

BUDGET ESTIMATES 2008-2009 - QUESTIONS ON NOTICE
Questions relating to the portfolio of Climate Change and the Environment
16 October 2008

Questions from Mr Cohen

Travelling Stock Routes

1. Given the pressure on Rural Lands Protection Boards to manage TSRs as a business in the adoption of the IMC report recommendations:
 - a. How will the nature conservation values of the ground cover and shrub layers be maintained, not gradually lost through pest animal or weed invasion, pasture improvement or inappropriate grazing regimes such as regular grazing in good seasons as well as droughts?
 - b. In any areas where grazing, harvesting (e.g. of timber or firewood), new uses or more intensive recreation are permitted, how will all common and rare plant and animal species that live in or depend on the area have adequate opportunities for their populations to maintain or recover to near-natural density and abundance following these disturbances or periods of stress such as droughts?

Travelling stock routes are managed by the Rural Lands Protection Boards, under the administration of the Department of Primary Industries (DPI).

This question is more appropriately directed to my colleague the Hon. Ian Macdonald MLC, Minister for Primary Industries, Minister for Energy, Minister for Mineral Resources, and Minister for State Development.

However, I can advise that the Department of Environment and Climate Change is working with other agencies, including the Department of Lands, to develop a methodology to identify and protect the important conservation values of Travelling Stock Routes.

Biobanking

2. The assessment of Biobank sites will be conducted by accredited persons. However, these persons will only determine the number and class of biodiversity credits. What economic modelling has been done to demonstrate minimum due diligence, particularly in consideration of the fact that the land will be secured under a Biobanking Agreement in perpetuity?

In 2007, as part of the regulation making process, the Department of Environment and Climate Change drafted a Regulatory Impact Statement, (available on the Department's website) that included comprehensive economic modelling of the BioBanking Scheme. This work examined:

- the ongoing cost of management actions;
- the cost of participation in the biobanking scheme;
- the present value of land management; and
- actuarial advice on calculations for investing funds in the BioBanking Trust Fund

3. Will the initial credit sale and/or ongoing annual payments from the Trust Fund to landholders be subject to income tax?

The Department is assessing the tax implications for BioBanking Scheme holders, and has sought a formal taxation ruling from the Australian Tax Office. This should be available to the public in early 2009.

4. Under the BioBanking Scheme the Minister can resume land where a person has contravened a BioBanking Agreement (for example, by failing to maintain the biodiversity values on their BioBanking site). Does this apply to Aboriginal land holders?

The *Threatened Species Conservation Act* Biobanking amendments enable the Minister for Climate Change and the Environment to seek an Order from the Land and Environment Court to transfer or convey land where a person has failed to meet their BioBanking Agreement obligations. The authority applies to all landholders, however, it is envisaged that it would only be used in extreme circumstances. In relation to Aboriginal lands, the Minister would also be bound by the *Aboriginal Land Rights Act 1983* that requires an Act of Parliament to appropriate or resume Aboriginal Lands. Compensation would also be payable if this were to occur.

The NSW Government, through the Environmental Trust, is investing \$5 million over 3 years in the Land Alive Program to help Aboriginal landowners evaluate the option of BioBanking in an informed manner, and to develop the land and financial management skills they would need to access the benefits of the scheme on an equal footing with non-Aboriginal landowners.

Regional Assessment Outcomes – Brigalow/Goulburn

5. When is the NSW Government going to complete the transfer of Crown lands to the National Parks estate promised by the North-eastern NSW forest decision and the Brigalow/Nandewar western regional assessment?

In relation to the north east Crown lands, the Government has already transferred 56,000 hectares of Crown land to the national park estate and is assessing a further 23,000 hectares for final suitability. These assessments include resolving any outstanding issues such as land claims, leases and licences.

In May 2005, the NSW Government announced the centrepiece of its decision resulting from the Brigalow Belt South and Nandewar bioregional assessments – the creation of the Brigalow and Nandewar Community Conservation Area. The bioregional assessments identified approximately 120,000 hectares of Crown land within the assessment area but did not identify the specific Crown lands to be transferred to the reserve system. The Government is assessing the conservation values of Crown land in this area for suitability for inclusion in the national parks reserve system.

6. When is the NSW Government going to implement its pre-election promise to implement the Goulburn Comprehensive Regional Assessment outcome?
 - a. When will the new National Parks contained in that outcome be gazetted?

NSW Government agencies are assessing the final suitability of lands identified during the Goulburn Comprehensive Regional Assessment for possible addition to the national parks reserve system. Outstanding issues such as land claims, existing leases and licences will need to be resolved before the land can be transferred.

