

LANDS ANSWERS TO QUESTION ON NOTICE

Questions from Mr Pearce

In relation to Killalea State Park:

1. What are the Government's plans with respect to the Killalea State Park?
2. Can the Government assure the community that this public space will not be further developed?

Leasehold Conversions

3. If the application and application fees for conversion of a crown road to freehold was submitted prior to 30 June 2009, will the rent payments still being charged be deducted from the final purchase price of the land?
4. How many staff within the Land and Property Management Authority are working on the conversions of crown roads and perpetual leases?
5. How much revenue has been collected through the charging of these rents upon landholders who in good faith have had their applications in on time, paid the applicable application fee on time, and then have been penalised due to the inadequate resources of the Department and Government bureaucracy?
6. Why are there environmental covenants being placed upon perpetual leases when there is already the Native Vegetation Act 2003?

Questions from Mr Shoebridge – Mr Shoebridge asked:

7. What was the Land and Property Management Authority's actual expenditure on litigation associated with Aboriginal Land claims in:
(a) The 2007/8 financial year, (b) the 2008/9 financial year and (c) the 2009/10 financial year.
8. What was the Land and Property Management Authority's budget for litigation associated with Aboriginal Land claims in:
(a) The 2007/8 financial year, (b) the 2008/9 financial year and (c) the 2009/10 financial year.
9. What parcels of public land previously reserved for travelling stock purposes have been disposed of or reserved for other purposes in:
(a) The 2007/8 financial year, (b) the 2008/9 financial year and (c) the 2009/10 financial year.
10. How and by whom are decisions made to dispose of public land previously reserved for travelling stock.
11. What decisions have been made by the Government in relation to travelling stock reserves and their future management.
12. The Land and Property Management Authority issues limited title for some land converted to the Torrens Title system and unlimited titles for other land. What policy or criteria governs the LPMA's decision to place a limitation on the title of land?
13. How many limited titles have been issued by the Crown to private entities in:
(a) the 2007/8 financial year, (b) the 2008/9 financial year and (c) the 2009/10 financial year.
14. What targets or other Key Performance Indicators does the Land and Property Management Authority have in place for processing Aboriginal Land Claims.
15. How does the Land and Property Management Authority determine which Aboriginal Land Claims should be processed (ie by age, location etc)
16. Approximately what percentage of time do staff in the Land Claims Investigation Unit working on the status of land claimed?

17. What percentage of time do staff in the Land Claims Investigation Unit working on the investigation of claims determined to be potentially claimable following a status check?
18. What process is followed by the Land and Property Management Authority before a licence is issued over Crown land? In particular what role does the Aboriginal Land Claims Investigation Unit play in this process.
19. What processes does the LPMA have in place for ensuring authorities that deal with Crown lands, such as reserve trust managers or Authorities proposing compulsory acquisition of Crown land, are aware of Aboriginal Land Claims that are yet to be determined.
20. Were you aware that Andrew Kelly had been involved in a possible business venture with the Kazals prior to being re-employed by you as a consultant in June 2009?
21. Were you aware that the Kazals had been paying Andrew Kelly a retaining fee when you re-hired him in 2009?
22. Is it the case that SHFA in the past leased its buildings for as little as \$1, as was reported in relation to a George Street business, Ox on The Rocks, at 135 George St, in 1996?
23. Is that still SHFA's practice – to enter into discount leases for commercial businesses?
24. How does that discount lease practice tally with the 2004 Business Directive from the Director General of Lands that all rents must be market rents?
25. What are the 5 smallest annual lease amounts currently paid by a leasee to SHFA and for what SHFA property are each paid?
26. Did Mr. Robert Domm do any investigation of the leases with the Kazal family and their associated companies before his resignation?
27. Did Mr Tony Stewart the Member for Bankstown talk to you or lobby you in any way about Mr Charif Kazal's wish to go overseas?

Killalea State Park

28. Is it the case that any existing leasing arrangement of Killalea State Park are now required to be renegotiated or otherwise recommenced, given the financial collapse of the companies that constituted Killalea Coastal Investments Pty Ltd?
29. Does Mariner Property Investments still retain any legal rights or options over the site for presenting a DA and taking up the lease?
30. Last year you said "I would expect that, even if the current lease goes ahead, it would not be in the form of the original proposal. That is just my expectation. I think the Department of Planning indicated that to start with—that it wants to reduce the scale of it." What is the current situation?
31. Has Killalea State Park Trust been negotiating with any other corporate entity or person about this lease?
32. What legal advice did you receive about whether the lease would be null and void if it was passed onto a third party by shares being sold by Mariner Finance?

Rail Corridors

33. Minister, can you update us about the proposals for rail trails, that is, proposed trails in:
 - a) Riverina Highlands
 - b) Molongo Valley,
 - c) Cowra to Eugowra,
 - d) Molong to Yeoval,
 - e) Goulburn to Crookwell,
 - f) Culcairn to Corowa,
 - g) Monaro
 - h) Dubbo
 - i) Wagga Wagga City to Forest Hill or Ladysmith?

