

GENERAL PURPOSE STANDING COMMITTEE NO.5
QUESTIONS RELATING TO THE PORTFOLIOS OF
ENVIRONMENT AND HERITAGE
1 December 2011

QUESTION 1

- a) Has the Office of Environment and Heritage prepared, within the last 12 months, any reports or maps on koala conservation priorities or options, including habitat and corridor conservation proposals in State Forests?
- b) If so, will you provide the Committee with these proposals and options, in map and report format?

ANSWER

The Office of Environment and Heritage has not published any reports or maps on koala priorities or options in the last 12 months for State Forests.

QUESTION 2

Will you provide the Committee with copies of all correspondence, minutes or briefings since 26 March 2011 between the Office of Environment and Heritage and local government councils or organisations of councils relating to Koala habitat classification and protection and Koala Management plans?

ANSWER

Providing this information would entail an unreasonable diversion of resources.

QUESTION 3

- a) How many Property Vegetation Plans covering core koala habitat mapped by the Coffs Harbour City Council Koala Plan of Management have been issued by the Office of Environment and Heritage since 26 March 2011? What area of core koala habitat as identified by the Coffs Harbour City Council Koala Plan of Management has been approved for logging?
- b) How many Property Vegetation Plans covering core koala habitat as identified by the Australian Koala Foundation's Koala Habitat Atlas and adjacent to Bulga State Forest have been issued by the Office of Environment and Heritage since 26 March 2011? What areas do these approvals cover?
- c) How many Property Vegetation Plans have been developed by Forests NSW on behalf of private land holders?
- d) How is the Office of Environment and Heritage ensuring its responsibilities under the New South Wales Recovery Plan for the Koala are being met, when Private Native Forestry approvals are being issued with no requirement for pre-logging koala surveys?

ANSWER

- a) The Coffs Harbour City Council Koala Plan of Management does not use the definition core koala habitat as defined in State Environment Planning Policy 44.
- b) The Office of Environment and Heritage does not use the Australian Koala Foundation's Koala Habitat Atlas when issuing approvals for forestry on private land.
- c) This question should be addressed to Forests NSW.
- d) The Private Native Forestry regulatory framework, introduced in August 2007, recognises the habitat requirements of koalas, and protects core koala habitat. When

landowners approach the Office of Environment and Heritage to obtain a Private Native Forestry Property Vegetation Plan (PNF PVP), they are advised of their responsibilities to protect koalas and supplied with information on all known locations of koalas, Council's koala plan of management and advice on how to identify their presence in the field. Once a PVP is in place, forestry operations must comply with the Private Native Forestry Code of Practice. The landowner or their agent must prepare a Forest Operations Plan that identifies the presence of koalas on the site.

QUESTION 4

How many Aboriginal people attended the consultations regarding reform to Aboriginal culture and heritage protection, held by OEH over the last month or so?

ANSWER

Approximately 340 Aboriginal people attended the regional workshops through November/December 2011.

QUESTION 5

How many Aboriginal people attended the consultations, who were not employees of Government agencies or organisations?

ANSWER

All Aboriginal people who attended the regional workshops were invited to contribute as members of their respective communities and not as employees of government agencies. OEH did not collect information from these attendees about their employment status.

QUESTION 6

Does the Minister consider the attendance rates adequate? (please provide reasons)

ANSWER

Approximately 340 Aboriginal people attended the regional workshops through November/December 2011.

QUESTION 7

What are the current legislative or policy requirements, in relation to the granting of Aboriginal Heritage Impact Permits, to avoid or mitigate harm to Aboriginal heritage? Provide specific details as to the names and sections of relevant legislation and policies.

ANSWER

I refer the Member to the National Parks and Wildlife Act 1974; National Parks and Wildlife Regulation 2009 ; Aboriginal cultural heritage consultation requirements for proponents; Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW; Code of Practice for Archaeological Investigation of Aboriginal objects in NSW; and the Applying for an Aboriginal Heritage Impact Permit guide.

QUESTION 8

How many Aboriginal Heritage Impact Permits (or AHIPs), in total, have been issued for the financial years:

- a) 2009-2010;
- b) 2010-2011; and
- c) 2011-2012 (to date).

ANSWER

The OEH website www.environment.nsw.gov.au/licences/ahips.htm provides a public register which contains details of all AHIP related decisions made by OEH since 1 October 2010.

