation since the original Crown grant in 1840.

A title search indicates that the subject lots either remain with the Land and Housing Corporation or have been transferred to private ownership by the Corporation.

The Hon. MICK VEITCH: When does Lands and Forestry issue development consents? Is there a process for that to happen and how often does it happen?

Ms STONE: Development consents are issued by local government. We issue landowner consent. As the owner of land, as a property owner, you, as a private landowner, and the Crown, as a Crown landowner, issue consent for a range of issues. We often issue landowner consent prior to development consent being considered.

The Hon. MICK VEITCH: So it is prior to the development consent that would be put up by councils—by local government?

Mr SMITH: It would be the same if a tenant in a privately owned property was seeking development consent. It would not be accepted unless the landowner had agreed.

The Hon. MICK VEITCH: I need to clarify this: The Department of Lands—or whatever it is called in its current iteration—does not issue development consent.

Ms STONE: No.

The Hon. MICK VEITCH: On 27 September 2016 advice went out that says: On 29 August 2016, the NSW Department of Industry Lands (DPI Lands) issued development consent to AusGold Mining ... You just said that you do not issue development consent, but there is a document here that says you do issue development consent.

Mr SMITH: I am not familiar with the detail of that.

The Hon. MICK VEITCH: AusGold mine is a Good Friday goldmine.

Mr SMITH: Yes, but I am not familiar with the sense in which we would be issuing a development consent.

The Hon. MICK VEITCH: Would you like to take that on notice and get back to us?

Mr SMITH: Yes, sure. Clearly, major things like approving whether a mine can go ahead under the EP and A Act is not a Lands matter. We may have had some role in it—perhaps an agreement. I am not sure. We would have to take that on notice.

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The Hon. MICK VEITCH: If the Western Lands Commissioner has delegations to approve, is there a ceiling or a threshold point whereupon that would be removed from the Western Lands Commissioner and may be elevated further up the pecking order for approval? Something like a goldmine is pretty substantial. At what point does someone above the Western Lands Commissioner—

Ms STONE: There will be a range of other agencies involved in giving consents through those processes, but, as you said, the final sign-off on the development consent would be the Western Lands Commissioner.

Mr SMITH: We would like to take that on notice, just to check, because I expect that the Commissioner stands in the place of what the local council would do.

The Hon. MICK VEITCH: Okay.

Ms LEES: Yes.

Mr SMITH: So I think the normal thresholds of State significant development et cetera would also intervene.

The Hon. MICK VEITCH: I am happy for you to do that. That leads to my next question. At what point is the Minister advised? What role does the Minister have in that process?

Mr SMITH: We will clarify that.

ANSWER

All development consents are granted under the *Environmental Planning and Assessment Act 1979* by designated consent authorities. In the Unincorporated Area of NSW, where there is no Local Government Authority, the Western Lands Commissioner is the designated consent authority under that Act.

For mining proposals in the Unincorporated Area that are not deemed to be State Significant Development, the Western Lands Commissioner is the designated consent authority under Section 3A of the *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*.

Mining developments with a project value greater than \$30 million are classed as State Significant Development and all approvals become the responsibility of the Department of Planning and Environment, regardless of their location in the State.

The proposal by AusGold Mining in 2015 was for an expansion to its existing Good Friday Gold Mine on Mining Lease 1322, located near Tibooburra in the Unincorporated Area of NSW. This Mining Lease is also contained within a Western Lands Lease held for 'grazing' which is administered under the *Western Lands Act 1901*.

The proposal did not trigger State Significant Development thresholds but due to the size of the expansion and additional activities of a mining camp, processing plant and water management infrastructure it was deemed to be a designated development under Part 1, Schedule 3, Environmental Planning and Assessment Regulations 2000.

AusGold Mining was required to prepare an Environmental Impact Statement and Director General Requirements were requested by the Western Lands Commissioner from each of the relevant state agencies. During the

assessment of the development proposal by the Commissioner, ongoing consultation was undertaken with all stakeholders.

Development Consent, with conditions was granted to AusGold Mining on 29 August 2016 by the Western Lands Commissioner.

