

# **GENERAL PURPOSE STANDING COMMITTEE NO. 5**

**Friday, 14 October 2016**

**Examination of proposed expenditure for the portfolio area**

## **PRIMARY INDUSTRIES, LANDS AND WATER**

**The Committee met at 2.00 p.m.**

### **CORRECTED PROOF**

#### **MEMBERS**

The Hon. R. Brown (Chair)

The Hon. D. Clarke

The Hon. R. Colless

The Hon. G. Pearce

The Hon. P. Sharpe

The Hon. M. Veitch

## **CORRECTIONS TO TRANSCRIPT OF COMMITTEE PROCEEDINGS**

**Corrections should be marked on a photocopy of the proof and forwarded to:**

**Budget Estimates secretariat  
Room 812  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000**



**The CHAIR:** Welcome to the public hearing of the inquiry into Budget Estimates 2016-2017. Before I commence I acknowledge the Gadigal people, who are the traditional custodians of this land. I also pay respect to the elders, past and present, of the Eora Nation and extend that respect to other Aboriginals present. I welcome officers from the Department of Industry to this supplementary hearing. Today, the Committee will examine the proposed expenditure portfolios of Primary Industries, Lands and Water. Today's hearing is open to the public and is being broadcast live via the Parliament's website. A transcript of today's hearings will be placed on the Committee's website. The broadcasting guidelines are on the table at the side for anybody who is interested.

There may be questions that a witness may not be able to answer or could only answer if they had more time or with certain documents to hand. In those circumstances witnesses are advised that they can take a question on notice and provide an answer within 21 days. I notice that there is only one departmental adviser behind the witnesses. Any messages from advisers or members of staff seated in the public gallery should be delivered through the committee secretariat, but I remind witnesses that they are free to pass notes or refer directly to any advisers seated at the table behind them. Transcripts of this hearing will be available on the web from tomorrow morning.

**SIMON SMITH**, Secretary NSW Department of Industry, on former oath

**SCOTT HANSEN**, Director-General, Department of Primary Industries, on former oath

**KYLIE HARGREAVES**, Deputy Secretary, Resources and Energy and Deputy Secretary, Lands, NSW Department of Industry, on former oath

**ALISON STONE**, Deputy Director-General—Lands, NSW Department of Industry, on former oath

**DAVID CLARKE**, Group Director, Governance and Strategy, Department of Industry—Lands, affirmed and examined:

**The CHAIR:** The Greens are not present at today's hearing so there will be only one set of questions, and they will be from the Opposition. The Government has agreed not to put any questions to you. As advised to you informally earlier, once the Opposition has asked questions I will pull up stumps and we will let you get back to your very important jobs as soon as we can. I declare the proposed expenditure of the portfolios of Primary Industries, Lands and Water open for examination. Questioning on Primary Industries, Lands and Water will run from 2.00 p.m. until whenever we finish questioning. There is no Minister at the table so there is no provision for a Minister to make an opening statement.

**The Hon. MICK VEITCH:** Thank you for coming back. I would like to start with questions around the country-of-origin labelling. I should say at the outset that I appreciate there is no Minister, so in my questions I am not asking for your opinions; I am asking you to answer in your capacities as public servants. Sometimes I get a bit carried away and forget. With respect to country-of-origin labelling and the process in New South Wales at the moment, is someone able to advise me on how that is proceeding? Is there industry support for this at the moment?

**Mr HANSEN:** I assume you are talking about country-of-origin labelling, referring either to the rules that exist nationally across the country in terms of the food code— ?

**The Hon. MICK VEITCH:** The Government's current initiatives around—

**Mr HANSEN:** Around seafood?

**The Hon. MICK VEITCH:** Yes, seafood labelling.

**Mr HANSEN:** Currently, there is a national approach to country-of-origin labelling for seafood that draws a distinction between seafood that is served at retail outlets versus seafood that is served in food service. The Government has announced as part of the commercial fishing reform that we will work with the industries—the fishing industry as well as the food service industries—to look at what opportunities there might be. Although we do not have a current legislative approach to describing the source or origin of seafood at food service we are looking at what might be able to be done to ensure that we promote and actively tell the story about fresh New South Wales seafood being served through food service. We are currently working with the industry—the commercial fishing sector, and hospitality and food service—to look all options, including some of those options that have been trialled in other States, like the Northern Territory, to be able to tell that story to help drive demand for New South Wales seafood.

**The Hon. MICK VEITCH:** Are there discussions with our State counterparts around that initiative?

**Mr HANSEN:** At the moment we are certainly in discussions with other States, and we are in discussion, in particular, with those States that have introduced some form of State-based initiatives. Part of the discussion that we will need to have with industry, as we develop the program, will be about not having a misalignment of country-of-origin rules up and down the eastern seaboard. We will make sure that we keep in close contact with our counterpart States as we progress, and as we work out what the New South Wales industry wants to progress with.