Forestry

7. For each of the four Private Native Forestry regions/vegetation types specified in the Native Vegetation Regulation 2005, what results have been obtained for the 2007 calendar year from reporting requirements contained in the Code of Practice in relation to:
- a. The number of landowners that conducted forestry operations
 - b. The approximate total volume of timber products harvested
 - c. The approximate volume of timber harvested by product category
 - d. The approximate total area in hectares on which forest operations occurred
 - e. The frequency of different silvicultural treatments that were applied during that period?
 - f. How many landowners have indicated, via the reporting requirements contained in the Code of Practice, that they intend to conduct forest operations in the 2008 calendar year?

From 1 August 2007, all new private native forestry operations were required to obtain a property vegetation plan. Existing operations, with the exception of the 20 per cent which had an existing consent under the *Native Vegetation Conservation Act 1997* or the *Soil Conservation Act 1938*, were required to have a property vegetation plan by the following dates:

- 1 November 2007 if located in the North Coast and Northern Tableland forests;
- 1 December 2007 if located in the South Coast and Southern Tableland forests;
- 1 January 2008 if located in the River Red Gum forests;
- 1 February 2008 if located in the Cypress and Western Hardwood forests.

Under the Private Native Forestry Code of Practice, landowners with a property vegetation plan are required to provide an annual report by 31 March each year, covering operations undertaken in the previous calendar year and/or those proposed to be undertaken in the current year.

As at 31 December 2007, 166 property vegetation plans had been agreed to. This number increased to 291 as at 31 March 2008.

The Department of Environment and Climate Change has received 239 annual reports to date.

(a) 84 landowners with property vegetation plans reported forestry operations during 2007:

- 73 for the North Coast and Northern Tableland forests;
- seven for the South Coast and Southern Tableland forests;
- four for the River Red Gum Forests; and
- zero for the Cypress and Western Hardwood forests.

(b) 56 operations were small operations yielding less than 500 cubic metres:

- 49 for the North Coast and Northern Tableland forests;
- five for the South Coast and Southern Tableland forests;
- two for the River Red Gum Forests; and
- zero for the Cypress and Western Hardwood forests.

22 operations were medium operations yielding between 500 and 2000 cubic metres:

- 21 for the North Coast and Northern Tableland forests;
- nil for the South Coast and Southern Tableland forests;
- one for the River Red Gum Forests; and
- nil for the Cypress and Western Hardwood forests.

Six operations were large operations yielding more than 2000 cubic metres:

- three for the North Coast and Northern Tableland forests;
- two for the South Coast and Southern Tableland forests;
- one for the River Red Gum Forests; and
- nil for the Cypress and Western Hardwood forests.

(c) The Code of Practice does not require landowners to report volume of timber harvested by product category.

(d) Landowners reported forestry operations during 2007 covering 5,770 hectares:

- 5,234 hectares for the North Coast and Northern Tableland forests;
- 63 hectares for the South Coast and Southern Tableland forests;
- 473 hectares for the River Red Gum Forests; and
- zero hectares for the Cypress and Western Hardwood forests.

(e) Landowners reported using four different types of silvicultural treatments, with some landowners using more than one type:

- 72 landowners reported using single tree selection;
- 16 reported using thinning;
- eight reported using Australian Group Selection; and
- three reported undertaking regeneration planting.

For the North Coast and Northern Tableland forests:

- 65 landowners undertook single tree selection;
- 10 landowners undertook thinning;
- seven landowners undertook Australia Group Selection; and
- two landowners undertook regeneration planting.

For the South Coast and Southern Tableland forests:

- five landowners undertook single tree selection;
- three landowners undertook thinning;
- one landowner undertook Australia Group Selection; and
- one landowner undertook regeneration planting.

For the River Red Gum Forests:

- two landowners undertook single tree selection; and
- three landowners undertook thinning.

There were no silvicultural treatments used for the Cypress and Western Hardwood forests.

(f) 188 Landowners have indicated that they intended to undertake forestry operations during 2008:

- 157 for the North Coast and Northern Tableland forests;
- 16 for the South Coast and Southern Tableland forests;
- 11 for the River Red Gum Forests; and
- four for the Cypress and Western Hardwood forests.

- 8.** What area of mapped Candidate Oldgrowth Forest is contained in areas that have been made available for logging?

For the period ending 30 June 2008, 2,281 hectares of mapped candidate old growth forest were found to be incorrectly classified, and are now potentially available for logging.

- 9.** Of the subset of mapped Candidate Oldgrowth Forest that is identified for protection under the oldgrowth protocol contained in the Code, what area is contained in blocks that have been given approved PVPs?