The Minister for Lands and Forestry has no statutory approval role under the *Environmental Planning and Assessment Act 1979* in the Unincorporated Area of NSW.

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Mr JUSTIN FIELD: Sure, but these can be set by an operator. There is a regulation that sets an upper limit—or a lower limit, I guess, as far as payouts are concerned—but is an operator, an individual owner of a machine—a club, a pub, a hotel or the casino—able to change the payout rate, as long as it does not go over the regulated level set in New South Wales, without notifying the regulator and without notifying patrons?

Mr NEWSON: I would like to take that question on notice because I do not want to introduce information here which is not precise. Because you are asking is there any universe of opportunity for somebody to lawfully change, I want to get that technical advice.

ANSWER

Gaming machines in clubs, hotels and the casino are required to meet a mandatory minimum payout rate, and operate according to any conditions imposed by the Independent Liquor and Gaming Authority.

A club or hotel cannot legally change the payout rate of a gaming machine without receiving authorisation from the Independent Liquor and Gaming Authority.

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Mr JUSTIN FIELD: There is one other element that I notice has recently started to be discussed in some material issued by the clubs industry. It seems that it is concerned that revenues might start to fall from poker machines because of changes in demographics. I point out that budget estimates do not make that suggestion; the Government seems to think that revenues are going to escalate significantly, but it has started talking about introducing new types of gaming machines into our clubs and pubs. What would the process be for the Government or the regulator to approve new types of gaming machines in hotels and pubs in New South Wales? What process would need to be gone through to do that?

Mr NEWSON: I would prefer to give you a more detailed fact sheet of the precise process but, essentially, the Independent Liquor and Gaming Authority [ILGA] has the final determination whether or not to approve a gaming machine.

Mr JUSTIN FIELD: This is an application by an industry group or by a particular operator introducing a new machine. Would that be how it starts?

Mr NEWSON: It would generally be by a manufacturer or a dealer and they would apply to the Independent Liquor and Gaming Authority. There is a group of four independent authorised testing facilities that I understand generally operate internationally. Those testing facilities provide an independent insight, independent objective advice, about the suitability of the machines that the application is relevant to. Ultimately, the Independent Liquor and Gaming Authority makes a decision that is informed by an independent advice from an authorised testing facility. But I would prefer to give you a more detailed fact sheet around the precise process, if that assists.

ANSWER

The fact sheet is provided as Attachment 1 to this document.

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The Hon. MICK VEITCH: I move now to forests. Does the department receive much correspondence from members of Parliament around forestry matters?

Mr SMITH: I do not know. We would have to take that question on notice.

ANSWER

No. Correspondence from members of Parliament on forestry matters is usually addressed to the Minister for Lands & Forestry.

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The Hon. MICK VEITCH: Has the Minister asked you to do any work to convert river red gum parks back into forest?

Mr SMITH: Not to my knowledge, no. Those are mainly political matters that members of the Government would discuss between themselves to develop new policy.

The Hon. MICK VEITCH: Yes, but at some point the public service is asked to act on that information.

Mr SMITH: If the Government changes its policy we will be asked to produce some advice and so forth.

The Hon. DANIEL MOOKHEY: Has any request for that advice been made?

Mr SMITH: Not to my knowledge. But we will take the question on notice because I do not know everything that goes on in the department.

ANSWER

No.

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Mr JUSTIN FIELD: I appreciate that, thank you. On category 1 and category 2 grants, where there are local decisions made, often there are council-based committees that make these decisions. Some councils choose to publish that information and some do not. Is there a regulation around that or is that just up to individual councils to decide?

Mr SMITH: I would like to take that on notice.

ANSWER

There is no requirement under the *Gaming Machine Tax Act 2001* or the ClubGRANTS guidelines established under that Act, for local councils to publish the outcomes of ClubGRANTS funding.

Under the ClubGRANTS guidelines, this responsibility lies with registered clubs and benefiting organisations, who are required to make every attempt to publicise the programs, projects and services for which funding has been provided.