

Answers to Questions on Notice

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The Hon. MARK LATHAM: What's your recollection of the status of that? Some Ministers say that they take over all the answers that come on notice to a Committee like this. The question was did you, as the Minister, mention the forthcoming Labor preselection and the forthcoming election? Mr Whitworth replied, "I would have to go back and try to recollect," and he took the question on notice. The answer then came back to us officially—it was a non-answer—that it was listed at NCAT in April 2024, which wasn't what I was asking. Where did that answer come from?

Mr RON HOENIG: I don't know. If we're talking about sometime in 2023, I couldn't see on what basis any of those issues would have been even relevant to a discussion.

The Hon. MARK LATHAM: That's not the question I'm asking. I'm asking where—on the parliamentary record—the answer came from and how it was provided to this Committee.

Mr RON HOENIG: I don't know.

The Hon. MARK LATHAM: You don't know?

Mr RON HOENIG: If it's got my name on it, I could tell you; I would adopt it as coming from me. But if it hasn't got my name on it, I don't know.

The Hon. MARK LATHAM: It was a non-answer. Then subsequently, on questions directed to you on notice, through your representative in the upper House, questions 3522 and 3720, I was seeking the answer that Mr Whitworth hadn't given, whether it's from him or you, out of budget estimates. Who provided those answers to the upper House?

Mr RON HOENIG: They usually come via me, if we're talking about the same thing. They usually come via me, but they usually come drafted from the OLG.

The Hon. MARK LATHAM: What conversation did you have with Mr Whitworth about the nature of those non-answers?

Mr RON HOENIG: None.

The Hon. MARK LATHAM: None?

Mr RON HOENIG: None.

KIERSTEN FISHBURN: Would it be useful if I clarified the department's practice in relation to questions on notice?

The Hon. MARK LATHAM: Yes, it would be.

KIERSTEN FISHBURN: When we receive a question on notice into the department on behalf of one of our Ministers, the general practice in the department is that the subject area experts provide some information back to my parliamentary and government services team. All of the drafts then come through my office and are signed off by myself. They are then forwarded to the Ministers' offices. At that point, I can't tell you what occurs.

The Hon. MARK LATHAM: After budget estimates, on the matter that was taken on notice, what input did Mr Whitworth have, Ms Fishburn, to the answer that he took on notice?

KIERSTEN FISHBURN: I couldn't answer that question. I don't know. I've just told you the process.

The Hon. MARK LATHAM: Can you take that on notice and go and find out, because it's a frustrating mystery.

KIERSTEN FISHBURN: I'm happy to take that on notice, but the process would be that information is provided by the subject matter experts. That comes to my parliamentary and government services team.

The Hon. MARK LATHAM: Are you assuming it was Mr Whitworth, who is the subject matter expert, given that he took it on notice?

KIERSTEN FISHBURN: I simply don't know.

The Hon. MARK LATHAM: Can you check that, please, and let the Committee know?

KIERSTEN FISHBURN: I can check that, yes.

ANSWER:

I am advised:

As referenced in evidence provided by Ms Fishburn on page 12 of the transcript, subject matter experts within the Department provide factual information to my office to assist with the answering of parliamentary questions in relation to portfolio matters. It is not the role of the Department to respond directly to these questions.

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The Hon. AILEEN MacDONALD: Has the member for Swansea ever sought advice from you or the Office of Local Government about Newcastle's procurement practices?

Mr RON HOENIG: Not procurement practices. She has complained to me about—I met with her and some of the other local members and they were complaining to me about something while they were in administration. I just can't remember what that was.

The Hon. AILEEN MacDONALD: Has the member, then—

Mr RON HOENIG: I think it might have related to—I might be wrong, so I should check. I think it might have related to asset sales. But I think, as some of you might remember, that as part of the administration and part of the loans, there was a requirement for asset sales. It may have been that. It may have been the councillors or former candidates complaining about that. I do remember meeting with a group of MPs from the Central Coast. They were complaining about the council, but I can't remember what it was. It wasn't something that I could do anything about, anyway.

