

BUDGET ESTIMATES 2009-2010 QUESTIONS ON NOTICE

General Purpose Standing Committee No. 3

Lands

Friday 18 September 2009

Answers to be lodged by: Wednesday 14 October 2009

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LEGISLATIVE COUNCIL

1 General Purpose Standing Committee No 3 - Budget Estimates 2009-2010 - Questions on Notice 2

Hearing date	Portfolio	Answer to be lodged by
15 September 2009	Local Government	9 October 2009 [21 days]
15 September 2009	Mental Health	9 October 2009 [21 days]
15 September 2009	Attorney General, Industrial Relations	9 October 2009 [21 days]
15 September 2009	Corrective Services, Public Sector Reform, Special Minister of State	9 October 2009 [21 days]
18 September 2009	Lands, Rural Affairs	14 October 2009 [21 days]
18 September 2009	Police	14 October 2009 [21 days]
18 September 2009	Gaming and Racing, Sport and Recreations	14 October 2009 [21 days]
18 September 2009	Juvenile Justice, Volunteering, Youth, Veterans' Affairs	14 October 2009 [21 days]

General Purpose Standing Committee No 3 - Budget Estimates 2009-2010 Questions on Notice

Questions relating to the portfolio of Lands

18 September 2009, 9.15 am – 10.15 am

Questions from Mr Pearce

1. The Mini-Budget required a 20% reduction in SES employees.
 - a. How many SES employees were responsible to the Minister for Lands at the time of the Mini-Budget?
 - b. How many SES positions were removed?
 - c. What were the SES positions removed?

2. The organisational chart for the Department of Lands from its website showed under the Office of the Director General separate units for corporate governance, finance and corporate support, legal services, communication solutions group, information communication and technology and emergency information co-ordination unit – can you please indicate how many people are employed in each of these units and why each of these units is maintained within the Department or Ministry rather than using shared corporate services through Businesslink or other options?

ANSWER:

1a. One SES employee was directly responsible to the Minister for Lands. However, the Department of Lands included a total of 20 SES positions.

1b. Six

1c. Director Native Title, General Manager, Festival Development Corporation, Executive Manager, Production and Business Development, Land and Property Information, Registrar General, Surveyor General, Commissioner of the Soil Conservation Service of NSW

2.

<i>Corporate Governance</i>	<i>4</i>	<i>LPMA has staff of about 1800 and 13,000 trusts that are separate corporate entities. Audits are managed by the unit and contracted out to service providers.</i>
<i>Finance and Corporate Support</i>	<i>37</i>	<i>Finance Group are required to provide financial services to several entities both on and off budget. It also prepares 7 sets of financial statements.</i>
<i>Legal Services</i>	<i>22</i>	<i>LPMA Legal services provide the expertise to government on titling and conveyancing matters as well as supporting the State guarantee of title.</i>
<i>Communications Solutions Group</i>	<i>4</i>	<i>Small group that provides internal and external communications advice to businesses.</i>
<i>Information Communication and Technology</i>	<i>96</i>	<i>LPMA is supported by specialised IT staff because IT is intrinsically linked to operations particularly titling and mapping and the development of on line transactions for conveyancing and mapping.</i>
<i>Emergency Information Coordination Unit</i>	<i>9</i>	<i>Has the potential to save the Community of NSW considerable financial resources by coordinating emergency services information from LPMA data bases thus negating the need for emergency services to create duplicate sets of independent data.</i>

3. What progress has been made in the Mini-Budget measure for accelerated sale of perpetual leases and crown lands which is meant to provide \$18 million of revenue this financial year?

ANSWER:

3. Progress has been made on continuing this initiative with a number of sales already concluded, with an expectation that the budget target will be met.

4. Where is this \$18 million in the Budget Papers, in particular in revenues on page 18 – 50 of BP3 volume 2?

ANSWER:

4. The \$18 m is not included on page 18-50 of BP3 volume 2 within the estimates for the Minister for Lands.

All such revenue from Crown land leases are shown within the Treasurer's Crown Leasehold Entity revenue estimates on page 22-29; and is within the figures included on page 22-30.