34. Given the move back towards rail is it likely that any of these proposed trails would need to be converted back into a rail line in future, for example the Wagga Wagga to Tumbarumba branch line?

35. In regards to the proposed Very Fast Train, what role if any will Lands have in designating any land to be set aside for a future rail corridor, if needed, between Sydney and Melbourne and Sydney and Brisbane?

36. Will Lands be involved in any VFT feasibility study insofar as crown lands may be involved?

Answers:

1. It is the Government's intention to continue to maintain Killalea State Park as an integral component of the State wide State Park system.

2. Killalea State Park will be maintained as a State Park to provide recreational, educational, environmental and tourist accommodation.

3. No

4. 40 on Crown Roads Conversions and 15 on Perpetual Lease Conversions

5. The invitation for landholders to convert either their Crown Roads or Perpetual leases was unaccompanied by a guarantee of service relating to completion time. For perpetual leases, rents continue at the previous non-market based rates until conversion, if deemed appropriate, is complete. For crown roads, I have allowed considerable concessions to rentals normally due, over the past 4 years (one rent only spanning 3 years, then one year at a concessional rate.)

6. The *Crown Lands Legislation Amendment (Budget) Bill* was passed by both Houses in 2004. This enables the Minister to impose public positive covenants on land title, which enable protection of existing environmental values on former leases. This essentially reflects the existing tenure conditions which accompany these perpetual leases, which in some circumstances, provide a level of protection not possible with the Native Vegetation Act (eg regrowth management, management of dead timber and bush rock, and some Routine Agricultural Management Activities).

7. The Land and Property Management Authority doesn't fund litigation relating to Aboriginal Land Claims.

8. The Land and Property Management Authority doesn't receive a separate budget for litigation relating to Aboriginal Land Claims. Such litigation is funded by the Attorney General's Department. The Aboriginal Lands Claims Investigation Unit provides support and instructions to the Crown Solicitor's Office in appeals arising from determinations under the Aboriginal Land Rights Act 1983.

9. Travelling Stock Reserves (TSRs) are parcels of Crown land reserved under legislation for use by travelling stock. Livestock Health and Pest Authorities (LHPA) manage over 500,000 hectares of TSRs in NSW. Between 2007 and 2008; of more than 6000 TSR's in the Central & Eastern Divisions of NSW, 19 sections of TSR's were revoked and added to the Crown Lands Reserve System. In 2008 2 sections were revoked for Mining Purposes and a land exchange negotiated. In 2009 3 sections were revoked and acquired for essential purposes by National Parks and RTA. In 2010 a section was acquired under an Aboriginal Land Claim, one section was revoked and a land exchange agreed for Mining Purposes and one section acquired by the RTA.

10. TSRs released by LHPA are returned as Crown land for management consistent with the principles of the Crown Lands Act 1900. Crown Lands reallocate or reserve the land for a wide range of possible uses.

11. The commencement of the *Rural Lands Protection Amendment Act 2008* on 1 January 2009 provided for a number of changes resulting from the adoption by the NSW Government of the recommendations of the IMC External Review into the former RLPB system. One of the changes to be addressed is that TSRs are to be ceded back to the Land and Property Management Authority where they place an unreasonable financial burden on local Livestock Health and Pest Authorities (LHPA). An assessment of TSRs to be ceded by individual LHPAs is yet to be completed by the LHPA.

12. Where land is not fully defined by survey in a new deposited plan, a limited certificate of title will issue indicating that the boundaries have not been examined in the Land and Property Information Division. This may include residue parcels and consolidations. A limitation notification is entered on the title in the form: "Limitation pursuant to s.28T(4) Real Property Act 1900. The boundaries of the land comprised herein have not been investigated by the Registrar General." The limitation may be removed by the lodgement of a plan of survey, which satisfactorily defines the boundaries of the parcel.'

13. Limited titles issued to private individuals for land where previous title was 'Crown land' and ownership is now 'Private' [Excludes private owners that are companies]

2007/08	450
2008/09	743
2009/10	858

14. The Land and Property Management Authority met the target set by the former Premier which was to determine the oldest 166 claims by December 2009. The next targets are to determine the oldest undetermined claims on hand which date back to 1993. The LPMA is continuing to refine KPIs as the process for dealing with Aboriginal land claims is streamlined to accommodate more electronic initiatives such as electronic files and electronic referencing of interest holders and grouping of claims into geographical areas for determination.

15. The Land and Property Management Authority has generally determined the claims by age and by priority of government, local government or Aboriginal Land Council. Lately as the number of claims have increased and many claims are being made over freehold, national park and State forest areas which are not claimable Crown lands, these claims are being determined in conjunction with the oldest undetermined claims. Claims being grouped for determination according to geographical areas may alter processing by age of claim.