ANSWER:

I am advised:

I regularly discuss local government matters with many members of Parliament.

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The Hon. AILEEN MacDONALD: I will move on, then. Minister, what is your assessment of the financial sustainability of New South Wales councils, given the Auditor-General's recent warnings that many are at risk of not being financially viable?

Mr RON HOENIG: You're reading from the 2023—

The Hon. AILEEN MacDONALD: It was a report entitled Local government 2024.

Mr RON HOENIG: The 2023 audit report?

The Hon. AILEEN MacDONALD: 2024.

Mr RON HOENIG: I've just been given some—

The Hon. AILEEN MacDONALD: You can take it on notice if you like.

ANSWER:

I am advised:

Refer to evidence provided on page 36-37 of the transcript.

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Dr AMANDA COHN: I have a number of companion animals related questions, so we can keep you in the same headspace, Mr Whitworth. Do you have an update on when the review of the Animal Welfare Code of Practice Breeding Dogs and Cats will be completed?

BRETT WHITWORTH: I'm not sure. Can I hand over to my DPIRD colleagues?

Dr AMANDA COHN: Please.

PETER DAY: Yes, I'll take that question. With the breeding code itself, we're probably looking at a two-stage approach, working on an initial review to ensure that the definitions in the breeding code are consistent with the new measures under the puppy farming changes and that the requirements around those breeders seeking a cap exemption are also dealt with in that code. That'll be our first tier. We'll be looking at launching a consultation program shortly to support the code being finalised, with our aim to have the code finalised by 1 March next year and effective from 1 April next year.

Dr AMANDA COHN: You also mentioned the changes that came through with the puppy farming bill. Do you have an update on how much the Department of Primary Industries and Regional Development is funding the OLG for its new responsibilities under the Act?

RACHEL CONNELL: As Ms Fishburn alluded to this morning, we're in the process of sorting out the funding arrangements between the two departments. My secretary met with Ms Fishburn last week. We're in the process of finalising that but, until the grant is processed, I would prefer to take that on notice, if that's okay.

ANSWER:

I am advised:

DPIRD is working closely with OLG on implementation of the Puppy Farms Amendment Act. Funding will be provided to OLG to assist with implementation.

Dr AMANDA COHN: Thank you, that clarification is helpful. At the last budget estimates, my colleague asked about compliance around advertising animals on websites or social media sites—specifically, the requirement that councils must, before taking action to destroy a seized or surrendered animal, give notice to at least two rehoming organisations. The response from previous estimates was that, where noncompliance is reported, OLG will make the appropriate inquiries. Can you explain in a bit more detail what that means and what the specific actions are that the OLG takes in instances of noncompliance?

BRETT WHITWORTH: It can be a challenge in terms of whether it's a noncompliance that the council has a role in or whether it's a noncompliance that might require some sort of police action. I remember the question and I remember the issue because I think I met with someone that had raised that from a Shoalhaven perspective, but they were talking about another council to the north of them. The challenge we always have when dealing with these sorts of matters is what sort of evidence do we have, how do we find the person and who's got the regulatory powers to make some sort of impact. Typically, what we would do is identify whether it is in such and such an area and we'd bring it to the attention of the council. The council rangers have far more effective regulatory tools and experience to apply to those sorts of instances. But, again, if someone is advertising something on Facebook—which I think was the allegation—how do you know that it's a genuine person, how do you know that it's a genuine advertisement and so forth.

Dr AMANDA COHN: What about in the instances where the noncompliance is by the council itself?

BRETT WHITWORTH: I'm happy to take that on notice in terms of whether we've had instances where noncompliances have been reported to us about council activity. I'm not aware that there are a significant number. I do know that there was a particular circumstance in Moree, and I wrote to the council and asked for advice in terms of how they were addressing their compliance with the Companion Animals Act in terms of the operation of their pound. I actually raised it when I went up there to meet with the acting general manager at the time. They talked about some of the challenges they have with the companion animal issues in Moree—the challenges they have in actually identifying who's registered and the vast numbers of dogs that are unregistered, for example. It was clear to me that they weren't trying to abrogate their responsibility; they were just dealing with a very difficult set of circumstances.

