

Senate Community Affairs Committee
ANSWERS TO ESTIMATES QUESTIONS ON NOTICE
FAMILIES, HOUSING, COMMUNITY SERVICES AND
INDIGENOUS AFFAIRS PORTFOLIO
2012-13 Supplementary Estimates Hearings

Outcome Number:

Question No: 447

Topic: Larrakia Development Corporation

Hansard Page: Written

Senator Scullion asked:

The Larrakia Development Corporation board was dismissed, and then reinstated by the shareholder, the NLC. Provide the reasons for the dismissal and reasons for the reinstatement.

Answer:

In purportedly dismissing the Larrakia Development Corporation (LDC) directors on 14 September 2012, the Executive Council of the Northern Land Council (NLC) relied on advice given by officers who are no longer employed by the NLC.

That advice was that the LDC “appears” to have had “solvency issues since January 2011, together with concerns that the solvency issues were allegedly not notified to the NLC when first known, that there had been a decline in the value of assets, and that directors' fees had allegedly been paid when other debts were not.

On 19 September 2012, in rescinding its resolution to dismiss the directors, the Executive Council relied on legal advice from the NLC's principal legal officer and senior counsel.

That legal advice was that the resolution to dismiss the directors was void on various grounds, particularly that the Executive Council had no delegated power to do so since it had not been appointed by the NLC Full Council under s 250D(1)(c) of the *Corporations Act 2001* (Cth) (and, indeed, could not lawfully be appointed under that provision), and also that the Larrakia people had not been consulted to the extent “reasonably practicable” as required by cl 4.4 of the LDC Share Trust deed dated 8 February 2002 (of which the NLC is the trustee).

On Friday 21 September 2012, the NLC met with the LDC's auditors who confirmed that it was not suggested that the LDC was trading while insolvent.