

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S PORTFOLIO

Program: 1.8 Australian Government Disaster Financial Support Payments

Question No. SBE16/139

Senator Pratt asked the following question at the hearing on 12 December 2016:

Questions for the department

1. In 2010, 2011, 2012, 2013 plant and equipment costs were reimbursed under NDRRA, even if it wasn't explicitly granted eligibility under the determination?
2. And councils did a lot of disaster recovery work using their own plant and equipment in that period?
3. When did you change the eligibility requirements under the Natural Disaster Relief and Recovery Arrangements?
4. When did you communicate this to councils?
5. From when did this change apply?
6. This was after the councils had already invested in plant and equipment costs for disaster relief and recovery on the basis that they would be reimbursed?
7. What was the accepted practice in place at the time the reconstruction works for 2014 events commenced?
8. This is a retroactive change?
9. What did these councils do wrong such that you are denying them \$10 million?
10. Isn't plant and equipment critical for disaster recovery?
11. You have approved an exemption for day labour, why not plant and equipment?
12. I know the Queensland government has made representations to you about this matter - have you had any representations from Government members about this taking of money from retrospective decision?
13. Taking this money from these communities - have you done any modelling on the number of local jobs it will cost now that remote and regional Councils are being forced to move to contracting works out?
14. Has your department done any analysis on the review conducted by the Queensland Reconstruction Authority (QRA) and tabled in the Queensland parliament that has shown that the use of day labour and council owned plant and equipment costs is almost 25 per cent less than external contractor plant costs and is often the only option available to the more remote councils?
15. If this change is about saving money, why won't this Government support a more cost effective solution?
16. *These communities are already doing it tough dealing with drought and these councils have a comparatively low rates base to fund this unplanned expenditure. Cost estimates indicate that affected local governments could be out of pocket by more than \$10 million as a result of the Commonwealth suddenly changing the rules. Some of the hardest hit councils include Winton Shire Council, Barcaldine Regional Council and Barcoo Shire Council. This means places like Yeppoon in Queensland, areas of the Torres Strait north of Cairns and to a greater extent areas in Western Queensland. These 30 councils are almost exclusively in Coalition held electorates, why is the Government deserting not only Queenslanders, but their own MPs?*

Media release (29 Nov 16)

17. On 29 November 2016, Minister for Justice Michael Keenan put out a media release titled 'Getting Disaster Payments Right in Queensland'. Were EMA asked to fact check this media release?
18. Is it correct that the \$50 million referred to incorrectly as a 'rort' by Minister Keenan is in fact made up of unexpended Commonwealth advances and a series of minor adjustments agreed collaboratively between Qld and EMA?
19. And is it true that EMA has previously and specifically advised the Queensland Reconstruction Authority not to apply the \$43 million in unexpended advances to the 2014-15 claim?
20. Is it incorrect for this \$50 million adjustment to a \$1.1 billion claim to be termed as 'rorts' by the Minister because in fact there was nothing fraudulent or dishonest in this claim identified by the Commonwealth?
21. Was the independent auditor engaged by the Commonwealth to re-examine Qld's prior claims was engaged because of a previous ANAO report which was critical of EMA's lack of assurance processes?
22. And until this point EMA had failed to conduct any audit or assurance work on Qld's claims dating back to 2009?
23. Is it also correct that this expenditure was identified by the QRA and the QAO as part of the '725 project' and taken out of final claims before they were submitted to the Commonwealth for reimbursement?
24. Doesn't this prove that 'Queensland has implemented a strong framework to administer NDRRA' as was acknowledged by the Commonwealth's own independent auditors?
25. That being the case, how can the Minister say the Queensland Government and local councils are submitting dishonest claims for disaster funding reimbursement?

The independent assurance work (PwC) and expected payment of \$1B

26. Following the shock decision in the Federal budget in May this year to defer Queensland's disaster funding reimbursement over 2 outer years, EMA appointed PwC to undertake independent assurance work over Queensland's claims dating back to 2009. Has this independent assurance work now been completed?
27. What were PwC's findings in relation to the sampling of the claims?
28. Were any material discrepancies identified by PwC?
29. What did the report find in regards to the practices undertaken by the Queensland Audit office in relation to its audit of Queensland's claims?
30. As part of the 2016-17 Budget, the Commonwealth moved Queensland's 2014-15 financial claim to the 2016-17 and 2017-18 financial years, to ensure that the funds were still budgeted for while the assurance process was underway. Now that this assurance process is complete, why is there a continued delay in processing the payment?
31. Can you give comfort to Queensland communities, heading into disaster season right now, around your audit and assurance requirements as well as timeframes for reimbursement for future claims, or will this government continue to change the rules on a whim to suit themselves?
32. Although I understand the negotiations with the states for this new model are ongoing, hasn't the commonwealth failed to commit to reimbursement timeframes as part of the proposed new model?
33. Will that change, given the impact this uncertainty has on disaster stricken communities?