For the period ending 30 June 2008 1,299 hectares of existing property vegetation plans meet the old growth criteria. However, this figure under-reports the area of protected old growth as a number of landowners have decided not to proceed with obtaining a property vegetation plan or timber harvest plan over areas now confirmed as old growth.

- 10.** What area of that has been subject to a field based review? What area has been made available for logging?

The Department of Environment and Climate Change cannot report on the area that has been subject to field based review. However the Department can confirm that the 1,299 hectares identified as old growth is all protected from logging operations.

- 11.** During these field reviews, what area of additional oldgrowth forest has been identified?

Using the 'Protocol for re-evaluating old growth forest on private land' contained in the Code of Practice, 59 hectares of additional old growth forest has been identified.

- 12.** What area of mapped Rainforest referred to in the Rainforest Protocol has been subject to a field test?

Under the Private Native Forestry Code of Practice, landholders must prepare Property Vegetations Plans for areas of their properties where they wish to undertake private native forestry operations. The Department of Environment and Climate Change supplies landholders with a map indicating any rainforest area occurring on the property, which must be excluded from logging/clearing activity.

When a landholder requests a re-evaluation of mapped Rainforest, the Department of Environment and Climate Change undertakes a specialist review using aerial photographs. If this is inconclusive, field inspections are undertaken. The Department does not have figures on which technique was used in each case, however it estimates that approximately one in four cases required field verification.

- 13.** What area has been made available for logging?

346 hectares of land that was incorrectly mapped as rainforest has been made available. This area, which represents 0.2 per cent of the total area covered by forestry Property Vegetation Plans, is now potentially able to be included in harvest zones.

- 14.** How many Ecological Harvest Plans have been approved that allow logging in Endangered Ecological Communities?

One Ecological Harvesting Plan, on the mid north coast of NSW, has been approved by the Department of Environment and Climate Change.

The Plan allowed for ecological thinning to occur on a five hectare area. Dense regrowth vegetation had grown on previously cleared land, and the site had been periodically burnt and managed for stock, which had adversely impacted its diversity and regeneration.

The Plan allowed selective thinning of trees so that more sunlight could reach the ground layer, reduce competition among the even aged canopy species and create greater structural and species diversity. It also required:

- the removal and control of weeds;
- that the landowner must allow the vegetation to naturally regenerate; and
- that the landowner not use fire on the site for the life of the 15 year Property Vegetation Plan.

15. What scientific evidence is there to show that these Plans will not have a negative environmental impact?

Disturbance of native vegetation can result in the thickening of canopy species, and inhibit the recovery of an Endangered Ecological Community to its natural condition. Ecological harvesting in these circumstances is consistent with the requirement of the *Native Vegetation Act 2003* to improve or maintain environmental outcomes. All Private Native Forestry Code of Practice environmental prescriptions must be met as a condition of any Ecological Harvesting Plan.

16. What field surveys were required for threatened species and other important environmental attributes prior to approval of these Ecological Harvest Plans?

A site visit and two field inspections were undertaken by Department of Environment and Climate Change ecologists to examine the forest structure, identify habitat and identify flora. The five hectare site was found to be an even aged regrowth near monoculture from past clearing. The inspections confirmed that the site did not contain the range of species or forest structure characteristic of this community.

17. What action has DECC taken to investigate the very serious matter of the logging by Forests NSW of a Spotted-tailed Quoll exclusion zone in Forestland State Forest earlier this year? Has DECC determined how such a monumental error could occur, and put in place a pre-emptive monitoring process to ensure that it does not happen again?

In April and May of 2008 the Department of Environment and Climate Change audited Forests NSW's harvest planning for compartment 197 of Forestland State Forest. The audit determined that the quoll latrine exclusion zone had not been marked on the harvest plan map, due to a data management error by Forests NSW.

On finding the omission, Forests NSW immediately suspended its harvesting activities in the area to allow for an internal investigation. It also excluded logging in another, similar, area to compensate for the error.

Forests NSW has addressed the data management issue. The Department will continue to monitor the Forests NSW operations as part its continuing compliance and audit program.

Regional Forest Agreements

- 18.** When will the NSW Government finally implement s27 of the north-eastern NSW Regional Forest Agreement, which requires parties to actively investigate the potential for north-eastern NSW to be recognized as a centre of eucalypt species diversity as identified by the World Heritage Expert Panel report? Can the NSW Government indicate a start and end date for this assessment and provide an assurance that it will be a proper, landscape wide assessment?

The current focus of nominations for the World Heritage Tentative List is to extend the Gondwana Rainforest World Heritage area, which will more than double its size.

Other themes such as eucalypt or cultural themes may be considered after current nominations are finalised over the next few years. Any new proposals for the List would require considerable research and data collation, including the development of a comprehensive nomination document describing how the sites meet World Heritage criteria.