**The Hon. MICK VEITCH:** What is the Federal Government's role and the Federal bureaucracy's role in oversighting that to make sure there is consistency?

**Mr HANSEN:** At the moment with respect to country-of-origin labelling for seafood, there is a national approach at the retail level. That is underpinned by the national food standards codes overseen by Foods Standards Australia New Zealand [FSANZ]. Obviously anything done nationally would need to be housed within that code. There is current activity around moving country-of-origin labelling from within food safety to consumer law, but for anything we did at a State level, that we wanted to happen nationally, we would have to work with the Commonwealth to embed that policy within either the consumer law or the food safety law.

**The Hon. MICK VEITCH:** Does that mean that the Federal Government has the ultimate sign-off on whatever we do in New South Wales around our seafood country-of-origin labelling?

**Mr HANSEN:** Only if we wanted it to apply outside New South Wales. Obviously, we want to make sure that there is not a misalignment in terms of costs or activities along the eastern seaboard.

**The Hon. MICK VEITCH:** With regard to cross-border issues—on the north coast or the south coast—is the Cross Border Commissioner involved in any way in these discussions?

**Mr HANSEN:** The discussions are in very early stages, and at the moment they are about what we think the opportunities are for telling a story about the provenance of seafood sold in food services.

**The Hon. MICK VEITCH:** What is the most recent assessment of the economic value of the New South Wales commercial fishing industry? I understand you might need to take some of these questions on notice. I do not expect you to be able to answer these off the top of your head.

**Mr HANSEN:** I will take the question in terms of the most recent figures on notice.

**The Hon. MICK VEITCH:** I will turn now to the Productivity Commission report into commercial fishing. That report spoke about the need for a harvest strategy. Does New South Wales have a harvest strategy?

**Mr HANSEN:** We have a strategy around the management of the fisheries around regular assessments of the stocks. We are obviously moving across different parts of those stocks to having a harvest strategy for individual fisheries, where they are at risk or where they are being over-fished. So we do not have a harvest strategy for all categories of fish in all share classes, but we certainly do for those that are at most risk, which need them.

**The Hon. MICK VEITCH:** The Productivity Commission report says:

There needs to be a clearer and less contested means of allocating access to different fishing sectors.

How are we accommodating that in the current commercial fishing reforms or the business adjustment package process?

**Mr HANSEN:** At the moment the current business adjustment package is looking purely at that allocation of access, whether it be effort or catch, across the commercial fishing sector. That then gets built into strategies around bag and catch limit and the scientific committees that look at those harvest strategies across multiple sectors. Whilst that business adjustment program in itself does not go broader than the commercial fishing sector, there are means and methods that are utilised to take a holistic view in terms of fisheries management across the coastline.

**Mr SMITH:** It would be fair to say also that that is one of the precise objectives of the reform process. So instead of controlling the number of boats, you are looking at how much fish is there and what is the most clear and simple way to allocate access to it. We are mainly having input controls, which are very inefficient. We have lots of people who use inefficient methods of fishing.

**The Hon. MICK VEITCH:** This may be answered by Mr Smith or Mr Hansen. Are you aware there was a proposal to establish a commercial shark fishing operation on the North Coast?

**Mr HANSEN:** No. I will have to take that on notice. I have not been aware of it.

**The Hon. MICK VEITCH:** I am not sure whether the department was involved in it and how far it has progressed but if that were to occur, what would be the department's role in that? If someone were to progress a commercial shark fishing enterprise what is the department's role in that?

**Mr HANSEN:** There are currently commercial fisheries that include sharks and shark harvesting. Any of these roles at the moment are about ensuring that those people are licensed, that they are a licensed fishing business, that they hold the entitlements that they need to be able to fish and then that they comply with the reporting requirements. It would be the same if you are talking about an individual business—that would be our normal role. But, as I said, there is already a commercial shark fishery and we would manage it in the same way we currently do.

**The Hon. MICK VEITCH:** As I have been travelling up and down the coast talking to the commercial fishers it would be fair to say that there has been a lot of commentary around the information they are receiving from the department. I am certain you would have heard this before, so it is not new, but some of the allegations are that departmental officers either do not know information or will not hand over information about the reform process, which is causing a lot of stress and anxiety for the commercial fishing sector, those people involved in that sector. I reckon that would also be causing a fair bit of stress and anxiety for the people

employed in the department. What support is being provided for the departmental officials who are currently involved in the implementation of the commercial fishing package but also, more particularly, those who are involved in the face-to-face meetings with the commercial fishers?

**Mr HANSEN:** We provide ongoing mentoring, and support and assistance to those involved as our fishery managers engage on a daily basis with the commercial fishing sector. We are on a constant lookout for those who need to have a chance to have a break or to be engaged in another activity for a while before they re-engage in that space. It certainly is a contested area. Broader across the department we have assistance programs available to staff if they need it, and all staff are aware of that and make use of that if need be. I guess there are two key questions that remain unknown, and our staff know the fact that they will not have the answers to them, and those questions are: how many shares will be available to be traded and at what price?