5. Budget Paper No. 3 page 18-53 shows that expenses for the Department have increased from last year's Budget figure by \$9 million or 9.2%. This is way in excess of the Budget expenses growth figure for the entire State, why has it occurred?

ANSWER:

5. Expenses increased as a result of government approvals during the financial year for projects not originally foreseen (such as drought assistance to the Western Division farmers through the waiver of Wild Dog Destruction Board levy, additional sand pumped by the contractor from the mouth of the Tweed River and land purchased from BHP for addition to the Newcastle university). In addition, the Soil Conservation Service business has grown increasing both expenses and revenues.

6. Employee expenses are also shown to have increased by 9.32% which is well in excess of the 2.5% wages policy, what is the reason for this?

ANSWER:

6. The increase reflects additional funding being provided to meet government initiatives as well as to reflect additional costs incurred on projects which are funded from increased retained revenues.

7. Could you please explain what the ticks mean on the chart page 18-48 of BP No. 3?

ANSWER:

7. The ticks indicate which of the Service Groups meet the particular Results.

8. On that same chart, what is meant by the reference to "expenses excluding losses" – what are these losses?

ANSWER:

8. *This is a cross reference to the item in the operating statement detailed on page 18-53.*

Expenses excluding losses refer to those items listed on the top of page 18-53. They include employee related, operating costs, depreciation and other expenses. The losses are referred to as a separate item in the operating Statement on page 18-53 and relate to the provision for bad debts.

9. Could you please outline the purpose and outcomes in relation to Rural Community Forums referred to on page 18-50 of BP No. 3 and why there is a significant increase in these forums?

ANSWER:

9. The purpose of these rural community forums is to gain input from local rural communities into the Government decision making process.

The increase in these community forums was due to the establishment of a Rural and Regional Taskforce to examine and provide advice on key economic, environmental and social issues affecting rural and regional communities across NSW.

Questions from Ms Hale

10. Processing of land claims

a. What is the budget for the 'Land Claim Investigation Unit' of the Department of Lands for 2009-10?

ANSWER:

Approximately \$1.6 m

b. What was the actual expenditure for the 'Land Claim Investigation Unit' in the years:

i. 2006-07

ii. 2007-08

iii. 2008-09

ANSWER:

2006-07 – \$1.2 m,

2007-08 - \$1.4 m and

2008-09 - \$1.3 m.

c. How many full time staff (or equivalent) will be employed in the Land Claim Investigation Unit in 2009-10?

ANSWER:

12.8 EFT

d. How many full time staff (or equivalent) were actually employed in the Land Claim Investigation Unit in the years:

- i. 2006-07
- ii. 2007-08
- iii. 2008-09

ANSWER:

*2006-07 – 8.5 EFT,
2007-08 - 8.5 EFT and
2008-09 – 8.5 EFT*

e. How many regionally based full time staff (or equivalent) will be employed within the Department of Lands in processing Land Claims in 2009-10?

f. How many regionally based full time staff (or equivalent) were actually employed within the Department of Lands in processing Land Claims in the years:

- i. 2006-07
- ii. 2007-08
- iii. 2008-09

ANSWER:

11.1 EFT

g. How many Aboriginal persons were employed in the Department of Lands in the years:

- i. 2006-07
- ii. 2007-08
- iii. 2008-09

ANSWER:

*2006-07 - 21,
2007-08 - 20 and
2008-09 - 20 respectively*

h. How many Aboriginal persons were employed in the Land Claim Investigation Unit in the years:

- i. 2006-07
- ii. 2007-08
- iii. 2008-09

ANSWER:

*2006-07 - 21,
2007-08 - 20 and
2008-09 - 20 respectively*

11. Killalea

a. Minister, are you aware that 'tourist facilities' are only permissible at Killalea State Park due to a request from Department of Planning (or DUAP as it was known) to look at inconsistencies and overlaps in Shellharbour Council's land use document, which

resulted in Shellharbour Council deleting 'caravan parks' and replacing it with 'tourist facilities' for the zone that controls most of the park?

b. Did this change to definitions unintentional consequences, which may now lead to excessive development in Killalea State Park?

c. Was the Minister aware that Shellharbour Council and at least two other government departments had concerns with 'tourist facilities' being proposed in the plan of management prior to it reaching you?

d. Is the Minister aware that concerns in relation to the Plan of Management were raised in relation to the location, roof line, and philosophical shift to commercialism?

e. Was the Minister aware of political donations made to your party by Babcock and Brown?

f. Is the Minister concerned about a possible 'reasonable apprehension of bias' in this case, similar to the recent Land and Environment Court judgment found in relation to Catherine Hill Bay?