- 19.** When will the NSW Government, in concert with the Federal Government, finally implement the long overdue five-year review of the Regional Forest Agreement?

The review of the North East, Southern and Eden Regional Forest Agreements has commenced. A Scoping Agreement for the review has been signed by the Commonwealth Minister for Agriculture, Fisheries and Forestry and former Minister for Climate Change and the Environment. A draft review report is currently being compiled by Commonwealth and State agencies. Public representations on the draft review report will be sought toward the end of this year.

Forestry and National Parks Act 1998

- 20.** When will the NSW Government finally implement the long-overdue five-year legislative review of the Forestry and National Parks required by s 49 of that Act? Can the Minister give me an assurance that any such review will properly investigate and consider re-instatement of third party appeal rights? Can the Minister give me an assurance that any such review will remove the exemption from the NSW Wilderness Act 1987 for Crown-timber Lands?

Under the *Forestry and National Park Estate Act 1998* the Minister for Climate Change and the Environment and the Minister for Primary Industries are required to review the Act “to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing these objectives”.

The review of the Act is being undertaken concurrently with the review of the Integrated Forestry Operations Approvals and NSW Forest Agreements. It would be improper to pre-empt the outcome of the review on specific issues.

- 21.** Why hasn't there been an annual report prepared on each NSW Forest Agreement, as required by s 21 (1) of the NSW Forestry and National Parks Estate Act 1998, since 2002? When will the missing annual reports be released?

Annual reports on the implementation of NSW Forest Agreements have been prepared for 2002/2003, 2003/2004, 2004/2005 and 2005/2006. The reports are being finalised and will be tabled as soon as practicable.

Annual reports for 2006/2007 and 2007/2008 are currently being prepared.

Bell Miner Associated Dieback

- 22.** How many hectares has Bell Miner Associated Dieback expanded across forests of NE NSW over the past five years?

It is not possible to accurately state how many hectares of Bell Miner Associated Dieback have occurred within the NE NSW Forests or the rate of spread.

Observational data indicates that dieback is increasing throughout the coastal forests of NSW.

Current estimates in a draft research paper presented to the Bell Miner Associated Dieback working group indicate that over three quarters of a million hectares of coastal eucalypt forest in NSW may be at risk.

- 23.** What area of the Blue Mountains World Heritage Forest is impacted by Bell Miner Associated Dieback and what plans are in place to remedy the situation?

There have been reports of some dieback sites in the Greater Blue Mountains World Heritage Area and in adjacent bushland. These are limited in extent and it is not known whether this is Bell Miner Associated dieback or another form of the disease.

The Department of Environment and Climate Change, through the Botanic Gardens Trust, is surveying areas in and adjacent to the World Heritage Area as part of its research into the disease.

Red Gum Forests

- 24.** Is the Minister aware that River Red Gum forests meet four of the seven priority themes identified for building the DECC reserve system over the next decade in the new National Park Establishment Plan?

Yes.

- 25.** Is the NSW Government waiting until these outstanding high conservation value areas have been patch-clearfelled into oblivion until it reserves them? With a rate of 5,500 hectares logged each year, and 1,000 hectares clearfelled, why isn't urgent action being taken?

The Government is committed to managing and maintaining the threatened species and significant wetland ecosystems of the Murray River and its tributaries.

- 26.** Does the Minister consider this an appropriate way to treat one of our highest conservation value wetland ecosystems in the Murray Darling Basin, during the worst drought in history and in the face of impending severe climate change?

The River Red Gum forests are experiencing a range of pressures including altered flooding regimes, drought, climate change, salinity and logging.

The Government is considering these challenges in making a decision on the best way forward. The environmental impact assessment being undertaken by Forests NSW will provide valuable information to assist the Government in its deliberations.

Forestry

- 27.** Can the Minister assure me that any new PNF Act will provide positive measures to protect high conservation value forest areas, rather than just regulating exploitative uses?

While the features of any future legislation will be determined by the Parliament, the protection of conservation values will be central to any Bill that the NSW Government will introduce on private native forestry.

- 28.** Will the Minister ensure that the terms of reference of the coastal Forest Reviews are expanded to fully consider the additional threat posed to biodiversity by climate change and the implications for protection measures under the Forest Agreement and IFOA?

The review is limited in scope by the *Forestry and National Park Estate Act 1998*. The Act states that the “review is to be undertaken for the purposes only of addressing:

- (a) the implementation of the provisions of the agreement, and;
- (b) whether the integrated forestry operations approvals are effective in achieving the purpose.”