For the first time, they are not questions that the Government can answer because we actually want the market themselves and the commercial fishers themselves to arrive at the answers to those two questions through a trading program. So there are those two questions that remain unknown, and it remains the most stressful part of the unknowns. But an important part of these reforms is allowing the industry themselves to arrive at those two answers rather than the Government telling them what their shares are worth or who should sell them and who should buy them.

**The Hon. MICK VEITCH:** That is almost consistently the complaint to me by the commercial fishing sector: They ask those questions, they cannot get the information, so therefore they are unable to make business decisions about their involvement, participation or otherwise in the reform process. Thank you for your answer, but this time my concern was more about the staff in the department, who I am certain are feeling the stress and anxiety. Some of these meetings are quite heated, so it is more about the welfare of the individuals in the department as well.

**Mr HANSEN:** Yes, and that is across our commercial fisheries area. These are reforms that have been ongoing for a long period of time. I think it was 1994 that the legislation was introduced to arrive at this point in time. It has been since 2007 that shares have been issued and just not linked to effort or catch. So there has been a long process of arriving to where we are today and a lot of those staff have been through a lot of that journey over that period of time.

**Mr SMITH:** We are very aware because the approach that has been taken is to get the best and fairest outcome, but that is not the same as the simplest. So we are trying to use the market mechanism so no-one pays more than they need to and that the Government's support goes as far as it can. That is why the department is running a dry run on the option process, so everyone can get some practise with it.

**The CHAIR:** Just a clarification. Mr Hansen, across the whole department—not just the fisheries component—how do you communicate with staff as to the range of mentoring and/or help facilities that are available to them, because it is a fairly sensitive issue? Is there a broad sort of policy statement that is given to the employees, or is it a wait and see if an employee exhibits a need for it? How do you actually communicate the department's programs to the staff?

**Mr HANSEN:** We take a proactive approach all the way from induction of staff through to regular training. We provide training in everything from resilience, in terms of how they cope with the pressure and the stress in some of these environments, through to conflict management training to assist them in that engagement at times. We regularly publish details and reinforce contact details about the external and independent mental health support services that we have available to staff across the department. But I guess our most powerful tool is just that constant monitoring of staff's welfare by their managers and constantly ensuring that they are aware of the support that we have available to them.

**The CHAIR:** And who monitors the managers' mental health?

**Mr HANSEN:** Their managers.

**The Hon. PENNY SHARPE:** Just on that, are you able to provide to the Committee with the number of Employee Assistance Program [EAP] referrals that have been made?

**Mr SMITH:** We will take that on notice.

**The Hon. PENNY SHARPE:** Can I ask one quick question, which is not about this, it is something slightly different? How many participants are in the mock fishing trial?

**Mr HANSEN:** So far we have had more than 300 participants go through the training over the past couple of weeks in terms of the online system that will be used for the share trading, and we have more than 430 participants—I do not know what that final number is—who are registered to participate in the preview.

**The Hon. MICK VEITCH:** Mr Hansen, you were talking about the shares, the effort, the catch and that process. Are there any views into the future to introduce new shares? At the moment we are working through the existing shares and the reallocations or allocations and purchasing within that. Is there a view at some stage to opening the market up complete with some new shares?

**Mr HANSEN:** That is certainly not part of the current business adjustment program. What the current program is intended to do is to try to rebalance that allocation of shares that occurred back when shares were issued in 2007—they were issued equally to everyone regardless of catch or effort—to try to reinstate some linkage between those shares and that effort and catch, but allowing the industry to do that itself without the Government intervening to be able to do that. At this point in time it is really about rebalancing and readjustment of those shares that currently exist against effort and catch, as opposed to the creation of new shares or new share classes.

**The Hon. MICK VEITCH:** I have had a number of the commercial fishers say to me in recent days—and I think it is more those who have been through the preview process—that the new arrangements, in their eyes, will now put in place another layer of red tape or regulation over the way they will operate. I guess what they are talking about there is that there is no need for the trade and that process after they have been through the preview exercise. Are there plans for a review at some stage of the additional regulatory burdens or red tape, so-called, being placed on the fishers—to look at reducing that?

**Mr HANSEN:** Yes, definitely. In fact, this process is designed to reduce the necessity of red tape. At the moment we use very intensive input control measures to try to limit the operations or to try and control the amount of operations of commercial fishers within the sector because we have no other tool or another lever because of the lack of linkages between shares and either catch or effort. So this is actually about how do we maximise the opportunity to strip away red tape to allow efficiency and innovation to bloom within the sector, for us not to be constraining the sector by having input controls but, instead, talk about outcomes that we are seeking. Not only has the Government already announced the removal of a number of pieces of red tape that are linked around those input controls but also there is ongoing commitment to work with the industries post-reform about how we maximise the new environment which will be less about input controls and more about outcome measurements.