ANSWER:

- a. *Killalea State Park was / is zoned as Environmental Protection (foreshore) 7(f2) under the Shellharbour Local Environment Plan No.16 (superseded) and the Shellharbour Local Environment Plan 2000. The Shellharbour Local Environment Plan 2000 was gazetted on 2nd June 2000 and documented the expansion of the permissible uses in Zone 7(f2) Environmental Protection (foreshore) to include; Bed & Breakfasts; dwelling houses; recreation areas; and tourist facilities.*

The Killalea State Park Plan of Management Addendum December 2005 facilitated the use of Killalea State Park Reserve, dedicated for Public Recreation, for the additional purpose of "Tourist Facilities and Services" in accordance with the provisions of the Crown Lands Act 1989. Expansion of the prescribed public purposes of the reserve was initiated by the Community Trust Board appointed to manage the affairs of the reserve. The objective of the Killalea State Park Trust in seeking to expand the prescribed public uses of the reserve was to enable a greater variety of recreational, tourism and educational facilities and services to be developed on the park to better cater for the needs of the local community and visitors to the area.

- b. *No. All development proposals submitted for Killalea State Park must be in accordance with the development planning constraints set down in the adopted statutory Plan of Management. These constraints limit the level of tourism development permitted on the reserve.*
- c. *Prior to the adoption of the amended PoM the proposed changes were exhibited for public comment and the relevant government agencies were invited to lodge submissions. As a result of this process eight submissions were received including comments from Shellharbour Council. The comment submitted generally related to the higher level strategic plan of management provisions and process being undertaken under the Crown Lands Act 1989 rather than the more detailed planning matters that would be required to be addressed through the normal development application process under the Environmental Planning and*

d. See c. Above.

e. No

f. No

12. Martin Tebbutt lease - In regards to Martin Tebbutt's lease and the ongoing dispute with your Department:

- a. Do you concede that the inquiry (announced by the Minister on 29 August 2003) by PriceWaterhouseCooper (and concluded in February 2004) found that the Crown only had 3% equity in perpetual leases such as Mr. Tebbutt's?
- b. Do you concede that your Corporate Governance Unit believes the Minister made an announcement on 6 April 2004 stating that the Government proposed to allow applications for conversion of perpetual leases at 3% of market value?
- c. Do you concede that Mr Tebbutt paid close to 100% of the market value for my land in 1972 and again on 24 February 2004?
- d. And do you also concede that Mr Tebbutt paid your department \$396,000, plus stamp duties bringing the total purchase price to \$409,854.20 on 24 February 2004 and that he was not invoiced by your department until 21 June 2004?
- e. Do you concede that as at 18 June 2004 your department had not formally approved his application to purchase?
- f. Do you concede that following discussions between the Office of the Director General (your office) and the Metropolitan District Office that the Senior Policy Officer (Ministerial Liaison) and the Regional Manager, Sydney/Hunter decided that "a refund was payable" and gave Mr. Tebbutt written advice to that effect?
- g. Is it the case that until recently your website was still offering applicants the option of withdrawing their applications (lodged before July 2004) and re-applying under the 3% amendment?
- h. Do you concede that the Act contains the clause "An applicant may withdraw an application: before it is granted."?
- i. Can any contract between any parties be varied or cancelled, at any time, if both parties agree?
- j. Was Mr. Tebbutt's application the only one authorized by your department in the last 2 ½ months before the 3% amendment became law?
- k. Why did you not acknowledge a letter to you from Mr Tebbutt dated 22 February 2008 for over 12 months?
- l. Is your refusal to answer questions, and your refusal to grant the Tebbutts an interview, a breach of the standards of your published Code of Conduct?