16. The land status checks are not carried out in the Aboriginal Land Claims Investigation Unit. Head Office Status Branch or status officers in LPMA's regional offices carry out the status searches.

17. Ideally up to 75 percent of staff time is spent working on the investigation of claims after a status check reveals the land is potentially claimable. However, the time spent is influenced by various other competing demands including but not limited to, the provision of assistance with appeals to the Crown Solicitor's Office, staff training and recruitment, preparing Ministerial submissions and correspondence, arranging inspection of files and working on the transfers of land that is to be granted, providing legal advice as required and maintaining legal and other records.

18. The Aboriginal Land Claims Investigation Unit advises if its records reveal there is an undetermined Aboriginal Land Claim and advises the person requesting the information to also check with the Registrar under the Aboriginal Land Rights Act 1983 who keeps the public register. In the event a licence is to be granted, the Crown Lands Legal Unit, rather than the Aboriginal Land Claims Investigation Unit, would in the normal course of events be requested to check the licence terms and ensure that the licence provides that it terminates if the land is determined to be claimable Crown lands.

19. The acquiring authority has a responsibility to check with the Registrar under the Aboriginal Land Rights Act 1983 who is charged with keeping the public register in relation to Aboriginal Land Claims before Crown land is compulsorily acquired. The Land and Property Management Authority includes information that Crown land may be the subject of undetermined Aboriginal land claims and that this is a matter that needs to be considered in

dealing with Crown land in its Reserve Trust Handbook. The Reserve Trust Handbook is available to all reserve trust managers.

20. No. Mr Kelly's was engaged as a contractor with the Land and Property Management Authority from 17 June 2010 and had no involvement in The Rocks under this contract.

21. No.

22. No. The rent under the lease for the building at 135 George Street was based on business turnover and market rates.

23. Not applicable - The Authority provides discounted rent for some community and arts based businesses and essential services such as doctors, chemist and newsagent in The Rocks.

24. Not applicable – this directive applies to Crown land leases granted under the Crown Lands Act, not to Sydney Harbour Foreshore Authority leases.

25. Sydney Harbour Foreshore Authority has many properties that attract \$1 annual rental as the lessee has paid a significant up front premium for a long term ground lease. These include properties such as Darling Park, Grosvenor Place, the Four Seasons Hotel and others. The Authority also provides properties at nominal rent for several organisations as part of its more than \$20 million annual community service obligations. These organisations currently include:

- Ministry of the Arts, 36-64 George Street
- NSW Land & Housing Corporation, 46-56 Gloucester Street
- Historic Houses Trust of NSW, 58-64 Gloucester Street.

26. Yes. In December 2009, Mr Domm investigated the lease arrangements for 100 George Street, The Rocks. Mr Domm presented his report to the Independent Commission Against Corruption who concluded that corrupt conduct was not likely to have occurred.

27. No

28. There are no plans to recommence negotiations with Killalea Coastal Investments

29. No

30. There is no current development application by Killalea Coastal Investments and there are no plans to reactivate the type of project envisaged by Killalea Coastal Investments at Killalea.

31. Not to my knowledge but this is a matter for the Killalea State Park Trust.

32. The Land and Property Management Authority sought its own internal legal advice.

33. Local Councils in the State's south west are keen to see some of the disused rail corridors in their areas developed into rail trails. This is a highly successful model that is operating throughout other parts of the world. There is community support for the use of long stagnant rail corridors as rail trails. Despite the obvious positives from a community and tourism perspective, there remains some opposition from adjoining land holders to the proposal. The Land and Property Management Authority is poised to assist the Local Councils in a facilitation role. If access to these corridors can be secured then reservation and placement under the trusteeship of local Councils to allow for development as a rail trail remains a valid option. The Land and Property Management Authority can and will assist at that time.

34. I cannot make any comment on the return of these lines to active service. Each of these lines would require major expenditure to bring them up to current operating standards and this is a huge restriction on any future use prospects.

35. I expect the Land and Property Management Authority would provide advice on availability of Crown land within possible corridors.

36. I would expect so.



Hon Tony Kelly MLC
Minister for Planning
Minister for Infrastructure
Minister for Lands
Deputy Leader of the Government in the Legislative Council
Leader of the House in the Legislative Council

11 October 2010

Ms Rachel Simpson
Director
Budget Estimates Secretariat
NSW Parliament House
Macquarie Street
Sydney NSW 2000

Dear Ms Simpson

Reference is made to your correspondence dated 20 September 2010, concerning my appearance before the General Purpose Standing Committee No. 4 to give evidence in relation to the inquiry into the Budget Estimates 2010-2011.

Please find attached my answers to both Questions on Notice and Questions without Notice, as requested.

Yours faithfully

Tony Kelly MLC
Minister