



**Treasurer
Minister for
Industrial Relations**

Mr Stewart Smith
Director, Budget Estimates
Room 812
Legislative Council
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Mr Smith

GPSC1 Budget Estimates 2014- Treasurer & Minister for Industrial Relations

Please find enclosed responses to questions taken on notice in the transcript as well as responses to additional questions on notice.

Yours sincerely



THE HON ANDREW CONSTANCE MP

BUDGET ESTIMATES 2014-2015
QUESTIONS ON TAKEN NOTICE DURING THE HEARING
TREASURY
22 August 2014
Answers to be returned by: Tuesday 16 September 2014

Transcript Page Reference - Page 11

The Hon. ADAM SEARLE: Will you take on notice the explanation for each year's underspend?

Mr ANDREW CONSTANCE: Of course I am happy to take on notice any question that you might provide. Provide the questions on notice.

Answer:

The Government is proud of this achievement. This Government has managed to provide more infrastructure for less money ahead of schedule. These improvements in budget outcomes were not easy, but they will allow this Government, unlike previous ones, to invest even more to clear the \$30 billion of infrastructure backlog left by the ALP. We will work hard in the future to get even more bang for the tax payers' buck, and hope that we will be in a position next year for you to ask this very same question.

Transcript Page Reference - Page 12

Mr DAVID SHOEBRIDGE: If only it was up, given this particularly pathetic behaviour from a bunch of spoilt, overpaid brats. It has been a pretty disgusting performance. Treasurer, how much funding has been allocated to the adviser Goldman Sachs to manage the proposed sale of the Cobbora coal project?

Mr ANDREW CONSTANCE: I will hand over to Mr Tim Spencer as the Deputy Secretary on that issue. Again, I was not engaged in that process as I was not Treasurer at the time. Allow me to hand that question over to Mr Spencer. If there are any further specific questions we can take them on notice.

Mr SPENCER: I will probably in large part take that question on notice. Goldman Sachs is under a contract which covers the sale of the generation assets and Cobbora. The actual amount contributed by the Cobbora project will not be known until the conclusion of that process.

Mr DAVID SHOEBRIDGE: What about the overall consultancy contract then? Can you give us an answer in relation to that?

Mr SPENCER: Again, it depends on the outcome of the process. Under the contract it is not a contract that has an hourly or a daily fee; it depends on the outcome of each of the sale processes that has been undertaken over the past year or so.

Mr DAVID SHOEBRIDGE: Mr Spencer, perhaps on notice then you could provide answers on the payments to date under the contract—and, if you can, divided between Cobbora and the balance of the contract—and what the budgeted or estimated costs will be under that contract going forward?

Mr SPENCER: I will take that question on notice.

Answer:

The total estimated contract value (exclusive of GST) is available at <https://tenders.nsw.gov.au/?event=public.cn.view&CNUUID=1EEC9107-987C-4318-37B0F8E3B2D08520>

Transcript Page Reference - Page 13

Mr DAVID SHOEBRIDGE: Mr Spencer, has the Government placed a time frame on the expression of interest for the sale of the mine site?

Mr SPENCER: Not an end time frame at this stage.

Mr DAVID SHOEBRIDGE: Do you have any indicative time frame that you are working to?

Mr SPENCER: I can take that on notice.

Answer:

Expressions of interest have been received and are being evaluated. Following evaluation a decision will then be made regarding the next transaction phase. The transaction process is scheduled to conclude by the end of this calendar year.

Transcript Page Reference - Page 15

CHAIR: Order! What is the direct answer to my question about those specific sites?

Mr ANDREW CONSTANCE: Specifically in relation to Manly and Cronulla I would have to get you more exact details from those respective Ministers about what their agencies are planning in terms of that. One point that I would make under the Property Asset Utilisation Taskforce [PAUT] report is that whenever there is a decision made such as the relocation of specific functions and what have you, those property assets and the benefits to be derived from those property assets must remain within the respective portfolio area. I can get you more specific details in terms of the future around Manly Hospital and Cronulla Fisheries and report back to you.

Answer:

The NSW Government has not yet determined the future use of the Manly Hospital site and is inviting the local community to provide their suggestions through the Community Advisory Group.