ANSWER:

It is important to consider the salient facts of this case, which are:

- 1. Mr Tebbutt lodged his purchase application on 3 September 2001, which is 34 months before the new special purchase provisions of the Crown Lands (Continued Tenures) Act 1989 commenced on 1 July 2004.*
- 2. The purchase price negotiations concluded on 28 August 2002 when the former Department of Lands accepted Mr Tebbutt's counter offer of \$360,000. This was 23 months before the new special purchase provisions commenced.*
- 3. Since Mr Tebbutt, at his discretion, paid the purchase price in full on 26 February 2004, he became the beneficial owner of the land in question on that date.*

On this basis, I am satisfied that Mr Tebbutt's purchase application was correctly processed under the legislation in force at the time his purchase application was lodged, ie Schedule 7 of the Crown Lands (Continued Tenures) Act 1989. It is now time for Mr Tebbutt to consider his options, rather than continue to contend that he has been treated unfairly.

Questions from Ms Pavey

13. Ethanol Mandate

- a. What are the current NSW targets for ethanol & biofuels? Is NSW on track to achieve these targets?*
- b. How many companies have reached the 2008 targets (broken down by quarter)?*
- c. Have the Government/Minister for Lands/Office of Ethanol & Biofuels revised these targets?*
- d. What action is the Minister for Lands/Department/Office of Ethanol & Biofuels taking against companies who have not met the target?*
- e. Have you served any penalty notices or conducted any investigations into this matter?*
- f. If so, what are the details of these penalty notices/investigations into these matters?*

ANSWER:

- a. The current target is for ethanol to be 2% of the total volume of petrol sold. Yes.*
- b. 4th quarter 07 - 6, 1st quarter 08 - 8, 2nd quarter 08 - 9, 3rd quarter 08 - 8, 4th quarter 08 - 9, 1st quarter 09 - 9, 2Q09 - 9, 3rd quarter 09 - 9.*
- c. The 2% target for biodiesel which was to commence on 1 October 2009 has been suspended until 1 January 2010.*
- d. Each of the companies has required time to phase-in the product. Because each of the companies had a different start point and different issues to manage, the phase-in by each company has been monitored and managed on an individual basis through conditional partial exemptions, as provided under section 12 of the Biofuel (Ethanol Content) Act 2007. In all cases the conditions applied have been rigorous and include a requirement for the company to take all reasonable actions to comply with the mandate as soon as possible. The taking of all reasonable actions is also a defence against prosecution under the Act.*
- e. No.*
- f. Not applicable*

Hon. GREG PEARCE: I asked you also about information technology projects in the department and I actually listed a few of them in a short adjournment speech the other night. You claim that there are not any delays or overruns. I listed several of them, including the human resources information technology upgrade, property interests information technology system, imagery and mapping online service, national electronic conveyancing system, the survey infrastructure project, which all have delays and/or cost blow-outs?

The Hon. TONY KELLY: My advice was that that is not true and I will get the director general to respond to your claims?

Mr WATKINS: No, they do not have delays and cost blow-outs. What I think you are seeing is an organisation which is very responsive to not only market forces but also the needs of the community. We have a \$19 million capital development program. I should put on record that we were the first land titles registry in the world to computerise its records. Secondly, we are one of the leading organisations in the world, certainly in Australia, with respect to the application of computers to spatial information.

The movement of technology as an enabler to unlock the value in government information to increase service delivery is very significant. Therefore, we have a range of programs that need to be tailored from time to time to meet those needs, so it is inappropriate to take one-line items and a broad figure, which could encompass four to five projects, and say that there has been a cost blow-out. What you need to do—

The Hon. GREG PEARCE: Perhaps you could give a detailed answer on each of those projects and take that on notice?

Mr WATKINS: Yes, I would be very happy to, because the gross statements, with respect, do not pay due diligence to the nature of the work undertaken.