Dr AMANDA COHN: Are you able to tell us, for example, in the year to date, how many complaints the OLG has received in relation to the condition of council pounds or animal welfare issues for impounded animals?

BRETT WHITWORTH: Given that it's data, I'd like to take that on notice, if that's okay.

ANSWER:

I am advised:

As at 19 September 2025, the Office of Local Government has received four complaints in relation to council pounds, including two complaints dated in 2024 but received or responded to in 2025.

Information on number of complaints received is not held by DPIRD. Information on Pounds inspected was provided later in session by Mr Peter Day, Executive Director, Strategy and Regulatory Policy on pages 59-60 of the transcript.

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The Hon. CHRIS RATH: One potential cost-shift back the other way is the red fleet RFS assets. What is the current cost to local councils in total? Maybe you've got that on a per council basis of owning the red fleet assets. I know there's been a lot of work done on this over the last year or two, so any updates would be very helpful.

BRETT WHITWORTH: Sorry, what was the specific question? I feel like that's probably one we'd need to take on notice.

KIERSTEN FISHBURN: Yes. We'd need to take that on notice.

The Hon. CHRIS RATH: The current cost to councils of having the RFS assets on their books and maybe on a per council basis as well. If you take that on notice, I suppose the broader question is whether there's any update. I know there's been a lot of engagement between the New South Wales Government and local councils on this.

BRETT WHITWORTH: We can provide you with a list of assets that RFS has identified for us. We provide that list to Local Government NSW. Under the accounting standards, I understand it's up to each council to then value those assets, so it's not necessarily as clear-cut as the State Government having an answer for the total number. But I do believe that there were some estimates identified in the Public Accounts Committee report, which we can draw out for you. In terms of the response to the Public Accounts Committee, that whole-of-government response is being led by the Premier's Department, and they will be drawing together the different views of the different agencies. Ultimately the recommendation of the Public Accounts Committee is that there needs to be an amendment of the Rural Fires Act, which is not within Minister Hoenig's purview as local government Minister but would sit under both Ministers.

ANSWER:

I am advised:

Page 5 of the Public Accounts Committee's report on the Assets, premises and funding of the NSW Rural Fire Service states:

"Red fleet assets have an estimated total gross value of \$1.6 billion. This includes \$1.0 billion in accumulated depreciation, giving red fleet assets a net book value of \$0.6 billion."

Further questions in relation to obligations of Councils under the *Rural Fires Act 1997* should be directed to the Minister for Emergency Services.

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Ms ABIGAIL BOYD: You say they're typographical errors. I'll take you to one example. The Northern Beaches Council special rate variation application was granted a partial approval, and then six days later the document was amended to make a number of corrections. The original report made multiple references and considered as a relevant factor in declining the SRV in full the impact on pensioners. The report made the claim that in order to be eligible for a pensioner discount, a certain number of volunteer hours must be demonstrated by these pensioners by the council. That is not and has never been a policy of the council, and IPART was required to make corrections on multiple pages to remove that entirely fabricated claim. That seems more than just typographical.

ANDREW NICHOLLS: There was a misunderstanding about how that particular arrangement was working with the council. IPART prides itself on ensuring that our documents are accurate and can be trusted, and we wanted to correct the record. The reason I say they're typographic is that they weren't substantive changes that would have changed the decision of the tribunal.

Ms ABIGAIL BOYD: Where did that claim come from, though?

ANDREW NICHOLLS: Sorry?

Ms ABIGAIL BOYD: How does that kind of claim—that there's a policy that council has for requiring pensioners to do volunteer hours to be eligible for pensioner discount, which is completely not true and has never been true for Northern Beaches Council—make its way into the document in the first place?

ANDREW NICHOLLS: I believe it was a misunderstanding at an officer level, but I'm happy to take that question on notice.

ANSWER:

N/A - IPART to provide their own cover letter and answer to this question.