**The Hon. MICK VEITCH:** I will quote an email that was sent to me in regard to the addition of red tape, which states:

The NSW estuary general trapping fishery that harvests crabs and eels currently sustainably harvested using restrictions and limitations on the fishing gear and species that could be kept. Now the NSW Government reforms has put an additional and far more expensive layer on by including the requirement of catch quota to this regime. Fishers will still be limited on how much gear they can use, and limited to species and areas to fish, but now will also be limited to how much they can catch, and will also have to include an expensive reporting system that every time they go out to fish, and return from fishing, they will need to report this to DPI fisheries.

Is that how it was meant to roll out?

**Mr HANSEN:** Already they have to report their activities to us so there is no net change in terms of what they need to do. But moving to a quota system away from an input control system is meant to free up red tape. Unfortunately at this stage, because we have not got to the part where we have made all these linkages, we have not been able to fully progress all the red tape removal opportunities that it presents. And that is something that we are committed to working with industry on, post the reform process.

**The Hon. MICK VEITCH:** Is there a timetable for that?

**Mr HANSEN:** That will be starting from day one after the reforms are completed and we are able to provide assurances around that linkage between shares and either quota or catch effort for us to be able to then start to work with those fishers in those areas to start to remove some of the input controls.

**The CHAIR:** In relation to innovation and the removal of red tape, representations have been made to me by some of the co-ops. Will you briefly describe for the Committee any broad avenues that the department is looking at to introduce innovation into the management and reporting in the co-ops that might reduce the administrative effort within the co-ops? Are you planning to roll out any systems?

**Mr HANSEN:** Recent reforms that have been passed allow us to move to online reporting of catch and online reporting of activity.

**The CHAIR:** From the co-ops?

**Mr HANSEN:** Just full stop. What that allows is that at a co-op level, and I would not necessarily describe it as us facilitating the rollout as opposed to the co-ops themselves are actively looking at innovations at a co-op level. Across the State they have already adopted two or three automated systems that allow fishers to



land catch at the co-op, to automatically have that catch recorded, assigned against them without needing staff from the co-op to be there or to be present to do that. Automated systems are—

**The CHAIR:** Facilities are already available within the Department of Fisheries to accept that information and process it?

**Mr HANSEN:** We are able to receive that information and we will be looking to make sure we have a streamlined process to continue to allow innovations in how catches are recorded, how catches are assigned and information that needs to be submitted by commercial fishers. A large part of the co-ops do it on behalf of those commercial fishers as central aggregation points. We will be working with them to look at how we fast-track those innovations along the coastline.

**The CHAIR:** Are there any requirements for capital expenditure within the department or do you already have the infrastructure available within the department to receive and process the data?

**Mr HANSEN:** The technology advances that we need to be able to continue to keep up with the advances at the commercial fishing end and co-op end are already budgeted into our capital expenses.

**The CHAIR:** That was my question.

**The Hon. PENNY SHARPE:** I refer to the whale incident in Port Stephens with the Marine Fisheries issue—

**The Hon. MICK VEITCH:** The MARL—

**The Hon. PENNY SHARPE:** The MARL, the Marine Aquatic Research Lease. Yesterday in Parliament I asked the Minister about it and he provided us with some additional information. In particular, what advices have you received from OEH in relation to the operation of the MARL?

**Mr HANSEN:** I would have to take that on notice.

**The Hon. PENNY SHARPE:** The answer provided by the Minister suggested that there has been work between your department and OEH in relation to mitigating risks around whales and the location of the MARL. Will you provide information to the Committee about what mitigation risks are occurring?

**Mr HANSEN:** Yes, sure.

**The Hon. PENNY SHARPE:** I am also interested in the location of the MARL. It has been suggested to me there are concerns about its location. It has been described to me as the whale super highway; it is actually smack-bang in the middle of where the whales travel up and down the coast. Obviously there has been one incident so I am interested for you to provide me with information specifically in relation to whale migration patterns.

**Mr HANSEN:** Yes, I am happy to do that. Obviously, as I think the Minister would have said yesterday, the entanglement was not actually an entanglement with any infrastructure to do with the—

**The Hon. PENNY SHARPE:** No, I understand that, but it was within the MARL area.

**Mr HANSEN:** Within the area, so the mitigation—

**The Hon. PENNY SHARPE:** I understand there are ongoing investigations into this matter, but if it is the case it is within the lease area, and if we are supposed to mitigate risks, why were there bits of rope lying around for whales to be caught up on?