The ongoing management of the former Cronulla Fisheries site is now in the hands of the Hungry Point Trust. The NSW Government does not have any direct role in the management of the site. More information may be obtained from the Trust.

Transcript Page Reference - Page 16

CHAIR: Thank you. Can the Treasury advise the Committee how much money the Government allocates to community grants in the Sydney metropolitan area?

Mr ANDREW CONSTANCE: Community grants? I might have to take that question on notice. Yes, it would be best to take that question on notice.

CHAIR: Can the Treasury advise the Committee on any community grants specifically designed to support the promotion or running of the Sydney Gay and Lesbian Mardi Gras? Who can apply for those grants?

Mr ANDREW CONSTANCE: I think there might be some allocation of funding through Destination NSW, but again I would have to take it on notice. We do run a Community Building Partnership program which again is designed to assist. It is an allocation of funding to support community projects within individual electorates. Again, I would just have to take that question on notice.

Mr DAVID SHOEBRIDGE: And it is a major economic boom for Sydney.

CHAIR: In other words, could you clarify the finances allocated to Major Events for community grants and other purposes?

Mr ANDREW CONSTANCE: Again, I will take that on notice for you.

Answer:

This matter has been referred to Destination NSW for consideration.

Transcript Page Reference - Page 16

CHAIR: What is the total amount in money, just approximately, that you expect? You must have some anticipated figure in mind for budgeting purposes in future budgets.

Mr GAETJENS: Not particularly for coal seam gas.

Mr DAVID SHOEBRIDGE: Are you asking about the CSG or all royalties?

CHAIR: No, CSG.

Mr GAETJENS: I will take that on notice, but it would not surprise me if we had nothing in the budget for CSG.

CHAIR: What may be an anticipated figure, then?

Mr ANDREW CONSTANCE: In the budget we have had a downward revision in terms of royalties, Mr Chair, because of the downward turn and weakness in coal prices. That is obviously something which is affecting the industry and therefore is going to affect royalties into Government. Again, we will obviously do our level best to provide you with further information, if that is what you are seeking.

Answer:

This would be more appropriately directed to the Minister for Resources and Energy, Hon Anthony Roberts MP.

Transcript Page Reference - Page 24

Mr DAVID SHOEBRIDGE: Thank you, Mr Chair. Mr Gaetjens, in the last round of questioning I was seeking to ask you the questions in relation to the purchase of shares in Ramsay Health Care Limited or Healthscope Limited or any of the subsidiaries. I was hoping in the interregnum you have had time to think about that and put the answer on the record.

Mr GAETJENS: Thank you, Mr Shoebridge. In terms of my role as chair of TCorp, TCorp manages assets on behalf of agencies in the State. The State has quite a few liabilities against which it needs assets to offset: the Treasury Managed Fund, which covers insurance; Safety, Return to Work; and even the Long Service Corporation. They are investments and assets that TCorp invest in. Through that process it is done independently of TCorp. The model that is adopted—

Mr DAVID SHOEBRIDGE: We are getting to Ramsay Health Care at some point, are we?

The Hon. MELINDA PAVEY: Order!

Mr GAETJENS: TCorp adopts a manager-of-manager approach for its investment assets. Neither I as chair, or the management of TCorp make any decision about the investments made in those asset funds that are held on behalf of the State. Unless I went and specifically asked the question I would not know the equity holdings of those asset funds.

Mr DAVID SHOEBRIDGE: Could you take it on notice then and ask the question?

Mr GAETJENS: I am pleased to take it on notice but I agree with the Treasurer. Neither the Treasurer or the TCorp management board, or anyone of the Government, becomes involved in individual investment decisions.

CHAIR: Is the question clear to you?

Mr GAETJENS: Yes.

CHAIR: The question is on notice.

Mr DAVID SHOEBRIDGE: Thanks, Mr Chair.

Mr GAETJENS: Could you name the companies again?

Mr DAVID SHOEBRIDGE: Ramsay Health Care Limited or Healthscope Limited or any of the subsidiaries of those companies.

Mr GAETJENS: Thank you.

Answer:

Please see answer to question on notice number 39.

Transcript Page Reference - Page 24

Mr DAVID SHOEBRIDGE: Treasurer, you said in an earlier answer that coal royalties had fallen by \$153 million.