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Ms ABIGAIL BOYD: Looking at that register of meetings, there have only been two meetings of elected members with IPART members since all the way back to 2022. The first one was with the member for Barwon, Roy Butler, relating to the investigation into Broken Hill and its loss of power. That makes sense. The other, on 7 March 2025, was the member for North Shore, Felicity Wilson, who met with the IPART chair, Carmel Donnelly, and IPART staff. What was that about, and why was it felt appropriate to meet with somebody who was actively lobbying for a decision, one way or the other, with IPART?

ANDREW NICHOLLS: The local member, as I understand it—I wasn't at that meeting, but there was certainly an IPART officer who was present, and the meeting has been recorded appropriately in our public registers. It was an opportunity to explain to the member about how the IPART processes work and what we can consider as part of our assessment. It was confined purely to process.

Ms ABIGAIL BOYD: Could you provide on notice some minutes of that meeting?

ANDREW NICHOLLS: I believe we could take that on notice.

ANSWER:

N/A - IPART to provide their own cover letter and answer to this question.

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Dr AMANDA COHN: Regarding code of conduct complaints, I've previously asked you about figures for the numbers of complaints received. Do you have figures for 2024-25?

BRETT WHITWORTH: I do not have figures for 2024-25. We should have them shortly. I should explain that, in order to get those figures, what we need to do is take every bit of correspondence that comes into the organisation. When it comes in, we characterise it and keep the right metadata so it can be searched. But it requires human involvement in the sense that someone has to characterise it in the correct way, and then we've got to make sure that they all match up. I am assured that we are close, but I do not have that data.

Dr AMANDA COHN: Close enough that you could take my question on notice?

BRETT WHITWORTH: I can take that question on notice, yes. I'm more than happy to take it on notice, but when I say I'm close, I don't know whether I'm close within two weeks or whether I'm close within four weeks, considering the time frame for responses to questions.

Dr AMANDA COHN: If it's outside the timing for questions on notice, perhaps my follow-up question to be taken on notice will be how can we access that information outside of budget estimates?

ANSWER:

I am advised:

Under Part 11 of the Procedures for the for the Administration of the Model Code of Conduct for Local Councils in NSW, councils are required to report their annual code of conduct complaint statistics for the year to 30 September to the Office of Local Government by 30 December each year. The annual code of conduct complaint statistics for the period of 1 October 2024 to 30 September 2025 are not due to be reported to the Office of Local Government until 30 December 2025.

The Office of Local Government also publishes data annually on complaints it receives about councils. The 2024-25 Council Complaints data is expected to be released in October.

The Councils Complaint data will be published on the OLG Website at:

<https://www.olg.nsw.gov.au/public/council-complaint-statistics/council-complaint-statistics/>

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The CHAIR: I've got some more questions around pound statistics, which I assume might be for Mr Whitworth or Ms Rahman. I've previously asked about missing pound statistics for certain councils. At last estimates, the only council who had not reported anything was Murrumbidgee Council. Can you provide an update on whether they have supplied data now?

BRETT WHITWORTH: I do not remember reading about whether that's the case, but Ms Rahman might have an update on that.

NAUSHEE RAHMAN: That survey information is due by 31 August so we'll have just received that. As of Thursday last week, 76 per cent of councils had completed, 3 per cent had not completed and the remaining 21 per cent had not started. I don't have a breakdown of the specific councils. I would expect that, like many things, they get submitted at the last minute, so we can do an update at a later stage.

The CHAIR: Do you have any information about the previous year? The year that I'm concerned about is 2023-24. I appreciate this was before your time, Ms Rahman, but I think I spoke at the last budget estimates with you, Mr Whitworth, about the councils that hadn't reported anything. Are they still recorded as not having reported any data?

BRETT WHITWORTH: I thought that Murrumbidgee had identified—can we take that on notice?

The CHAIR: Yes.

BRETT WHITWORTH: But I thought that we—I remember dealing with this and I thought that Murrumbidgee was either a case that they didn't have any circumstances or that there was a shared pound arrangement—

NAUSHEE RAHMAN: Were they using another service?