QUESTION 9

How many applications for AHIPs were made, for the financial years:

- a) 2009-2010;
- b) 2010-2011; and
- c) 2011-2012 (to date).

ANSWER

Refer to answer 8.

QUESTION 10

Of the applications made, how many were made for each financial year (2009-2010, 2010-11 and 2011-12 (to date)) by proponents:

- a) In relation to building developments;
- b) In relation to farming activities;
- c) In relation to mining activities;
- d) In relation to forestry activities;
- e) In relation to road building or maintenance activities;
- f) In relation to other development activities other than those listed above;
- g) In relation to activities specifically for the remediation or protection of Aboriginal heritage.

ANSWER

Centrally held information on the type of development activities to which the AHIP relates is not recorded.

QUESTION 11

How many and what percentage of AHIP applications were successful (that is, the application led to the granting of a permit), for the financial years:

- a) 2009-2010;
- b) 2010-2011; and
- c) 2011-2012.

ANSWER

Refer to answer 8.

QUESTION 12

How many applications for AHIPs have been refused, for the financial years:

- a) 2009-2010;
- b) 2010-2011; and
- c) 2011-2012 (to date).

ANSWER

There has been one refusal since 1 October 2010.

QUESTION 13

Of the AHIPs issued, for how many individual Aboriginal objects and places (or 'sites'), including those recorded on the Aboriginal Heritage Impact Management System (AHIMS), was harm approved, in total for the financial years:

- a) 2009-2010;
- b) 2010-2011; and
- c) 2011-2012 (to date).

ANSWER

AHIPs are often issued for specified areas and not individual objects, and as a result data as to the number of individual Aboriginal objects and places is not available.

QUESTION 14

Of the AHIPs issued, for how many individual Aboriginal objects and places (or 'sites'), including those recorded on the Aboriginal Heritage Impact Management System (AHIMS), was destruction approved, in total for the financial years:

- a) 2009-2010;
- b) 2010-2011; and
- c) 2011-2012 (to date).

ANSWER

AHIPs are often issued for specified areas and not individual objects, and as a result data as to the number of individual Aboriginal objects and places is not available.

QUESTION 15

For the aforementioned questions, does the definition of 'harm' include 'destruction'?

ANSWER

Yes.

QUESTION 16

Of the AHIPs issued, for how many individual Aboriginal objects and places (or 'sites'), including those recorded on the Aboriginal Heritage Impact Management System (AHIMS), was salvage approved, in total for the financial years:

- a) 2009-2010;
- b) 2010-2011; and
- c) 2011-2012 (to date).

ANSWER

Refer to answer 8.

QUESTION 17

Of the AHIPs issued, for how many individual Aboriginal objects and places (or 'sites'), including those recorded on the Aboriginal Heritage Impact Management System (AHIMS), was harm or destruction avoided or approval for proposed impact refused, in total for the financial years:

- a) 2009-2010;
- b) 2010-2011; and
- c) 2011-2012 (to date).

ANSWER

Negotiations often take place before an AHIP is applied for. AHIPs are issued for specified areas to regulate harm to Aboriginal objects and places. Measures to avoid harm are the subject of assessment and discussion with OEH prior to the issuing of an AHIP (also at the AHIP development stage) and those areas where harm will be avoided are not always reflected in the AHIP (as these are generally excluded from the permit area).

QUESTION 18

Of the AHIPs issued, for how many individual Aboriginal objects and places (or 'sites'), including those recorded on the Aboriginal Heritage Impact Management System (AHIMS), was harm or destruction mitigated, in total for the financial years:

- a) 2009-2010;
- b) 2010-2011; and
- c) 2011-2012 (to date).

ANSWER

Refer to answer 17.

QUESTION 19

Of the AHIPs issued, for how many individual Aboriginal objects and places (or 'sites'), including those recorded on the Aboriginal Heritage Impact Management System (AHIMS), was maintenance or other activity intended to improve or maintain existing sites approved, or made a condition of the permit issued, in total for the financial years:

- a) 2009-2010;
- b) 2010-2011;
- c) 2011 – 2012 (to date)

ANSWER

Data is not centrally collected and recorded for this purpose.