ANSWER:

In respect of the projects mentioned by Mr Pearce, the Land and Property Management Authority has advised as follows:

Human Resources Information Technology Upgrade

LPI was required to reduce its capital expenditure by \$2.5 million in 2008/09 as result of the November mini-budget. Commencement of this project was deferred until 2009/10 as a result.

Property Interests Information Technology System

An additional \$1.171 million has been allocated to this project to expand its initial scope, which was the development of a Government Property Registry. The project now includes development of IT systems capable of providing a central point of delivery allowing the community, business and government to access whole of government information on property interests affecting land. This new scope has been approved by Treasury. The project completion date remains unchanged.

Imagery and Mapping Online Service

In response to customer feedback about their requirements, the scope of this project has increased to incorporate a combined discovery and delivery capability for spatial information, accessible via an e-catalogue. An additional \$251,000 has been allocated and project duration has been extended by one year.

National Electronic Conveyancing System

Development of a National Electronic Conveyancing System is one of the projects contained within COAG's National Partnership Agreement to deliver a seamless national economy. The new completion date of 2011 was set by COAG. LPI will incur additional costs of \$448,000 supporting the interim national coordinating body, the National Electronic Conveyancing Office.

Survey Infrastructure Project

This is a program of works of substantially greater scope than originally envisaged during the first phase of the project. Additional costs are due to the acceleration of plans to implement CORS-net NSW, a network of continuously operating reference stations across the State capturing data from global navigation systems in real time. Allied to this is the requirement to upgrade aging survey infrastructure equipment to gain maximum efficiency and productivity from the new technologies. Treasury has agreed to the increased scope and cost of this program.

The Hon. DAVID CLARKE: Minister, given the importance of the modern land transfer system and resolution of many Crown land issues to ordinary mums and dads, landholders and small businesses, why has so little been achieved in your term as Minister for Lands in updating the service levels, practices and procedures, and information technology in the Department of Lands?

The Hon. TONY KELLY: I think that is, again, a very false claim. In fact, you have just heard the director general point out that we were one of the first in the world to go onto some technology, so perhaps I should just let the director general explain some of the things that have happened over the last decade—more particularly since about 2003.

Mr WATKINS: Just touching on a few of those salient points, I have just placed on record that, indeed, the titles office, which forms an integral part of the former Department of Lands and now the Land and Property Management Authority, is in fact a world leader in the application of technology and the creation, design and implementation of title systems and land information systems generally.

The Hon. DAVID CLARKE: Who says it is a world leader?

Mr WATKINS: It is a world leader because we are constantly sought by the World Bank, the Asian Development Bank and other places around the world to consult with them in the application of our systems. We constantly get visits from various parts of the world to investigate our systems. Secondly, as the Chair of the Australian and New Zealand Land Information Council, I am in a strong position to oversight policy and direction for the whole of Australia and New Zealand with respect to the development of land information systems.

The Hon. DAVID CLARKE: So it is your opinion that you are a world leader?

Mr WATKINS: No, with respect, what I said was that my opinion is based on a demonstrable fact. It is based on the fact that we have constant requests from across the world—and I am quite happy to place on record what they might be and give you information if that is what you seek—which demonstrate that we are, in fact, sought as one of a number of groups around the world which are world leading. That is also based on, indeed, the fact that we have won a number of awards in this area. This is not a moment to boast; it is a moment just to deal with facts, and the facts are quite demonstrable that we are a world leader, in not only Australasia but the world in the very points that you have mentioned we are lagging in.

ANSWER:

Multilateral and bilateral aid agencies recognise that land titling, land administration and land information systems are essential to the economic and social stability of developing nations. These funding agencies, together with potential clients, regard LPI as a world leader in the application of technology, land law, spatial information, and systems of land records administration.

LPI has for many years provided expert personnel to projects on a joint venture or consortium basis with other public and private sector organisations. These projects, supported by international funding agencies have focused on modernising land administration systems in developing nations in Asia, Africa and Eastern Europe to name a few.

LPI also hosts related study trips and visits by government and public sector representatives from participating developing nations to learn hands on about land administration as it operates in NSW. In the past two years LPI has received 17 delegations, with a total of almost 200 delegates, from Thailand, China, Singapore, Japan, Laos and Vietnam.