**Mr HANSEN:** And I am sure that that is something that will be investigated by OEH as it continues its investigation.

**The Hon. PENNY SHARPE:** Is DPI or OEH doing the investigation?

**Mr HANSEN:** No, whales being mammals mean that it is an OEH issue in terms of the inspection and the report into that. However, in working with them on the lease and lease activities we will ensure that there has been no step not taken in terms of mitigation by that research to comply with the measures that were outlined and documented in the environmental impact statements to proceed with the lease that address this theory of the humpback highway and ensure that we minimise any of the risks as we provide the opportunity for significant new investment in a new industry in aquaculture along our coastline.

**The Hon. MICK VEITCH:** To seek clarification, the Minister responded yesterday and said that DPI is investigating this report further. Did you just say OEH is conducting the investigation?

**Mr HANSEN:** We will be working with OEH in conducting that investigation, but in terms of activities at sea around whales, or dolphins for that matter, that is largely an area that OEH takes the lead on.

**The Hon. PENNY SHARPE:** I am still confused about who actually has responsibility for investigating and providing information in relation to this particular incident.

**Mr HANSEN:** Well, that is two things.

**The Hon. PENNY SHARPE:** This is not a hypothetical incident it is an actual incident.

**Mr HANSEN:** That is right, so that is two things: that is the investigation and the provision of information. We will obviously have a key part providing information. I will take that on notice to provide you with more details about who will do what part of that investigation.

**The Hon. PENNY SHARPE:** That is unclear. Is it correct that an OEH observer is involved in the trial?

**Mr HANSEN:** I will have to take that on notice.

**The Hon. PENNY SHARPE:** Will you provide details of the role of the OEH observer when they are there? Is it an on-water observation role or a desk-top role or that type of thing?

**Mr HANSEN:** Certainly, yes.

**The Hon. MICK VEITCH:** I met with commercial fishers and they talked about the preview exercise. There was an unsavoury incident when two of them walked out because they had literacy issues that at no stage had been identified. They attended to learn how it will work, but they could not participate and no provision was made to assist them in the process. Will you take on notice this question: How have the literacy issues of the participants been identified before they attend the preview training sessions? Do you have a process of asking people about literacy so that we can ensure that all commercial fishers are not disadvantaged in any way in what is already a very complex process?

**Mr HANSEN:** A key reason for rolling out the training and having this preview period is to try to flesh out where we might need to either provide additional assistance ourselves or provide additional assistance to the cooperatives to assist their members in being ready and being able to address this. I do not have not the full report back from those training periods yet, but I am sure that we will. And I am sure that out of that will come a series of actions in terms of: How do we make sure whether it is literacy or English as a first language that comes up? How do we best approach that? How do we work with the cooperatives that currently assist those fishers in providing the records and the record-keeping that is required as part of their licence obligations? How do we assist them to take that same assistance level in helping them through the preview period?

**The Hon. MICK VEITCH:** What is being done to assist those individuals who sought to engage in the preview process—namely, those who turned up and were unable to participate? A lot of them have turned up, it did not work and they have walked away. How are we going to make sure that they are able to participate when we go live with this whole process?

**Mr HANSEN:** I do not have the answer to that at the moment. I will take that question a notice.

**Mr SMITH:** But it would be worth saying that if you come across any individuals who raise these matters you should send them through so that we can reach out to those people.

**The Hon. MICK VEITCH:** I have raised it with the Minister. I just want to know how we are going to chase them down. Some of these individuals who have walked away may not want to re-engage.

**Mr SMITH:** That is right.

**Mr HANSEN:** Others who were there will know who they are. There has been an opportunity to flesh out some of these issues and work out who some of the people are who need some additional assistance and help in terms of working through the types of material that we present. Obviously not only is there the online, but there have been videos available to them to help them through the process. There is also in-person visitations by our fisheries managers to help them talk through. So a part of this process has been identifying some of these issues that need to be addressed and making sure that we have the full suite of options to enable everyone to participate. But I do not have the specific responses for those individuals, no.

**The Hon. MICK VEITCH:** I will now move on to Crown lands.

**Mr HANSEN:** For completeness, I have one answer: \$86 million for the commercial fish sector value.

**The Hon. MICK VEITCH:** Was that as at last financial year?

**Mr HANSEN:** It would have been the last financial year management.

**The Hon. MICK VEITCH:** I will move on to Crown lands.

**The CHAIR:** Mr Hansen, are you able to stay or do you have to go?

**Mr HANSEN:** No, I am more than happy to stay.

**The Hon. MICK VEITCH:** I have a series of questions on native title and you may need to take them on notice. On what dates was the Department of Lands advised of the successful grants of the Yaegl, Barkandji and Bandjalang native title claims?

**Ms STONE:** Because the department is a party to those determinations, or involved in a lot of the discussions that led into those final determinations that are made by the Federal Court, we certainly have been aware of the nature of those consent determinations. In terms of the advice back to the department, we keep in touch with the Native Titles Services Corporation in terms of next steps—namely, what happens as a result of those determinations.