- 29.** Will the Minister ensure that grave new threats, such as forest dieback, will also be properly considered as part of the review?

See above.

- 30.** Can the Minister guarantee that the impact of logging on Green Carbon in NSW is also considered as part of the reviews, and options identified to better protect forest carbon stores and thus mitigate greenhouse emissions from logging?

The responsibility for the development of a Carbon Pollution Reduction Scheme (including the inclusion/exclusion of specific carbon stores) rests principally with the Commonwealth Government. The NSW Government will support and provide input into this initiative as appropriate.

- 31.** Does the Minister acknowledge that the credibility of public forestry regulation has been severely undermined by the failure to meet basic regulatory requirements, including the failure to conduct a five-year review of the Forestry and National Parks Estate Act 1998, failure to conduct the five-yearly reviews required of Forest Agreements and Regional Forest Agreements, and failure to prepare annual reports required by the FNPE Act? How and when will these embarrassing failures be fixed and finally delivered?

The review of the North East, Southern and Eden Regional Forest Agreements has commenced. A Scoping Agreement for the review was signed by the Federal Minister for Agriculture, Fisheries and Forestry, the Hon Tony Burke MP, and the former NSW Minister for Climate Change and the Environment. A draft review report is currently being compiled by federal and state agencies, and public submissions will be sought before the end of this year.

The reviews of the *Forestry and National Parks Estate Act 1998*, the Integrated Forestry Operations Approvals and the NSW Forest Agreements are being undertaken concurrently.

Annual reports on the implementation of NSW Forest Agreements have been prepared for 2002/2003, 2003/2004, 2004/2005 and 2005/2006. The reports are being finalised and will be tabled as soon as practicable. Annual reports for 2006/2007 and 2007/2008 are currently being prepared.

- 32.** Will the Minister consider integrating the approval process for plantation establishment into the Native Vegetation Act 2003 to prevent any further land-clearing for plantations and to dramatically improve the environmental constraints which apply?

While plantations are the responsibility of the Minister for Primary Industries, in NSW the *Plantation and Reafforestation Act 1999* promotes the development of timber plantations on essentially cleared land.

In the last two financial years, less than 730 hectares of native vegetation clearing has been approved. Over the same period, more than 48,000 hectares of native plantations have been established in NSW.

Toorale

- 33.** This question relates to the State Government's buyback of Toorale Station:
- a. How much is the State Government investing in rehabilitation of Toorale Station?

The State Government does not take possession of Toorale until property settlement, which is scheduled for 23 December 2008. Consequently there has been no expenditure on rehabilitation by the Department of Environment and Climate Change to date. Rehabilitation works will be required, and these will be assessed over time, commencing with a proposed Commonwealth Government assessment and audit of water and water infrastructure at Toorale. The results of this assessment will inform decisions about high-priority water-related infrastructure works.

- b. How will the State Government integrate their investment with the Commonwealth Government funding?

A Toorale Project Steering Committee has been established to oversee urgent on-ground works and develop interim management guidelines for the property. The Committee has representatives from State and Commonwealth government agencies and will provide a forum for investment decisions.

Flying-foxes

- 34.** Has any government money been spent looking into the costs to orchardists of netting their orchards to protect their assets from flying-foxes?

Since 2001, the Department of Environment and Climate Change (DECC) has convened and supported the Flying Fox Consultative Committee to provide input into the issues that arose after the listing of the Grey Headed Flying-fox as a threatened species. The committee has been involved in the development of strategies to conserve and manage flying-foxes including consideration of how best to assist farmers to protect their crops from damage.

A collaborative project between the Department of Primary Industries (DPI), DECC, the Hawkesbury Nepean Catchment Management Authority and Sydney Basin fruit-growers has been funded by the Australian Government to the value of \$516,000.

More than \$500,000 has also been provided as State Government cash and in-kind contributions and flying-fox stakeholder in-kind contributions.

The project is examining the extent of flying-fox damage to commercial crops in the Sydney Basin and the effectiveness of the different damage mitigation strategies used. The costs to orchardists of protecting their crops with full exclusion netting are being considered and district agronomists across NSW are being interviewed to estimate the proportion of

vulnerable crops already netted. The results of the project will provide factual guidance regarding the costs and benefits of various options for orchardists to mitigate damage to their crops.

- 35.** Is the government prepared to assist orchardists with their netting costs in order to halt the shooting of flying foxes in orchards?

The NSW Government currently assists orchardists by providing low-interest loans to protect their orchards with netting, through the NSW Rural Assistance Authority's Special Conservation Scheme. Low-interest loans of up to \$150,000 are available at a fixed interest rate of 4.5% for up to 15 years for exclusion netting to prevent flying-fox damage to existing orchards with a demonstrated flying-fox problem.