The answer to the honourable Senator's question is as follows:

Plant and equipment

1. It is a longstanding principle of the Natural Disaster Relief and Recovery Arrangements (NDRRA) dating back to at least 2007 that the Australian Government will not reimburse expenses that would still have been incurred if a disaster had not occurred. This includes the ordinary costs of council-owned plant and equipment. In 2012, the Australian Government agreed to a temporary day labour trial for Queensland, which was administered under the *National Partnership Agreement for Natural Disaster Reconstruction and Recovery*. The trial applied to eligible disasters occurring between November 2010 and June 2013 and allowed for both day labour and plant and equipment costs of local governments to be claimed. This was a special arrangement with the Queensland Government to help the Queensland community recover from the devastating impacts of the 2010-11 floods and Cyclone Yasi. It was not a policy change under the NDRRA. The Australian Government reimburses state governments for eligible NDRRA expenditure and does not have details on local government expenditure.

In recognition of the recent devastation from Tropical Cyclone Debbie and in line with the day labour extension, on 30 March 2017 the Australian Government offered a new exemption to the standard terms of the NDRRA. Under this exemption, states may claim the costs associated with local government using their own plant and equipment when undertaking eligible disaster reconstruction works on damaged essential public assets for eligible NDRRA events between 2013-14 and 2017-18. This exemption arrangement is temporary; it is not a change in NDRRA policy.

3-11 Refer to the response to Question 1.

12. The Department has had no representations from Government.

13. The Department has not undertaken any modelling, such matters are a state and local council issue.

14. The Department has not undertaken any analysis of the review.

15-16 Refer to response to Question 1.

Media release

17. Yes.

18. The Commonwealth liability was reduced by \$58 million as a result of the collaborative assurance program undertaken by the department and Australian Government's independent auditor. The advance funding has no connection with the revised Commonwealth liability identified as a result of the assurance program.

19. The Queensland government was advised that all advances paid by the Commonwealth would be considered as part of the assurance program and be deducted from the final payment to be made against each financial claim.

20. Refer to response to question 18.

21. The ANAO report released on 30 April 2015, found that the Commonwealth placed too much reliance on state vetting and sign-off, resulting in millions of dollars of ineligible claims being reimbursed to the states. The ANAO report also found that the Australian

Government Reconstruction Inspectorate identified 'systemic eligibility issues in road construction projects' in Queensland.

22. The department provided advice to the Queensland Government prior to the release of the ANAO report in February 2015 regarding matters that arose during the department's assessment of Queensland's 2008-09 to 2012-13 claims.
23. The Queensland Government and Queensland Audit Office identified and removed \$33 million from Queensland's original 2009-10 claim. The Queensland Audit Office undertook further testing in relation to the '725 Project' and identified \$121 million in ineligible state expenditure. This was not removed from final claims submitted to the Australian Government. The work undertaken by the department and the Commonwealth's independent auditor confirmed the qualified re-audits undertaken.
24. The Commonwealth's independent auditor's initial review did not include testing the operating effectiveness and implementation of the framework. The subsequent collaborative assurance program undertaken for the 2008-09 through 2014-15 Queensland claims tested these processes.
25. Refer to response to question 18.

The independent assurance work and expected payment of \$1 billion.

26. The collaborative assurance program was completed on 18 November 2016.
27. The Australian Government's independent auditor confirmed the approach and sampling methodology of the Queensland Government and Queensland Audit Office in relation to the '725 Project'. The collaborative assurance program further identified additional ineligible expenditure claimed by the Queensland Government.
28. Refer to response to question 27.
29. The Australian Government's independent auditor confirmed the approach and sampling methodology of the Queensland Audit Office.
30. The payment was made through normal budget processes at the earliest opportunity following the completion of the collaborative audit process.
31. The department is committed to an ongoing program of independent assurance activities to ensure the eligibility of state spending under the NDRRA.
32. Reimbursement timeframes is one of a number of matters currently being discussed between the Commonwealth and the states and territories.
33. Refer to response to question 32.