QUESTION 20

On how many occasions was the advice of the Office of the Environment and Heritage, and its predecessor the Department of Environment, Climate Change and Water, sought by the NSW Department of Planning in relation to Aboriginal heritage impacts? Specify for the financial years:

- a) 2009-2010;
- b) 2010-2011; and
- c) 2011-2012 (to date).

ANSWER

This question would more appropriately be directed to the Department of Planning and Infrastructure.

QUESTION 21

In relation to the previous question, of the advice given to the NSW Department of Planning, for the financial year 2011-2012 (to date), on how many occasions did the Office of the Environment and Heritage, and its predecessor the Department of Environment, Climate Change and Water:

- a) Advise or recommend that the proposed impact from the proposed development was unacceptable;
- b) Advise or recommend conditions to minimise or mitigate harm to Aboriginal heritage;
- c) Advise or recommend conditions to avoid impacts to Aboriginal heritage altogether;
- d) Advise or recommend other conditions; or

- e) Make no specific recommendations regarding conditions.

ANSWER

Refer to answer 20.

QUESTION 22

In relation to the previous question, of the advice given to the NSW Department of Planning, for the financial year 2010-2011, on how many occasions did the Office of the Environment and Heritage, and its predecessor the Department of Environment, Climate Change and Water:

- a) Advise or recommend that the proposed impact from the proposed development was unacceptable;
- b) Advise or recommend conditions to minimise or mitigate harm to Aboriginal heritage;
- c) Advise or recommend conditions to avoid impacts to Aboriginal heritage altogether;
- d) Advise or recommend other conditions; or
- e) Make no specific recommendations regarding conditions.

ANSWER

Refer to answer 20.

QUESTION 23

In relation to the previous question, of the advice given to the NSW Department of Planning, for the financial year 2009-2010, on how many occasions did the Office of the Environment and Heritage, and its predecessor the Department of Environment, Climate Change and Water:

- a) Advise or recommend that the proposed impact from the proposed development was unacceptable;
- b) Advise or recommend conditions to minimise or mitigate harm to Aboriginal heritage;
- c) Advise or recommend conditions to avoid impacts to Aboriginal heritage altogether;
- d) Advise or recommend other conditions; or
- e) Make no specific recommendations regarding conditions.

ANSWER

Refer to answer 20.

QUESTION 24

On how many occasions was the advice of the Office of the Environment and Heritage, and its predecessor the Department of Environment, Climate Change and Water, sought by Local Councils, in relation to Aboriginal heritage impacts? Specify for the financial years:

- f) 2009-2010;
- a) 2010-2011; and
- b) 2011-2012 (to date).

ANSWER

Data is not collected for this purpose.

QUESTION 25

What monitoring of trends in Aboriginal heritage assessments and permits is currently undertaken by the NSW Government (please specify).

ANSWER

Monitoring trends in Aboriginal heritage assessments and permits is currently being considered as part of the Aboriginal cultural heritage legislative broader reform process.

QUESTION 26

What data is currently published about AHIPs:

- a) On the Office of Environment and Heritage website;
- b) In the Annual Report for the Office of Environment and Heritage, and its predecessor the Department of Environment, Climate Change and Water?
- c) In the NSW State of the Environment Report, and
- d) In other publicly available reports (provide details e.g names of reports).

ANSWER

Refer to answer 8.

QUESTION 27

What was the total expenditure for the NSW Aboriginal Water Trust in 2010/11? Provide a breakdown relating to operational and other expenditure?

ANSWER

The NSW Aboriginal Water Trust did not operate in 2010/11.

QUESTION 28

Did a review of the NSW Aboriginal Water Trust take place in 2009? Has this review been made public?

ANSWER

A review was conducted in 2009. No.

QUESTION 29

What were the Aboriginal Cultural Heritage Advisory Committee (ACHAC) Terms of Reference in:

- a) 2008
- b) 2009
- c) 2010
- d) 2011 (current)

Please provide access to documents outlining the Terms of Reference or specific information about where these are publicly available in an electronic format.

ANSWER

See attachment 3.

QUESTION 30

Does ACHAC's role include providing advice to the Office of Environment or the Minister regarding the protection of, or approval of harm to, specific Aboriginal sites?

ANSWER

ACHAC is not a regulatory advisory body, however it can provide advice on any matter relating to the identification, assessment and management of cultural heritage in NSW.