- 36.** Has a costing been done into the introduction of legislation similar to that in Queensland to ban the shooting of flying-foxes?

No costing has been undertaken to date. Legislative amendments may be considered following a review of the NSW licensing system currently being undertaken by the Department of Environment and Climate Change. Any amendments will be subject to an assessment of environmental, social and economic impacts and a financial impact statement. The results of this review are expected prior to the 2009/2010 fruit growing season.

- 37.** Will a government assessment be done, particularly in northern NSW into the role of flying-foxes in the pollination of rainforest plant species?

There is no plan to undertake an additional assessment of the role of flying-foxes in the pollination of rainforest plant species. The role of flying-foxes in providing this critical ecosystem service is well accepted.

Aboriginal co-management

- 38.** Does the National Parks and Wildlife Service, or DECC, have a policy of promoting consultation agreements with Aboriginal people over the management of National Parks?

The Department of Environment and Climate Change acknowledges Aboriginal people's custodial interests in country, including National Parks. The *Aboriginal Community Engagement Framework* and DECC's *Aboriginal people, the Environment and Conservation Principles*, and *Cultural Heritage Consultation Policy* support the Department seeking advice from, consulting, engaging and negotiating with Aboriginal communities in relation to cultural heritage management, conservation and park management.

- 39.** Does the National Parks and Wildlife Service, or DECC, have an official or unofficial policy of negotiating consultation agreements with Aboriginal people, instead of more formal agreements which deliver actual control over the running of national parks to Aboriginal people, or require the formal consent of Traditional Owners?

The Department has a range of agreements with Aboriginal communities around NSW in relation to park management. It negotiates arrangements on a case by case basis, as appropriate to local circumstances. This flexibility allows it to respond to the wishes and aspirations of particular Aboriginal communities.

There are three different types of agreements applicable to Aboriginal co-management or joint management of parks. These are:

- Aboriginal owned parks that are leased back to the Government under Schedule 14 of the *National Parks & Wildlife Act 1974* (S14) or established through Section 36A of the *Aboriginal Land Rights Act 1983*. The parks are held by Local Aboriginal Land Councils on behalf of the registered Aboriginal owners and are managed by a Board of Management with a majority of Aboriginal owners. The agreement is the lease, which has a term of 30 years.
- Indigenous Land Use Agreements (ILUA), which may be negotiated where there is a native title claim over a park. These are negotiated with native title holders or claimants under the *Native Title Act 1993*, and registered under the Act. The agreement is made with the relevant Aboriginal Corporation and the co-management arrangement is established through a statutory advisory committee to the Minister, with majority native title holders or claimants representation.
- Memoranda of Understanding (MOUs). These have the most flexibility and may be entered into with a range of Aboriginal community organisations as determined by the Aboriginal community. The majority of MOUs involve a statutory advisory committee to the Minister with Aboriginal majority representation.

DECC has 15 Aboriginal co-management arrangements in place for parks in New South Wales. These are:

- Mutawintji National Park, Historic Site and Nature Reserve in the far west of NSW (S14 lease - *National Parks and Wildlife Act 1974*);
 - Mt Grenfell Historic Site near Cobar (Schedule 14 lease – *National Parks and Wildlife Act 1974*);
 - Biamanga National Park on the far South Coast (Schedule 14 lease – *National Parks and Wildlife Act 1974*);
 - Gulaga National Park on the far South Coast (Schedule 14 lease – *National Parks and Wildlife Act 1974*);
 - Worimi Conservation Lands near Newcastle (lease - S36A *Aboriginal Land Rights Act 1983* and *National Parks and Wildlife Act 1974*);
 - Arakwal National Park near Cape Byron (ILUA x 3 – *Native Title Act 1993*);
 - Githabul Indigenous Land Use Agreement over ten parks near Kyogle (ILUA – *Native Title Act 1993*);
 - Mungo National Park near Mildura (MoU);
 - Kinchega National Park near Menindee (MoU);
 - Goobang and Snake Rock Aboriginal Area near Peak Hill (MoU);
 - Pilliga Nature Reserve near Coonabarrabran (MoU);
 - an MoU with the Darug people for a range of parks in Sydney; and
 - an MoU with a range of Aboriginal groups for the Central Coast and Hunter Ranges.
40. What budget has DECC allocated to support joint management of national parks in NSW?
- a. Is this budget more or less than in previous years?

DECC has a budget of \$7.4 million in 2008/09 for Aboriginal co-management or joint management of national parks in NSW. This does not include DECC staff time or DECC's other in-kind support for Aboriginal co-management.

a) This is \$1.9 million more than in 2007/08.

