



Parliament of Australia

Senate

Community Affairs Legislation Committee

Estimates (hearing 3 June 2011)

Northern Land Council

Response to questions on notice

8 August 2011

**SENATE COMMUNITY AFFAIRS LEGISLATION COMMITTEE**  
**ESTIMATES (HEARING 3 JUNE 2011)**  
**RESPONSE TO QUESTIONS ON NOTICE**

**1. QUESTIONS ON NOTICE**

**1.1 Commonwealth radioactive waste management facility (Senator Ludlam)**

Senator Ludlam asked when an anthropological study on traditional Aboriginal ownership of the nominated site was initiated.

The answer is April 2006.

**1.2 Public comments by Northern Land Council – (Senator Scullion)**

Senator Scullion asked the following question on notice:

*Does the Northern Land Council have a communication plan that regulates or stipulates the process of the Northern Land Council making public comments?*

The NLC's human resource manual provides that it is the responsibility of the Chairman and the Chief Executive Officer to make media statements or give interviews on behalf of the NLC. Where authorised by the Chief Executive Officer, senior NLC officers may give media interviews about specific matters.

As explained to the Committee on 3 June 2011, the process whereby the Chairman and the Chief Executive Officer make public comments is not in the form of a formal communication plan. The performance regarding this or any other aspect of their duties is generally regulated by the employment contract. This regulation does not require that the Chairman or the Chief Executive Officer obtain prior approval from the NLC Executive Council regarding specific media statements.

**1.3 Proposed new Land Council – (Senator Scullion)**

Senator Scullion asked the following question on notice:

*What travel or meeting expenses has the NLC incurred in its conduct of consultations regarding the proposed Katherine Region Land Council?*

The proposed Katherine Region Land Council seeks that almost 80% of the NLC's region become the responsibility of a new entity. The NLC has conducted 16 consultations at communities in its region, and has incurred expenses of \$56,138.85.

For the Committee's assistance, it is noted that the NLC's statutory functions include:

- “to ascertain and express the wishes and the opinion of Aboriginals living in the area of the Land Council as to the management of Aboriginal land in that area” (s 23(1)(a));

- “to protect the interests of traditional Aboriginal owners, and other Aboriginals interested in, Aboriginal land in the area of the Land Council” (s 23(1)(b)).

Section 23AA(3) requires that in allocating resources the NLC “must give priority to the protection of the interests of traditional Aboriginal owners of, and other Aboriginals interested in, Aboriginal land.

These functions are broad, and plainly extend to the giving of advice to the NLC's constituents as to the merits of an application under s 21A for the establishment of a new Land Council. The functions are not limited to merely “advising people of the process” to be implemented by the Minister, as was suggested by Senator Scullion at Estimates on 3 June 2011. Indeed s 23AA(3) requires the NLC to “give priority” to protecting the interests referred to in (s 23(1)(b)), which must include advising as to the merits of a matter (including a s 21A application) which may affect those interests.

#### **1.4 Barge landings – (Senator Scullion)**

Senator Scullion asked the following question on notice:

*I understand that the Northern Land Council is currently proposing to charge a rent or usage fee for the use of community barge landings. Who is proposed to pay such a fee? How is this fee calculated? Do all operators pay the same fee? What is the purpose of the fee? Could you provide a schedule of fees? Have you done any sort of cost-benefit analysis to work out what sort of impact this fee schedule provides to the cost of living in these communities?*

For some years the provision of goods by barge to communities in Arnhem Land has predominantly been provided by one operator. That service is presently provided pursuant s 19 licences granted under seven agreements between the operator and the Arnhem Land Aboriginal Land Trust, four of which commenced in 1997 and three in 2000.

The s 19 licences are non-exclusive, except in relation to certain areas of land which in some cases the operator requires for exclusive use. The financial benefit to relevant traditional owners under the agreements comprises a small fixed fee plus a freight levy. The quantum of the fee and the levy are common to all licences. Their purpose is to ensure an appropriate financial benefit to traditional owners for the use of their land. Finalisation of new agreements with that operator, on relatively similar terms, is advanced.

There are four other operators that provide barge services to communities in Arnhem Land. Agreements for those operators, on similar terms to the original operator, are also advanced.

The quantum of the financial benefit under existing agreements, or proposed future agreements, is commercial in confidence. It is thus inappropriate to provide a schedule of fees. That quantum has been identified through arms length negotiations, and has existed for over a decade under current agreements without any detrimental effect on the cost of living in those communities.