BRETT WHITWORTH: Yes, another service. So they didn't believe they needed to report.

The CHAIR: We had Lane Cove and Hunters Hill who reported zero. They said that's because they were leaving it to Blacktown Animal Rehoming Centre to do the reporting on their behalf. Obviously there are concerns around that because it gives Blacktown a bad look for having all these lost animals and these other councils looking like—it creates this odd picture. But, I think, from memory—and I'm happy for you to take that on notice and correct me if I'm wrong—that Murrumbidgee was still a sort of an outlier that we hadn't, or at least I hadn't, got information about in regards to why they had reported nothing. But, yes, I do have Lane Cove and Hunters Hill in that situation that you indicated.

BRETT WHITWORTH: We'll take that on notice and come back to you. I do remember us following it up, and I thought it was the subject of a response to a question on notice and that they didn't have data. But I'll take that on notice and give you a fulsome answer.

The CHAIR: Is anything being done about the two councils that are leaving it to Blacktown? Are we going to change that sort of system in regards to reporting going forward, given obviously there are quite a few councils using BARC and now it creates this strange view of what's actually happening in different councils?

BRETT WHITWORTH: Sydney Dogs and Cats Home is starting to come out of the ground quite well. We'll have more councils using shared services. The commitment that I make to you is that before we publish the data, we'll do a cut and review of it to make sure that, if there are some of these unusual circumstances, we'll go back to the councils and see whether we can actually get the data that comes from their area.

ANSWER:

I am advised:

Refer to evidence provided by Mr Whitworth on page 61 of the transcript.

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BRETT WHITWORTH: Can I just say that this is my challenge, in that we get this data and we rush to publish it. Sometimes we find problems and we don't necessarily get a proper outcome. I'm always nervous about providing that sort of commitment that it will be, but we'll make every effort to find it. Can I just say, my dutiful team and my incredibly diligent executive officer, who doesn't get anywhere near the credit that she should get, has said to me, "We responded to that question on notice last time. We contacted Murrumbidgee and they advised they didn't have any animals enter their pound during the period."

The CHAIR: Okay, interesting. Sorry, this is probably another one, then, on notice. Was there any follow-back correspondence about that, given that seems like a fairly unusual situation to have an entire year with an entire pound having no animals coming forward?

BRETT WHITWORTH: That would go to the way in which their enforcement is being run as well. Murrumbidgee is centred around Jerilderie, and there's another town that I will forget. It's not an urban environment. The majority of the animals will probably be working dogs, so they may not have a very high number of strays and/or animals that are seized in any case.

The CHAIR: But we don't have any information about that. It's more just an assumption at this point.

BRETT WHITWORTH: That was what they told us: They didn't have any animals. I don't know how I could go back and interrogate that any further.

ANSWER:

I am advised:

Murrumbidgee Council reported no dogs or cats entered their pound in 2023-24. This was confirmed by the Office of Local Government. While seemingly unusual, it is consistent with historical trends. In five of the past ten years, the council recorded fewer than three dogs and no cats.

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Dr AMANDA COHN: Thank you. Does the Electoral Commission collect any data on LGBTQIA+ identity?

TINA BALDOCK: I'm not sure of that, so I'll have to take that one on notice.

ANSWER:

I am advised:

The Local Government (General) Regulation 2021 provides that a candidate nomination for an ordinary election must be accompanied by a statistical information sheet. The Regulation prescribes the forms candidates are required to complete, including the statistical information sheet. The statistical information sheet does not contain any questions pertaining to a candidate's LGBTQI+ identity.

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Dr AMANDA COHN: No problem. Thank you. Coming back to the code of meeting practice reforms, I had one other clarification. New provisions 9.3 to 9.6 are specifically about the ability of councillors to put on urgent business, or business without notice. There are a number of specific provisions in this section, including that only the mover of the motion and the chair can speak to the motion before it's put. Also, 9.5 functionally contains a veto power for the mayor. So even if the council itself considers an item urgent, the mayor has the power to override that. Was there a particular rationale for why for this one provision—the consideration of urgent business—you're allowing the mayor to individually override the majority decision of the council?