**The Hon. MICK VEITCH:** On what date were you advised of the final determinations?

**Ms STONE:** The determinations have been made—for Bandjalang, it was 2 December 2013; for Yaegl, it was 25 June 2015; and for Barkandji, which is that large area in the south-west of New South Wales, 16 June 2015.

**The Hon. MICK VEITCH:** How long after the department was advised was the Minister advised?

**Ms STONE:** Of those determinations?

**The Hon. MICK VEITCH:** Yes, the final determinations.

**Ms STONE:** I would have to understand—

**The Hon. MICK VEITCH:** You can take that on notice. All I want is the date.

**Ms STONE:** —how we advised the Minister of those actual consent determination processes.

**The Hon. MICK VEITCH:** How and when?

**Ms STONE:** Yes.

**The Hon. MICK VEITCH:** On receiving that advice, what actions commenced to identify licences and other tenures that may have been impacted by the final determinations?

**Ms STONE:** As to the terminated licence issue that you refer to, our legal advice team and certainly the Crown Solicitor's Office have been talking about that since the Barkandji determination. Since then we have spent quite a bit of time understanding and seeking further advice as to what has caused the issue. The facts are that our licences contain a clause that say on consent determination this licence "may" or this licence "will" terminate. As a result of understanding that we have taken quite a lot of time to understand properly for all of the parties concerned—the native title owner groups and the licence holders—what options are available to us to now be in a position where we are talking with all parties to seek to resolve this.

**The Hon. MICK VEITCH:** You started that process when you were advised of the final determination for Barkandji?

**Ms STONE:** We started that process late last year, so that would be about October or November 2015. Since then we have put native title operations group together, which has drawn together policy advice, legal advice and people who actually understand licensing processes.

**The Hon. MICK VEITCH:** What date did you put that together? I know it takes time to put them together, but when did it formally start?

**Ms STONE:** We started recruiting into that process at the end of last year.

**The Hon. MICK VEITCH:** Was the Minister advised of the number of affected tenures?

**Ms STONE:** Yes.

**The Hon. MICK VEITCH:** When and how?

**Ms STONE:** Earlier this year. I would have to get the exact date.

**The Hon. MICK VEITCH:** How?

**Ms STONE:** Verbally at first and then certainly more formal advice.

**Mr SMITH:** I think it is probably worth adding that I was fairly new to the process, but it is not like you run a report and it just prints you off every licence that has a particular condition within it. To fully understand the scope—because the licences are legacy documents they are not automatically produced—a lot of manual searching is required and the actual consequence for each individual licence turns very precisely on exactly the word that has been used by the licensing officer at the time. So I would say to Alison, "Come on, just tell me the categories. How many are there? What is the story?" She said, "If we go out prematurely we will upset people who do not need to be upset. We really need to think carefully and work through the details." So it has been an evolutionary process of the picture becoming clearer over time as the detailed digging is done.

**The Hon. MICK VEITCH:** You said you sought legal advice. Are you obtaining your legal advice through the Crown Solicitor's Office?

**Ms STONE:** Yes.

**The Hon. MICK VEITCH:** What type of legal advice are you seeking? What legal issues are you seeking advice on? What concerns are arising from this?

**Ms STONE:** More broadly, we are seeking to understand how we can re-grant some of the licences that are likely to be able to be re-granted consistent with the Native Title Act and that are consistent with the use of Crown land under the Crown Lands Act. As Mr Smith said, we are looking at how we make sure that we are compliant going forward. Across the business, over the past two or three years, we also have been making sure that we are rolling out training in native title to make sure that people actually understand this, and to make sure that as we are dealing in every single piece of Crown land when it comes to us for a decision there is evidence as to whether native title exists or has been extinguished to allow us to be consistent with the Act.

**The Hon. MICK VEITCH:** Is that clause 6 or the whole lot of the Act? Is there a specific area of the Act that you are really concerned about?

**Ms STONE:** We are interested in making sure that when we deal in land we do it consistently, we make sure we do it lawfully, and we make sure that we protect the interests of all parties—native title owner groups and certainly the licence holders we are seeking to grant access or rights to.

**Mr SMITH:** The policy objective is: Is this licence affected by the decision? Yes or no. If it is, is its reinstatement compatible with the various laws that apply? If so, how to do that. If it is not, then how can we best work with the person and the native title rights owners to see what is the best thing that can be done.

**The Hon. MICK VEITCH:** A letter was sent out under the signature of Ms Stone on 1 September. Essentially it said that you do not need to respond to this letter, the department is currently reviewing all affected licences and will contact you by the end of September 2016 with further information. First, has that happened?

**Ms STONE:** That has, yes. Since the first letter went out we have established through our call centre a contact number and we have had about 20 per cent of licence holders call through to that call centre for further information. The first letter we sent out was obviously fairly straightforward and short to the point. The follow-up letter has now looked at what are the options that are available to certain classes of licence holders. In the meantime we have also met with all of the Native Title owner groups in conjunction with Native Title Services Corporation. So that would be the Barkandji people, the Yaegl people and the Bandjalang people.