Mr ANDREW CONSTANCE: Projected it says—budgeted to.

Mr DAVID SHOEBRIDGE: That is the budgeted fall for the last financial year, the 2013-14 financial year that you were talking about, is it not?

Mr ANDREW CONSTANCE: I will just go back and have a look. Yes, I use the frequent term of "forward estimates". Again, I am happy to give you the outline across the forward estimates, Mr Shoebridge.

Answer:

In the 2014-15 Budget, coal royalties over the four years to 2016-17 have been revised down by \$832 compared to the 2013-14 Budget as a result of lower coal prices and a higher exchanges rate.

Transcript Page Reference - Page 25

Dr JOHN KAYE: At that meeting, Mr Gaetjens, was Mr Hubby present?

Mr GAETJENS: I am not absolutely sure of the date, but I will take that on notice.

Answer:

The meeting took place on 4 July 2014 and Mr John Hubby was in attendance for part of the meeting.

Transcript Page Reference – Page 25

Dr JOHN KAYE: Can you recall what the Hon. Matthew Mason-Cox said when he attended that meeting?

Mr GAETJENS: Not specifically, and we are now getting to areas, I think, where I—

The Hon. MELINDA PAVEY: It is not in relation to expenditure.

Dr JOHN KAYE: It is, actually.

Mr GAETJENS: I would be happy to take this on notice because there is advice from the Clerks of the Parliament that put this area of questioning in a grey area for me to answer at the moment.

Answer:

Refer to the following question.

Transcript Page Reference - Page 25

Dr JOHN KAYE: Let me ask you this: Did the Hon. Matthew Mason-Cox express to Mr Stowe that he no longer held his confidence?

Mr GAETJENS: I will take the same approach to that question.

Dr JOHN KAYE: You will take it on notice?

Mr GAETJENS: Yes.

Answer:

In evidence at the GPSC4 examination of proposed expenditure for the Fair Trading portfolio, Mr Rod Stowe indicated that discussions relating to his employment were between him and his employer and not for public discussion. On this basis the disclosure of the information required by the question would be prejudicial to the privacy or rights of another person.

Transcript Page Reference - Page 25

Dr JOHN KAYE: Thank you. I will ask you another question with respect to the issue that Mr Shoebridge was following. Has Treasury done any projections on the financial savings associated with the healthcare model being pursued at Northern Beaches hospital, that is to say, passing the responsibilities for delivery of public hospital services to the private sector? Have you projected budget savings or is there any way you can see from the budget what the budget savings, the cost differences would be?

Mr GAETJENS: Again, I think I will take that on notice. Our infrastructure finance unit is part of the group of people looking at the options to proceed with Northern Beaches and I think in that respect, again, we would be helping particularly with the financing aspect and, again, the financing aspect would look at the overall financial impact of the project. So to the extent we or Health has looked at the change to cost infrastructure on that I would take that on notice, but we would be addressing it through that lens.

Dr JOHN KAYE: You would be looking at the capital cost of building a new hospital, which has passed largely but not entirely to the private sector, and you would be looking at the operational costs of running that hospital, is that correct?

Mr GAETJENS: Correct.

Dr JOHN KAYE: Are you in a position to provide the Committee, either on notice or here, with any projections around that? What will be the cost savings?

Mr GAETJENS: I will take that on notice. I think we are assessing those now. I will take that on notice.

Answer:

Please see answer to question on notice number 41.

Transcript Page Reference - Page 25

Dr JOHN KAYE: Is that largely the same public sector comparator that was used eight or nine years ago? Has it changed dramatically over the past nine years?

Mr GAETJENS: I would have to take that on notice.

Dr JOHN KAYE: In answering that can you show us the ways in which it has evolved? My recollection is that it was initially introduced at schools.

Answer:

The NSW Government derives the public sector comparator in accordance with the National Public Private Partnership Policy and Guidelines. The Council of Australia Governments endorsed the Policy and Guidelines on 29 November 2008. Volume 4 of the Policy and Guidelines: Public Sector Comparator Guidance, has not been updated since 2008. The public sector comparator has not evolved over the past nine years.