Section 90 consents

41. How many consents to damage, deface or destroy Aboriginal objects or sites did DECC issue last year?

The Department of Environment and Climate Change advises that, in 2007, 145 consents were issued under section 90 of the *National Parks and Wildlife Act 1974*.

42. How many stop work orders or other protection orders has the Director General issued, in relation to Aboriginal objects or sites?

As at 28 October 2008, there had been no formal stop work orders issued by the Director General of the Department in the past 12 months. Stop work orders cannot be issued for a development or activity which has prior approval under the *Environmental Planning and Assessment Act 1979*.

There have, however, been at least four instances where work has been stopped voluntarily.

Interim Protection Orders are not issued by the Director General. The Director General makes a recommendation to the Minister for Climate Change and the Environment for her determination under the *National Parks and Wildlife Act 1974*. There have been no Interim Protection Orders in the 12 months to 28 October 2008.

43. How many penalties has the DG enacted against landholders who have illegally destroyed Aboriginal objects or damaged Aboriginal sites?

As at 28 October 2008, for the past 12 months, there have been two convictions of an individual under section 86 and section 90 of the *National Parks and Wildlife Act 1974* for disturbing and defacing Aboriginal objects.

44. Has the Government given any consideration to the establishment of an Aboriginal Heritage Commission to ensure Aboriginal people have more control over decisions relating to objects and sites?

No.

45. Will the Department re-establish the Increasing Capacity of Aboriginal People in Environmental, Heritage and Natural Resource Management project that was undertaken with 2 aboriginal communities and completed in November 2007 for use across NSW?

This project will not be rolled out for use across NSW. However, this Environmental Trust funded project formed part of the Two Ways Together Culture and Heritage Cluster Action Plan. The Department of Aboriginal Affairs was the lead agency for the project.

DECC will draw upon the evaluation of the project to inform the "Healthy Country – Healthy Communities" Action Plan, which will increase Aboriginal peoples' capacity to participate in land and natural resource management.

The Action Plan is being developed as part of the NSW State Plan Priority Delivery Plan for Priority E4: *Better outcomes for native vegetation, biodiversity, land, rivers, and coastal waterways*. It is intended to be finalised by June 2009.

46. What budgetary allocations are in place to facilitate the running of a similar program within other Aboriginal communities across NSW?

DECC will develop the 'Healthy Country–Healthy Communities' Action Plan from within its agency budget allocation.

Overall budget allocations for implementation of the Action Plan will be subject to negotiation with relevant agencies, as well as Commonwealth funding sources such as the 'Caring for our Country Program', the 'Indigenous Protected Area Program' and 'Indigenous Ranger Program', subject to continuation of the NSW Aboriginal Water Trust.

DECC is leading the review of the NSW Aboriginal Water Trust with a view to improving the socio-economic outcomes that this initiative delivers to NSW Aboriginal communities regarding participation in water management.

- 47.** Has the Department finalized the Access Agreements publication as indicated in the Two Ways Together report to encourage Aboriginal communities to enter into access agreements with the NSW Government?
- a. If not, when will the publication be finalised?

The Access Agreements publication is the responsibility of the Department of Aboriginal Affairs.

- 48.** Has the Minister or the Department of Environment and Climate Change received reports about the clearing of Sydney Freshwater Wetland, Swamp Sclerophyll Forest and Coastal Saltmarsh by Energy Australia on the Wakehurst Parkway?
- a. If yes, what actions has the Department taken in response?

The Department of Environment and Climate Change has received reports about clearing by Energy Australia along the Wakehurst Parkway

I am advised that the Department has inspected the site and assessed Energy Australia's review of environmental factors. The Department advises that Energy Australia has met its planning and threatened species obligations and there is no basis for regulatory action at this time.

The Department has also met with Energy Australia to discuss ways to improve its environmental impact assessments, and will continue to work closely with the company in this regard.

- 49.** Has the Department of Lands, Energy Australia or any agent of Energy Australia applied for any necessary approvals to clear native vegetation and Endangered Ecological Communities along the Wakehurst Parkway?
- a. If yes, provide details of any approval?

Energy Australia's review of environmental factors indicated that there would be no significant environmental impact as a result of the clearing. On this basis, the activity was carried out in accordance with Part 5 of the *Environmental Planning and Assessment Act 1979*.

- 50.** What exemptions are applicable to the clearing of EECs on Crown Land?

No exemptions are applicable to the clearing of Endangered Ecological Communities on Crown Land. Clearing cannot be undertaken without consideration of its impact through an appropriate environmental impact assessment, such as a review of environmental factors.