We have also held community meetings out in White Cliffs just earlier this week and the feedback from that meeting is it has now been good to see the conversation. Picking up the comments you made earlier in relation to Mr Hansen, some of the licence holders have wanted that face-to-face conversation. Certainly with the communities in White Cliffs we were concerned that those particular licence holders were very concerned. We made an extra step and rang all of them or attempted to talk to them by phone prior to going out to White Cliffs to sit down with them to talk through the issue.

Yesterday there was another meeting up on the North Coast and today there was the first of a series of meetings. We are continuing to engage as we become clearer with the information that we are getting. As you know with Crown land, you cannot say definitively this is the case for everything. Every time we have a view on what might happen we then take the individual licence, we work through that issue and then we can look more specifically at how we are going to deal with that in the future.

**The Hon. MICK VEITCH:** On face value this appears to be resource intensive, but in a very complex area. When we set up the unit did we use existing staff within the Department of Lands or did we recruit expertise from elsewhere to assist us in this process, "us" being the people of New South Wales?

**Ms STONE:** No, we have recruited additional staff into that specially formed unit. We also rely extensively on policy advice from within the cluster and certainly legal advice from within the cluster as well. So the legal team is dedicating staff and effort into that as well. We rely on external advice through the Crown Solicitor's Office to make sure we are understanding the issues correctly. In addition to that, as you may be aware, there are a number of Native Title claims already waiting to be determined. We have also engaged extra status searching staff. I think we have put on about 10 additional staff to make sure that we can comply with Federal Court orders in dealing with the Native Title application claims that are on hand at the moment.

**The Hon. MICK VEITCH:** With regard to the dates that the final determinations were made, was the department aware that those dates were approaching?

**Ms STONE:** We do have a schedule of when the Federal Court is bringing forward their requirements, which requires us to do all of that searching work to determine the status of the land. The terminating licence was something that was not well understood or known. Certainly when we have been aware of it, and aware of the scale and scope of it we have acted.

**The Hon. MICK VEITCH:** Has the State Government in any way been exposed to compensation requests?

**Ms STONE:** Compensation is always an issue that comes up in all these discussions from all sides and all parties. We will deal with that as we work through it.

**The Hon. MICK VEITCH:** Have we assessed the potential?

**Mr SMITH:** We have had no claims. We do not think there are. The licences were issued and accepted at the time with the condition, and the condition in some cases has been activated as anticipated in the licence.

**Ms STONE:** And there are several compensation claims that have been determined prior to this and they are determined by the Federal Court. Compensation in relation to undertaking an act that is inconsistent with the Native Title Act has existed since the Native Title legislation has been in place. This is not a new issue, but we are working through that.

**The Hon. MICK VEITCH:** What are the insurance implications for a leaseholder or licence holder once the final determination has been made? Have they lost tenure and status for the time being?

**Ms STONE:** Insurance is something that each licence holder takes out for themselves. We have advised licence holders to check with their insurance companies.

**The Hon. MICK VEITCH:** Did you do that in writing?

**Ms STONE:** We have provided that information in our fact sheet, I believe. We have a couple of fact sheets up on the web for people to access that information. I would just need to check whether that information is included in that.

**The Hon. MICK VEITCH:** What about rents that have been collected since the final determination? Have we had to repay to people any rents that we have collected?

**Ms STONE:** When we determine what we can or cannot do with each individual licence we will make a decision on whether rent is potentially refunded or whether it continues to be paid.

**The Hon. MICK VEITCH:** Have we done any preparatory work on that to see the State Government's exposure on this?

**Ms STONE:** We have looked at the amount of rent that is collected off those licences, but I do not have that figure in front of me.

**The Hon. MICK VEITCH:** Are you able to take that on notice?

**Ms STONE:** I can, thank you.

**The Hon. MICK VEITCH:** The department provided some figures regarding outstanding rents and other moneys for Crown leases to an inquiry. As you know, there was a Crown lands inquiry and then there was the budget estimates hearing, and there was an inconsistency. More interestingly, there was an inconsistency with the numbers in what I would call the Auditor-General's scathing report into the management of leases on Crown lands. You may need to take this on notice. I am trying to get to the bottom of why there is an inconsistency. There could be a very good answer for it. As of today could you provide a breakdown of what money is owing on Crown lands in leases, licences and acquisitions, if that is possible?

**Mr SMITH:** Yes, we will take that on notice.

**Ms STONE:** If I could clarify, there were two figures quoted. One figure was for outstanding debt on all tenures and one was in relation to leases. We will take it on notice.