The NSW Public Private Partnership Guidelines (2012) note that to maintain its usefulness as a tool, the public sector comparator should be:

- accompanied by qualitative considerations in determining the potential value for money of a private finance arrangement to ensure that it is consistent with the nature of the proposed project;
- calculated differently for economic and social infrastructure projects;
- subject to sensitivity testing and scenario analysis; and
- sufficiently flexible to allow new information to be incorporated as it comes to light.

NSW Public Private Partnership Guidelines explain how the NSW Government derives the public sector comparator.

- Public sector comparators are the main quantitative benchmark for testing value for money of PPP bids received during the procurement process.
- A public sector comparator is an estimate of the net present value (NPV) of a project's whole of life costs and revenues using the most efficient and likely form of Government delivery.
- The preliminary comparator is developed before issuing an EOI, to quantify the contract value of the PPP project.
- The comparator will be refined as details of the project scope are defined and should be fully updated before accepting responses from RFP submissions.
- The comparator must be fully updated prior to the Government receiving detailed proposals from the shortlisted bidders.
- However, the comparator is a dynamic tool. It may need to be updated for comparison with final bids, subject to certain constraints.
- The construction of a public sector comparator requires a high level of technical expertise in project costing, financing and risk analysis. NSW Treasury is responsible for advising on the development of comparators and will assist agencies with advice on technical issues, including the discount rate to be used in comparing PPP Bids to the comparator.
- Where an agency wishes to deviate from the methodology in the National Guidelines and determine a specific discount rate based on current market data, NSW Treasury must approve the discount rates used.

Transcript Page Reference - Page 27

CHAIR: Thank you, Dr John Kaye. Treasurer, earlier I was asking some questions about income from royalties and so on. The reason I was asking those questions is that there is some concern from the thoroughbred industry in the Hunter Valley about the harmful impact of coalmining and future coalmining. Their argument is that they contribute \$15 million, which is the figure I heard, to the economy through taxation and other means. When you look at a coalmine, do you weigh up the royalties versus the income from another industry, and would

that be a factor as to whether we should go ahead with a coalmine, if we are going to have a coalmine, but lose another industry? Is there any concern about protecting an already viable industry in the Hunter Valley such as the thoroughbred industry?

Mr ANDREW CONSTANCE: Ultimately, planning decisions rest with the PAC, and they factor in a whole raft of things. Personally I want to see both industries thrive in this State. They are important employers. The racing industry generates employment for around 50,000 people across the State. It is an important industry, particularly for the Hunter region. I would like to see the industry grow on the far South Coast. By the same token, we also need mining in this State. We do our level best to ensure that we have the right regulatory regime. My observation is that when we came to office we had an appalling situation where exploration licences were thrown around like confetti. We have sought to tighten that process right up. At the same time we have seen a very concerted effort on the part of the Government to try and strengthen the regulatory environment around the mining sector. It is a real challenge and occasionally you do see industries obviously butt up against each other. But decisions in relation to planning rest with the way in which the planning Minister ensures that the right framework is in place and, ultimately, the independent decision-making rests with the Planning Assessment Commission.

CHAIR: They would certainly take into account the viability of an existing industry?

Mr ANDREW CONSTANCE: I am not here to respond in that regard. That is a question for the planning Minister. Again, I am happy to take the question on notice.

Answer:

I am advised that the *Environmental Planning & Assessment Act 1979* requires a range of matters to be considered in the assessment of major proposals. These factors include the likely impacts of any proposal on the natural and built environments, the likely social and economic impacts of the proposal on the locality, as well as the public interest. The requirement to assess impacts is broad and requires the consideration of both the likely positive benefits of the proposal as well as the likely negative effects of it.

Transcript Page Reference - Page 28

CHAIR: Has your department ever attempted to assess the social and economic costs of gambling, for example, the negative cost of family breakdowns, divorces et cetera and the increased expenditure to Family and Community Services as a consequence.

Mr ANDREW CONSTANCE: I will ask the Treasury Secretary to answer as to whether any assessment has been done on the social impact. It is not a question I have posed to him in the three months I have been Treasurer. But can I say more broadly that no-one wants to see anyone suffer from potentially addictive gambling and this should be a concern for everyone in the community—from me as Treasurer to the Premier and so on.