- 51.** Does the Department have any role in assisting Energy Australia minimise destruction and disturbance of EECs and VECs when undertaking work on powerlines?

The Department is working with a number of public authorities, including Energy Australia, to improve environmental assessment and maintenance procedures.

- 52.** Is there any requirement on Energy Australia to undertake powerline maintenance in a manner that minimises disturbance and damage to EECs and VECs?

As referred to above, clearing cannot be undertaken without consideration of its impact through an appropriate environmental impact assessment such as a review of environmental factors.

Questions from Mr Brown

Further to my questions about Toorale being used in the future for agricultural purposes, while still being part of the national reserve system –

During the Estimates Hearing (16 October) you spoke about Toorale purchase being contingent on NSW retaining the property as a protected area and managing it in perpetuity as a component of the national reserve system and the cessation of its use for irrigation purposes. Given that much of the property was already being managed as a wildlife refuge – and that all the dams on the Warrego and man made ponds will be dismantled, the fact there will be no irrigation does not mean Toorale is not a viable farming operation.

Even Federal Minister Garrett seems to have backed away from the “no-farming” edict, (Land page 5, 16 October). Speaking about a plan for more conservation land he said “This is not about land....but working with land owners to, for example, fence off an area like a gully that has got high biodiversity values....”

- 53.** Would you be prepared to reconsider the previous “lock-out” stance, or at the very least – establish a forum where the issue can be fully discussed before final decisions are made?

The agreement between the NSW and Commonwealth Governments requires the entire property to be actively managed for conservation. While accepting there will be changes associated with the retirement of irrigation and grazing activities at Toorale, I am advised that significant benefits have been identified for the community that include direct local expenditure from park management activities, new jobs in the National Parks and Wildlife Service, benefits to downstream floodplain graziers, tourism benefits, Commonwealth investment in the retirement of water infrastructure, and flow-on effects into the local and regional economy.

- 54.** Could you inform the Committee of the names of the grazing properties either side of Toorale? Do they have access to water for their stock? Do they conduct any irrigation for cropping?

The precise nature of each neighbouring property’s arrangements for stock watering is unknown. The Department has advised that it is not aware of any irrigated cropping activities on neighbouring properties.

- 55.** What employment opportunities do you see for the current workers on Toorale – not all can be employed as “park management”? How many people do you think will be needed to manage Toorale, and what other realistic work will there be for the majority of staff?

The Department of Environment and Climate Change will establish a management presence at Toorale immediately post settlement in December 2008. This will involve the creation of

new jobs at Toorale and at Bourke. The Department has already met with a number of the Toorale employees to discuss possible future employment opportunities. Field staff employed at Toorale will be involved in a wide range of activities including rehabilitation, weed and feral animal control, provision and maintenance of management and visitor infrastructure, fencing and fire management.

The Department of Environment and Climate Change will ensure opportunities are also created for employment of Aboriginal people to work at Toorale.

The Department will finalise its staffing strategy for Toorale in the lead up to and post settlement in December 2008. Some staff will be employed immediately following settlement and others will follow shortly thereafter. It is expected that there will be more full time employees employed by the Department than were employed by Clyde Agriculture at the time the property was purchased.

56. How many dams across the Warrego will be removed?

A State/Commonwealth Toorale Project Steering Committee has been established to oversee, amongst other matters, the urgent on ground management actions associated with Toorale's water infrastructure. The Commonwealth Government is expected to commence an assessment and audit of Toorale's water and water infrastructure in the near future, and this information once available will be used to guide decisions on water infrastructure works.

57. How many man made ponds are there on Toorale?

See answer 56.

58. How often does the Warrego actually flow – and does that mean the only time “extra” water will reach the Darling is during irregular flooding because of rain in Queensland?

Over the past 37 years the Warrego has flowed at Fords Bridge 34 per cent of the time. The number of flow events that would have resulted in inflows to the Darling during this period, if not stored or diverted by Toorale storages is about 18, or 1 every 2 years on average.

Recent modelling by DWE indicates that the full decommissioning of the Warrego storages PLUS cessation of extractions from the Warrego for the irrigation area would increase Warrego inflows to the Darling by 65 per cent or from 20.1 gegalitres to 33.2 gegalitres per annum. At the same time the flow will increase due to cessation of pumping from the Darling by another 6 GL, resulting in a net annual increase in flows downstream of Toorale on the Darling of about 20 gegalitres per annum.

Historic records for Toorale indicate that apart from the recent drought years, crops have been irrigated in nearly all years since the irrigation area was developed in the early 1980s with the maximum extraction in some years being greater than 25 gegalitres. It stands to reason therefore, that with the cessation of irrigation, water will be returned to the river in most years.