**The Hon. MICK VEITCH:** Is that the inconsistency?

**Ms STONE:** Yes, but we will provide you with the correct figures.

**Mr SMITH:** We are also happy if you want to have a separate discussion about overdue rents and the handling of all of that. Obviously, the Auditor-General has found that past practice was not up to standard. Ms Stone's team has made a lot of changes in terms of how we manage all of that.

**The Hon. MICK VEITCH:** I would appreciate that at some stage if we can make a time.

**Mr SMITH:** It is not a simple area because a lot of the leases and licences are granted to community organisations or regional businesses or co-ops or organisations that are complicated and we want to work to help those organisations survive. But we also acknowledge that past practices have not been up to standard in terms of diligence in collecting rent quickly. But from the changes that have been made it has become much more centralised in a service centre that is in Newcastle and in Dubbo so it is run more like a real estate agency in the sense of having proper databases, follow-ups, scheduled inspections and all of that stuff. It is gradually coming into a more professional basis.

**The CHAIR:** Just to be clear for the *Hansard* record, Mr Smith has made the offer to brief persons on this particular issue.

**Mr SMITH:** Yes, the ones who are here. Absolutely.

**The Hon. MICK VEITCH:** And persons have accepted.

**Ms STONE:** If I could just add to that, we did start the process of bringing the debt recovery team into our business centre at the beginning of the year. Certainly one of the discussions that we had with the audit office was that we had only just commenced that. I think we have provided figures previously on the amount of debt that we are now working through, the improved processes that we are looking at and the options for making sure that we are following up on that.

**The Hon. GREG PEARCE:** Mr Smith, if you can get that business cleaned up and sorted out it might well be something that we can add to our asset recycling scheme and sell.

**Mr SMITH:** I think that would be a policy matter for the Minister.

**The Hon. PENNY SHARPE:** I am glad *Hansard* got that. Thanks for that, Mr Pearce.

**The Hon. MICK VEITCH:** Thank you very much, Mr Pearce. Something else to sell. My final question is to do with dredging. A number of people have written to my office saying that they are concerned about the delays in getting dredging applications and dredging operations underway. I appreciate this is not all the responsibility of the Department of Lands and there are other departments involved, but do you have a regular dialogue with the Minister's office about these delays? Is information being fed to the Minister's office about dredging exercises and if there are delays in commencing the dredging?

**Mr SMITH:** Can I clarify what categories of dredging?

**The Hon. MICK VEITCH:** This is the issue. People are ringing in and I have met people in the Myall Lakes talking about the dredging issues they have had. There is a range of different types of dredging. I am trying to get my head around how it works, who is the consent authority, who does the work and why does it take so long in some instances for dredging to commence?

**Mr SMITH:** I will ask Ms Stone to go to the detail. We have a specific set of obligations in relation to dredging that relate to the regional port facilities that we support and in other areas we are not responsible, it is a local government matter.

**The CHAIR:** There is a requirement for the fisheries department to approve of any activity.

**Mr SMITH:** There can be, yes. In terms of who is going to do the work or provide a subsidy to support the council doing the work, there are only some waterways that are our responsibility. Anyone who wants to do dredging may require a fisheries approval.

**The CHAIR:** Most, not all, estuary and lake bottoms are Crown land, three nautical miles off means high tied is Crown land, but I take it there are a number of different types of dredging. There is reclamation dredging, sand dredging for the purpose of taking a product, as part of infrastructure works, which is subject to

an environmental process and there could be other dredging processes, some of which could relate to fisheries like opening up of intermittently closed and open lakes and lagoons [ICOLLs] for certain reasons. It is a complex process.

**Mr SMITH:** It is. There is channel maintenance in the major ports as well.

**Ms STONE:** If I could add two quick points and we will follow up with a detailed response. First, the approvals process sometimes includes the Environment Protection Authority because we are dredging contaminated land. There is often a requirement to source places that will take contaminated disposal and in some instances the only place that takes contaminated spoil is Queensland, curiously enough.

**The CHAIR:** That is not curious at all.

**Ms STONE:** Secondly, there are multiple sources of funding. We must ensure that if council or Federal Government funding is involved the processes aligns, so you have the full cost of the dredging covered before you commence the processes.

**The Hon. MICK VEITCH:** Could you take on notice any details you believe will assist? I am trying to understand how it works.

**Mr SMITH:** We can respond by way of a facts sheet that explains how it all works.

**The Hon. MICK VEITCH:** That would be great. The balance of my questions I will put on notice.

**The CHAIR:** Ladies and gentlemen, even though we are not scheduled to conclude until 4:00 p.m. there are no more questions for the witnesses. Replies to questions on notice are required within 21 days. You will be sent the questions in writing so there is no confusion. In addition to that, Mr Smith has offered to set up a briefing outside the ambit of the formal to and fro of the hearing.

**Mr SMITH:** Yes.

**The CHAIR:** The hearing has concluded. I thank for your attendance.

**(The witnesses withdrew)**

**(The Committee adjourned at 14:54)**