Mr GAETJENS: Mr Chair, I cannot tell you whether we have done anything specifically in Treasury but I will take the question on notice. Certainly the issue has been widely taken up nationally. An Australian Productivity Commission report looked at the wider consequences of gambling and I think the matter has been covered in that report and others. As the Treasurer has said, it is something that all governments take into account when they look at this issue.

Answer:

Treasury has not undertaken any such assessment.

Transcript Page Reference - Page 33

The Hon. ADAM SEARLE: So it has to be notified but the portfolio Minister cannot refuse a charge, cannot lower a proposed charge and cannot block a proposed charge. Is that correct?

Mr SPENCER: That is correct. There is the ability for the Premier to refer pricing to the Independent Pricing and Regulatory Tribunal [IPART].

The Hon. ADAM SEARLE: But IPART cannot then block that proposed charge or any proposed increase. Is that correct?

Mr SPENCER: I would have to take that on notice. I am not sure about the powers of IPART in that regard.

The Hon. ADAM SEARLE: Under division 6A of the Act that was passed and proposed by the Government there is no power in IPART or the Government to control any port charges, is there?

Mr ANDREW CONSTANCE: I think it has just been outlined that there is a light-handed regulatory regime.

The Hon. ADAM SEARLE: By light handed you mean no regulation—giving notification only.

Mr ANDREW CONSTANCE: I put in context the way Labor abused taxpayer moneys to subsidise these charges in the past when that money should have been spent on hospitals, schools and roads.

CHAIR: Treasurer, do you want to take that question on notice to allow for further investigation?

Mr ANDREW CONSTANCE: I would be happy to.

Answer:

Under principles adopted by the Council of Australian Governments:

- commercial outcomes should be promoted by establishing market frameworks in preference to regulation,
- but where there is a need for regulatory oversight of prices, price monitoring should be considered as a first step.

Port users tend to be large, sophisticated businesses with significant commercial bargaining power. There is not considered to be asymmetry of market power that would necessitate heavy-handed price regulation by the State.

The Government introduced a light handed price monitoring regime in 2012, which applies to all major ports in New South Wales. The regime is established under Part 6 of the *Ports and Maritime Administration Act 1995*.

As part of the light handed regime, all NSW ports including the private port lessees must:

- give advance notice of any proposed change in its service charges to the Minister and on its website, including a rationale for how the increase is calculated, why it is needed and who will pay it
- provide an annual report to the Minister on the charges levied and revenue raised.

The Minister has the power to require information about the amount, purpose and administration of any charge be supplied to the Government.

Under the light handed regime, IPART does not have a role in approving or blocking proposed charges. However, in performing the price monitoring role, the Minister or his department, could be assisted by the Government's independent pricing watchdog, IPART, as allowed under section 9 of the IPART Act.

Also, if the Government is not satisfied with the port lessee's pricing behaviour, the Premier has the ability under section 12A of the IPART Act to refer the port to IPART for review. Section 12A reviews including a public hearing and the report must be made public.

In the event of pricing disputes a port user can always apply to the National Competition Council to have the asset declared as nationally significant infrastructure under the Commonwealth Trade Practices Act.

The NSW Government's pricing regime features stronger oversight than what was put in place by the Queensland Government when it leased the Port of Brisbane in 2010.

Transcript Page Reference - Page 33

The Hon. ADAM SEARLE: Yes, the port SEPP. Was the intention to create that port SEPP, and its terms, communicated to bidders and potential bidders for that lease before the lease was entered into?

Mr ANDREW CONSTANCE: I was not Treasurer at the time. We will take the question on notice.

The Hon. ADAM SEARLE: Perhaps Mr Gaetjens could answer that question. He was there for that.

Mr ANDREW CONSTANCE: It sounds like a question for the Minister for Planning to me.

Mr GAETJENS: I will take that on notice.

Answer:

During the preparations for the long-term lease of the Port of Newcastle, the Department of Planning and Environment prepared an amendment to the State Environmental Planning Policy (Port Botany and Port Kembla) Act 2013 to include planning provisions for the Port of Newcastle that reflected the fact that the port would have a private, rather than public, operator after the finalisation of the lease.

The draft SEPP Amendment was publicly exhibited on the Department's website from 26 November to the 16 December 2013. Bidders were given a copy of the consultation draft and referred to the Department's website further information.