BRETT WHITWORTH: Sorry, Dr Cohn, which clause?

Dr AMANDA COHN: I'm looking at 9.3 through to 9.6. The veto specifically is at 9.5. It says:

... the council may only deal with business at the meeting that councillors have not been given due notice of, where a resolution is adopted in accordance with clause 9.3, and the chairperson also rules that the business is urgent ...

BRETT WHITWORTH: We can take the question on notice. But I also understand, from my quick looking at this, that this relates to two points. One is, "I'm putting a notice of motion forward, so I need to speak to the urgency of the notice of motion." So only the mover of the motion and the mayor, or the chair of the meeting, can speak to the urgency of the notice. Once the urgency of the notice has been established and voted on, then other councillors can speak to the motion itself. That is my quick interpretation, but we can take that—

Dr AMANDA COHN: You've just given me your interpretation of 9.4, but then specifically 9.5—it seems to me very clear that there's an intention of giving the mayor a veto. There's reference to a resolution being adopted in accordance with 9.3 and also the chairperson ruling that business is urgent. Then, specifically, it goes on at 9.6 that a motion of dissent cannot be moved against a ruling by the Chair. So it seems to me like a very intentional vesting of power in the mayor to veto business being considered urgent.

BRETT WHITWORTH: I believe that that's an existing provision.

KIERSTEN FISHBURN: I'm pretty sure—having sat through many, many council meetings—that that's the way it operates at present. We'll check for you.

ANSWER:

I am advised:

Clauses 9.5 and 9.6 of the 2025 Model Code of Meeting Practice for Local Councils in NSW only apply where all of the councillors are not present at the meeting in question, and seek to limit the ability of councillors to misuse the urgent business provisions of clauses 9.3 and 9.4 where one or more councillors are absent from a meeting.

Clauses 9.5 and 9.6 of the 2025 Model Code of Meeting Practice are also consistent with clauses 9.3 and 9.5 of the former 2021 Model Code of Meeting Practice, which applied to all matters of urgency.

Where the chairperson declines to rule that the business is urgent and requires a decision by the council before the next scheduled ordinary meeting, it is open to the councillor to submit a notice of motion for consideration at the next ordinary meeting.

The process is as follows:

- The mover of the motion states why it is urgent
- The council votes on it
- The Mayor then certifies it is urgent
- The motion can be debated.

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The Hon. AILEEN MacDONALD: Can you confirm that, when a councillor does their disclosure of interest return, they need to include their residential address and any property they are paying rent or board for or being allowed to live in rent-free?

BRETT WHITWORTH: The last one I'd want us to take on notice. It goes to the nature of the contract— so if you're living rent-free somewhere, whether there's a contractual arrangement for you to live rent-free or how that manifests. They're required to identify that, but only as it relates to New South Wales. Is it New South Wales or Australian property?

TINA BALDOCK: Australian.

BRETT WHITWORTH: Australian property, so the concern is that there is overseas property that's not being picked up, and that's why we want to address that. But, as the Minister identified this morning, he wants a pecuniary interest scheme that mirrors the pecuniary interest scheme that parliamentarians have, which makes a lot of sense to me. There will be that mechanism.

The Hon. AILEEN MacDONALD: Because you took the last part on notice, what is the penalty for a councillor failing to disclose that information?

BRETT WHITWORTH: It is a bit of a hypothetical. If it gives rise to an involvement in the decision where the councillor actually did have a pecuniary interest, then that could be misconduct. If it's serious misconduct, then there are a range of sanctions that would exist after a departmental report and investigation, which could include suspension or referral to NCAT.

ANSWER:

I am advised:

Under the Model Code of Conduct for Local Councils in NSW councillors are required to disclose the street address of each parcel of real property in which they had an interest on the return date, and the nature of the interest.

Under the Code of Conduct an interest in relation to property means an estate, interest, right or power, at law or in equity, in or over the property.