QUESTION 31

If yes, when specifically has ACHAC been asked to provide this kind of advice to OEH or the Minister in:

- a) 2008
- b) 2009
- c) 2010
- d) 2011 (current year)?

ANSWER

In 2011 ACHAC provided advice regarding the lease for the Tweed Heads Historic Site to the Tweed Aboriginal Housing Co-operative Society Limited for the operation of the Minjungbal Aboriginal Cultural Centre.

QUESTION 32

If yes, but ACHAC's advice has not been sought, why not?

ANSWER

N/A.

QUESTION 33

What was the Office of Environment and Heritage's (OEH), formerly the Department of Environment, Climate Change and Water (DECCW), actual expenditure on:

- a) Implementing the new due diligence requirements for Aboriginal heritage in 2010/11?
- b) Promoting and distributing information about the new due diligence requirements in 2010/11?

ANSWER

- a) In 2010/11 OEH spent \$80,000 in capital funding to develop the Aboriginal Web Service to enable online searches of the Aboriginal Heritage Information Management System (AHIMS), as part of due diligence requirements. Costs associated with the new due diligence provisions form part of agency operating costs and service delivery.
- b) There was no separate budget for promotion and distribution of due diligence requirements in 2010/11.

QUESTION 34

What was the Office of Environment and Heritage (OEH)'s forecast for expenditure on implementing the due diligence requirements in 2011/12?

ANSWER

Costs associated with the new due diligence provisions form part of agency operating costs and service delivery.

QUESTION 35

What educational activities, if any, have the OEH (formerly DECCW) undertaken to ensure that developers, miners, farmers and homeowners are aware of the new steps required under the 'due diligence' provisions relating to Aboriginal heritage that commenced in October 2010?

ANSWER

OEH conducted public information sessions and information sessions form agency stakeholders; published, printed and distributed information material and provided advice and information through day-to-day enquiries from the public.

QUESTION 36

Does the Office of Environment and Heritage have advice as to how many or what percentage of current development, farming, mining, land management and forestry activities have been captured by the new 'low impact' and 'due diligence' defences under the Aboriginal heritage regulations?

ANSWER

OEH does not collect data on which development, farming, mining, land management and forestry activities have been captured by the new 'low impact' and 'due diligence' defences under the Aboriginal heritage regulations.

QUESTION 37

What advice does the Minister have regarding how effective the new laws have been to date as a deterrent, given the broad nature of the new defences:

- a) for the current financial year?
- b) for future years?

ANSWER

I am advised since October 2010 when the new due diligence requirements came into force there have been 23,300 searches of the AHIMS, which represents a 500 per cent increase from searches conducted in the previous year. I am advised the significant rise in AHIMS searches suggest that proponents are aware of, and acting upon, their due diligence obligations.

QUESTION 38

What is the Office of Environment and Heritage's (OEH) forecast and actual expenditure to manage the broader reform of Aboriginal heritage legislation in 2010/11? What specific line items does this include? (specify program or line item names and amounts)

ANSWER

Costs associated with Aboriginal heritage reform form part of agency operating costs and service delivery.

QUESTION 39

What is the Office of Aboriginal Affairs forecast and actual expenditure to manage the broader reform of Aboriginal heritage legislation in 2010/11? What specific line items does this include? (specify program or line item names and amounts)

ANSWER

This is a matter for the Minister for Aboriginal Affairs.

QUESTION 40

What funds have been allocated towards developing any Aboriginal joint management or co-management arrangements in the new River Red Gum National Parks areas in southern NSW?

ANSWER

\$660,000 has been allocated in 2011/12 for the establishment of joint management of the Millewa forests and Indigenous Protected Areas for the Werai and Taroo Group of forests.

QUESTION 41

What funding is provided to support the increase in formal agreements between Aboriginal groups and the NSW Government over national parks?

ANSWER

In 2011/12 OEH allocated \$7.2 million to support commitments under existing agreements while also progressing negotiations for new agreements.

QUESTION 42

How is a 'formal agreement' defined? Does it include MOUs with Aboriginal groups which are good will agreements, that is are not enforceable by Aboriginal groups?

ANSWER

Aboriginal communities and OEH use various types of agreements to enable a joint management partnership on land reserved under the *National Parks and Wildlife Act 1974* (NPW Act). These are principally:

- a Memorandum of Understanding (MOU)
- an Indigenous Land Use Agreement
- a lease under Part 4A NPW Act.