Following the exhibition period, bidders for the port were provided with information about the finalisation of the draft SEPP Amendment as part of the due diligence process.

Bidders were provided with a copy of the finalised SEPP Amendment when it was submitted to the Governor. After the SEPP was made, Bidders were also advised of the document's publication on the NSW Government's legislation website.

The SEPP Amendment commenced on 31 May 2014, that is, the day after transaction financial close.

Transcript Page Reference - Page 34

The Hon. ADAM SEARLE: I ask that this next question be taken on notice either by you, Treasurer, or by Mr Gaetjens. Did any of the bidders for any of the ports know about any proposed land-use changes for any of the three ports? I am happy for you to take that on notice to make sure there is no misunderstanding about what I am asking. Are you happy to do that?

Mr ANDREW CONSTANCE: Yes.

Answer:

The transaction processes for Port Botany, Kembla and Newcastle included thorough due diligence and disclosure processes, as is normal for major asset transactions of this nature. As part of these processes, to the extent the port corporations had proposals and concepts for redevelopments and changed land uses at particular sites, this was disclosed to bidders.

For all three Ports, bidders were provided with copies of the relevant draft SEPP and associated explanatory materials, which were available publicly on the Department of Planning's website for exhibition purposes. The draft SEPP and explanatory materials would have revealed to bidders what land use changes were proposed. In the case of the Port of Newcastle, the relevant SEPP was finalised and made by the Governor well in advance of bids being submitted, so any proposed land use changes under the SEPP were known for certain by bidders.

Transcript Page Reference - Page 34

The Hon. ADAM SEARLE: Mr Spencer, could you explain the difference on that page 6? It says that the stamp duty paid for the sale of the port is \$215 million but then above it says the "transfer of stamp and mortgage duty from the Crown entity" is \$223.5 million. So there is a small difference. Can you explain that?

Mr SPENCER: I will have to take that question on notice.

The Hon. ADAM SEARLE: Also on that page it lists an amount of \$4 million for section 9 (2) payments made to regional and rural areas. Can you provide, and I am happy for you to take this on notice, a breakdown of how that \$4 million is to be expended or was expended?

Mr ANDREW CONSTANCE: Sure.

Answer:

The difference is mortgage duty. Stamp duty was \$215.4m and mortgage duty was \$8.1m.

Transcript Page Reference - Page 34

Mr DAVID SHOEBRIDGE: Treasurer, why is there a clause in the Newcastle port leasing documents prohibiting wind turbines?

Mr ANDREW CONSTANCE: I am happy to take that on notice.

Answer:

Please see answer to question on notice number 51.

Transcript Page Reference - Page 36

Mr DAVID SHOEBRIDGE: What is the estimated future thermal coal price that has been relied upon for Treasury's future projections? Is it \$US90 a tonne?

Mr ANDREW CONSTANCE: We can get you specifics around that.

Answer:

The thermal coal export price is an average of \$90/ton over the forward estimates (i.e., over the 3 years to 2017-18). This is based on information available at the time of preparing the 2014-15 Budget.

Transcript Page Reference - Page 37

Mr DAVID SHOEBRIDGE: May I ask through you to Treasury what is it doing in terms of

reviewing that forecast given that at the moment it seems to bear no relationship to reality with both the current and forecasted price of thermal coal?

Mr GAETJENS: We will re-examine our forecasts leading up to the half-yearly review. It would not surprise me at all if there is a different methodology between our forecast and the term to which it applies and the forecast taken by Federal Treasury, if in fact it is a forecast rather than a technical assumption. We will take that on notice but I suspect you are maybe not comparing apples with apples.

Mr DAVID SHOEBRIDGE: Could I ask you to take on notice the review of those forecasts for 2014-15 through to 2017-18, given the current status of thermal coal and the spot price being greatly below the \$US90 a tonne in your estimates?

Mr GAETJENS: We can do that.

Mr DAVID SHOEBRIDGE: Could you provide on notice any revised estimates for those forward years?

Mr GAETJENS: We will revise our estimates at the half-year review time, if necessary.

Answer:

The 2014-15 Commonwealth Budget indicates that its outlook for commodity prices is based on the Australian Treasury's medium-term economic projection model. The coal price projections in the NSW Budget were based on the latest broker data at the time.

Any revisions to the current NSW forecast will be in the 2014-15 NSW Half-Yearly Review.

BUDGET ESTIMATES 2014-2015
QUESTIONS ON TAKEN NOTICE DURING THE HEARING
INDUSTRIAL RELATIONS
22 August 2014
Answers to be returned by: Tuesday 16 September 2014

Transcript Page Reference - Page 40: "Breakdown of enquiries between public sector and private sector"

NSW IR received 17,170 telephone enquiries between 1 July 2013 and 30 June 2014. Of those calls, 160 were identified as public sector enquiries (0.93%).

The complete breakdown is as follows:

Long Service Leave and pro rata LSL enquiries	14,515	(84.53%)
Referrals to Fair Work Ombudsman (Awards, wages)	873	(5.1%)
Other	765	(4.45%)
Referrals to Long Service Corporation (Building & Construction, Cleaning portable schemes)	372	(2.2%)
NSW Public Sector enquiries (referred to agency)	160	(0.93%)
Referrals to ATO (tax, superannuation)	118	(0.68%)
Referrals to WorkCover (WHS, Workers Comp)	70	(0.40%)
Referrals to Fair Trading (Licencing, contracts)	42	(0.24%)
*Public holidays	83	(0.48%)
*Retail trading	80	(0.46%)
*Entertainment industry	55	(0.32%)
*Taxi industry	37	(0.21%)

Note: Topics with * only collected since 1 January 2014.

In relation to email enquiries, there is no breakdown between the public and private sectors, as this information is not collected.

Transcript Page Reference - Page 40: "Enforcement proceedings"

Enforcement proceedings (prosecutions) are generally a last resort, as they are time consuming and can be costly for the parties. NSW IR has a strong preference for bringing parties together to negotiate a settlement – usually the payment of entitlements which have been established by way of an investigation. There are some occasions where prosecution is also preferred as a means of deterrence.

In 2013-2014 there were four prosecutions of taxi operators for failing to pay annual leave entitlements to taxi drivers. Each prosecution was successful, with orders to pay drivers and the imposition of civil penalties on each taxi operator, as follows:

Herxin Co.	Ordered to pay driver \$4,530.96	Civil penalty imposed \$1,000.00
Bennelong Cabs	Ordered to pay driver \$18,134.71	Civil penalty imposed \$4,000.00
Alexandria Cabs	Ordered to pay driver \$18,283.75	Civil penalty imposed \$5,000.00
Tanwar Enterprises*	Ordered to pay driver \$1,464.42	Civil penalty imposed \$1,000.00

(*Note: Tanwar Enterprises has lodged an appeal with the Industrial Relations Commission against the decision of the Chief Industrial Magistrate's Court. That appeal is pending.) NSW IR also defended appeals against two previous prosecutions. One was an appeal against the Magistrate's decision to order payment of unpaid long service leave to a former employee (private sector). In that matter the Industrial Relations Commission dismissed the appeal and reordered the payment of outstanding long service leave to the former employee.

The second was an appeal against the Magistrate's decision to order payment of unpaid annual leave owed to a former employee (private sector). In that matter the Magistrate dismissed the appeal and reordered the payment of unpaid annual leave to the former employee. (Note: In this matter the employer has lodged a further appeal in the District Court. That appeal is pending.)

Transcript Page Reference - Page 41: "A more detailed report on compliance and enforcement functions"

The response to QoN 139 provides details of the 203 investigations finalised in 2013 - 2014. These investigations relate mainly to the private sector, not the public sector.

Transcript Page Reference - Page 42: "Common problems in Indigenous communities"

The NSW IR ATSI unit, although small, is very active in assisting Indigenous communities – employers and employees – understand their rights and responsibilities. Approximately 35% of the effort is providing employers (including committees of management of community organisations) with information and advice and about 65% responding to questions or providing advice to employees.

The most common topics about which questions are asked or advice sought are:

- Modern awards and classifications
- Enterprise Bargain Agreements
- Wages (including the minimum wage)
- Performance management
- Terminations and redundancies

The NSW IR ATSI team writes regular articles for the *National Indigenous Times*, conducts regular information segments on indigenous radio, attended 40 community events (information stalls, often in collaboration with other government agencies) and produced a quarterly newsletter *Two Rivers*.