All involve a formal written agreement between the parties.

QUESTION 43

Has any formal evaluation been done of the benefits to the environment and the Aboriginal community from Part 4A that is jointly managed national parks?

- a) If not, why not?
- b) If yes, will those evaluations be made public?

ANSWER

A survey of the benefits of Aboriginal joint management was conducted in 2009/10.

QUESTION 44

How many Part 4A park leases have been renewed in the last few years? Have these reviews resulted in changes to the rent arrangements? If yes, has rent increased or decreased in each case (provide details for all Part 4A parks).

ANSWER

Leases have a term of 30 years and none are as yet due for renewal.

QUESTION 45

What is the budget for developing and implementing regulations (Fisheries Management Regulations) to recognise Aboriginal cultural fishing rights in 2011/12?

ANSWER

The Minister for Primary Industries is responsible for administering the *Fisheries Management Act 1994*.

QUESTION 46

What training has been provided to staff of Department of Primary Industry, regarding the new provisions?

ANSWER

See Answer 45.

QUESTION 47

How many Aboriginal people have been fined or cautioned for fishing in 2009-10? In what areas were penalties issued?

ANSWER

See Answer 45.

QUESTION 48

How many Aboriginal people have been fined or cautioned for fishing in 2010-11? In what areas were penalties issued?

ANSWER

See Answer 45.

QUESTION 49

Have there been any Aboriginal people prosecuted in the last 12 months for hunting in National Parks? If yes, how many and what were the penalties?

ANSWER

There have been no prosecutions for hunting in national parks offences in the last 12 months where the defendant has indicated to the Court that they are an Aboriginal person.

QUESTION 50

How many applications has the National Parks and Wildlife Service received by Aboriginal people in the last 12 months, for exemptions to fees for using national parks?

ANSWER

Exemptions from fees to use national parks occurs through formal agreements with Aboriginal groups rather than applications by individuals.

QUESTION 51

What training is provided to National Parks and Wildlife Service staff about Aboriginal peoples' use of national parks for cultural activities?

ANSWER

OEH requires all staff attend Aboriginal Cultural Awareness Training.

QUESTION 52

How much money has been allocated to specifically increase the number of Aboriginal culture and heritage items listed on the State Heritage Register in 2011/12?

ANSWER

Aboriginal Heritage is one of the NSW Heritage Council's listings themes for 2009-2011. It has also been included in the 2012-14 Thematic listing Program. This work is undertaken within the Heritage Branch's working budget.

QUESTION 53

Is this more or less than previous years? By what amount?

ANSWER

See answer 52.

QUESTION 54

How many items listed for their Aboriginal Heritage significance does the Department expect to be listed in 2011/12? Is this more or less than last year?

ANSWER

Four items of Aboriginal Heritage significance have been added to the State Heritage Register in 2011. This is more than last year.

QUESTION 55

What funding is available to meet the State Plan targets relating to supporting Aboriginal Green Teams and other Aboriginal groups working to protect and conserve natural environments?

ANSWER

Aboriginal Green Teams are run primarily by CMAs and therefore this question on Green Teams should be addressed to the Minister for Primary Industries. OEH and the Environment Trust have allocated \$7.75 million to natural resources projects.

QUESTION 56

What are the names of these programs, projects or other initiatives and what budget is allocated for each item for the 2011-12 financial year?

ANSWER

The NSW Environmental Trust *Protecting our Places Grant Program* provides up to \$500k to support Aboriginal groups to restore or rehabilitate land that is culturally significant to Aboriginal people.

OEH contributed \$75,000 to the Many Rivers Regional Partnership Agreement to support the establishment and administration of the Green Team Alliance.

OEH has allocated \$7.2m to the Joint management program to support Aboriginal groups to protect and conserve the NSW Reserve System.

QUESTION 57

What funding was provided to each of the 36 Aboriginal environment/ heritage projects funded by the Country, Culture and Heritage Division (CCHD) of the Office of Environment and Heritage, in 2009-10? Provide project or program names and amounts.

ANSWER

The Aboriginal environment/heritage projects completed by the Country, Culture and Heritage Division in 2009-10 and the operating budget allocations for these projects are detailed in the table below.

	Project	Operating Allocation
1	Condobolin-Goobang Creek Burial (Repatriation of ancestral remains)	\$3,000.00
2	Rock Art Cobar	\$4,350.00
3	Baradine Carved Tree Repatriation	\$5,800.00
4	Pilliga Skull Repatriation "Fairfield"	\$700.00
5	Casino Boolangle Repatriation	\$3,000.00
6	Young LALC Repatriation	\$1,250.00
7	Lambie Gorge Aboriginal Place Celebration With Community	\$1,000.00
8	Delegate Mission Aboriginal Values Assessment and Community Consultation	\$1,000.00
9	Wagga Wagga Repatriation	\$ 701.00
10	Brungle Cemetery Aboriginal Values Assessment and Community Consultation	\$1,501.00
11	Kings Tableland Aboriginal Values Assessment and Community Consultation	\$5,700.00
12	Burraway TSR Carved Tree Repatriation	\$0.00
13	Queanbeyan Showground Aboriginal Values Assessment and Community Consultation	\$1,000
14	Boxman Aze Quarry Aboriginal Values Assessment and Community Consultation	\$0.00
15	Aboriginal Place celebrations with community – Dandry Gorge	\$1000.00
16	Carowra Tank (Former Mission) Cemetery Ground Penetrating Radar (GPR) assessment	\$1,200.00
17	Narromine Aboriginal Values Assessment and Community Consultation	\$2,000.00
18	Northern Repatriation	\$5,500.00
19	Batemans Bay Repatriation Program	\$0.00
20	Vincentia Grooves Graffiti Removal	\$751.00
21	Shaws Creek Aboriginal Values Assessment and Community Consultation	\$526.00
22	Murrinna Point Aboriginal Values Conservation Works	\$2,500.00
23	Eden Carved Tree Repatriation	\$750.00
24	Kameruka Aboriginal Values Assessment and Community Consultation	\$1,500.00
25	Eastcourt Burial Conservation Works	\$2,000.00
26	Brou Lake Aboriginal Values Assessment and Community Consultation	\$2,000.00
27	Nangudga Point Conservation Works	\$750.00
28	Wallaga Historical Cricket Ground Aboriginal Values Assessment	\$0.00
29	Queanbeyan Aboriginal Women's and Men's Heritage Booklet	\$550.00
30	Aboriginal Regional Assessment Training	\$15,000.00
31	Illawarra Community Consultations and Planning of Aboriginal Heritage Projects	\$5,700.00
32	Leeton Repatriation	\$0.00
33	Periwinkle Shelter Conservation Works	\$0.00
34	Bundjalung Elders Repatriation	\$2,400.00
35	Hunter Pathways Dreaming Tracks Project	\$37,000.00
36	Dhungutti and Gumbaynigg Community Consultations and Assessments	\$32,000.00

QUESTION 58

How much of the \$2.015 million of total funding for these 36 Aboriginal environment/ heritage projects in 2009-10 was direct funding to community groups (as opposed to CCHD staff costs)?

ANSWER

None of the 2009-10 funding was directly to Aboriginal communities.

QUESTION 59

What is the funding for Aboriginal environment/ heritage projects in 2011-12?

ANSWER

Costs associated with Aboriginal environment and heritage projects form part of agency operating costs and service delivery.

QUESTION 60

How much of this funding is for direct funding to community groups (as opposed to CCHD staff costs)?

ANSWER

None of this funding is directly provided to Aboriginal communities in 2011-12.

QUESTION 61

Of the 81 incidents of suspected harm to Aboriginal heritage investigated by the Office of Environment and Heritage in 2010-2011 and 2011-12 (to date), how many have led to a prosecution?

ANSWER

Four incidents are currently being investigated with regard to progressing possible prosecution.

QUESTION 62

Of the 81 incidents of suspected harm to Aboriginal heritage investigated by the Office of Environment and Heritage in 2010-2011 and 2011-12 (to date), how many have led to some other form of action by the OEH? (Provide details).

ANSWER

Actions depended on the particulars of the suspected breach. In some instances more than one action was taken.

QUESTION 63

For those incidents for which the OEH did not take action, what were the reasons?

ANSWER

Reasons could include: upon investigation, there was found to be no breach of the NPW Act as either there was no offence, there was insufficient evidence, or one of the defences to prosecution under the Act was applicable; or the statutory timeframe for proceedings had been exceeded.