

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2006

Transport and Regional Services

Question No: TLG 01

Division/Agency: Territories and Local Government

Topic: Norfolk Island – High Court Challenge

Hansard Page: 91 (23/05/06)

Senator Carr asked:

Senator CARR—I read in the *Norfolk Islander* that litigation is being funded from non-government sources, and an appropriate written arrangement has been put in place to confirm this and public money will not be spent nor risked by the proceedings. Is it the case that Mr Geoffrey Bennett has indemnified the Government of Norfolk Island as to the costs involved in this case?

Ms Clendinning—I am not aware of that.

Senator CARR—Can we establish whether or not that is the fact?

Ms Clendinning—I will have to take that question on notice.

Answer:

The Department is unaware of any indemnity agreement between the Government of Norfolk Island and other Plaintiffs as to costs or the detail of any such agreement.

The Government is currently seeking the advice of the Norfolk Island Government on the nature of its involvement.

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2006

Transport and Regional Services

Question No: TLG 02

Division/Agency: Territories and Local Government

Topic: Norfolk Island - Application of Legislation of Commonwealth
Departments

Hansard Page: 94 (23/05/06)

Senator Carr asked:

Senator CARR—Is there any chance I can get a schedule from you as to what studies are actually being undertaken? You have said all Departments. Can we get a schedule of what the nature of their inquiries is? I do not expect fine detail but just want to get a feel of the breadth of program.

Ms Clendinning—A feel for what is going on.

Senator CARR—I am concerned, as you know. Publicly, I stated the view that we generally critically support the Government's direction on these matters; however, we are concerned at the delay, given the urgency of the tasks. If there is any slippage in the legislative program, I would be anxious to find out what the reasons were, because there is an election coming next year. You would not want these matters to be delayed in the legislative program in the second half of the year, would you?

Ms Clendinning—No, but that does always depend on drafting of legislation.

Senator CARR—Yes. You have to get it right.

Ms Clendinning—Yes.

Senator CARR—I appreciate that.

Ms Clendinning—When I say 'slippage', it is possibly a month at the most.

Senator CARR—So what, in rough terms?

Ms Clendinning—Towards the end of the year.

Senator CARR—Towards the end of this year?

Ms Clendinning—This year, but not for legislation, no. Legislation would have to be next year.

Mr Mrdak—We would be aiming to get a package of material which the Government could consider to take forward by the end of this year. We are really looking for, most likely, a legislative schedule which is in the autumn session of next year.

Ms Clendinning—Spring at the earliest, yes. No, autumn, you are right.

Mr Mrdak—In response to your question, we will look at getting you a position on which agencies are being consulted and what work is under way in relation to these matters.

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Transport and Regional Services

		Final report to Government: expected end September 2006
<u>Economic Impact Assessment</u> To assess the economic impact of the extension of Australian Government legislation and the proposed governance models.	Tender process currently underway	Tender period close: 26 June 2006 Final report to Government: expected end September 2006

Senate Rural and Regional Affairs and Transport Legislation Committee

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Budget Estimates May 2006

Transport and Regional Services

Question No: TLG 03

Division/Agency: Territories and Local Government

Topic: Expenditure on Surveys and Reviews

Hansard Page: 95 (23/05/06)

Senator Carr asked:

Ms Clendinning—The CGC inquiry is being conducted on a cost-recovery basis. That is expected to be up to \$250,000. The ABS has estimated the cost of the survey to be around \$107,000, and we have been provided with some additional funds for staffing—to have a small team that is focused on the Norfolk Island reform agenda.

Senator CARR—What is the budget for that?

Ms Clendinning—I do not have the figures in front of me, but I think it is three extra staff. I will have to check that and give you the details of it.

Answer:

The Department has allocated \$1.0m towards the Norfolk Island governance reform initiative. That amount covers the expenses of three additional project staff and suppliers, including the Australian Bureau of Statistics business survey, the Commonwealth Grants Commission inquiry into Norfolk Island Government's funding arrangements under a State or Local Government model and an Economic Impact Assessment of the proposed changes.

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2006

Transport and Regional Services

Question No: TLG 04

Division/Agency: Territories and Local Government

Topic: Commonwealth Officers on Secondment to Norfolk Island Government

Hansard Page: 99 (23/05/06)

Senator Carr asked:

Senator CARR—The legal group in Norfolk Island Administration—are they officers who are on secondment from A-G's, that you are aware of, or are they on secondment from DOTARS?

Ms Clendinning—No. There was an officer from DOTARS who was working on Norfolk Island, but he is no longer there. He was in the legal area.

Senator CARR—Can you advise us what areas the two officers that you are referring to are from?

Mr Mrdak—We will find out if they are from A-G's.

Answer:

None of the Norfolk Island Administration's legal officers is on secondment from DOTARS. The Department understands that none of the Norfolk Island Administration's legal officers are on secondment from the Australian Government's Attorney-General's Department.

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2006

Transport and Regional Services

Question No: TLG 05

Division/Agency: Territories and Local Government

Topic: Participation of Norfolk Islanders in Australian Federal Elections

Hansard Page: 102 (23/05/06)

Senator Carr asked:

Senator CARR—Can you tell me how many Norfolk Islanders are enrolled to vote in Australian Federal elections?

Ms Clendinning—No. I do not have that figure with me. I could find that out.

Answer:

Matters relating to elections do not fall within the Transport and Regional Services Portfolio.

However, the Australian Electoral Commission (AEC) has advised that, as at the close of the rolls for the 2004 Federal election (7 September 2004), 178 residents of Norfolk Island were enrolled to vote. The State/Territory breakdown of that figure is as follows:

ACT	89
NSW	53
QLD	24
VIC	9
SA	2
WA	1
TAS	0
NT	0

The AEC also advised that, as at 31 May 2006, there were 187 residents of Norfolk Island enrolled to vote in federal elections. The State / Territory enrolment is as follows:

ACT	89
NSW	53
QLD	35
VIC	8
WA	1
NT	1
SA	0
TAS	0

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2006

Transport and Regional Services

Question No: TLG 06

Division/Agency: Territories and Local Government

Topic: Participation of Norfolk Islanders in Australian Federal Elections

Hansard Page: 102 (23/05/06)

Senator Carr asked:

Senator CARR—Is it the case that you can only get an application for a postal vote on Norfolk Island by applying to the Administrator?

Ms Clendinning—I am not sure of the circumstances or the details of that sort of administrative arrangement, but I could find out.

Mr Mrdak—We will check.

Answer:

The Administrator's Office does not receive or handle postal applications for Australian elections. Those processes are the responsibility of the Australian Electoral Commission.

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2006

Transport and Regional Services

Question No: TLG 07

Division/Agency: Territories and Local Government

Topic: Participation of Norfolk Islanders in Australian Federal Elections

Hansard Page: 102 (23/05/06)

Senator Carr asked:

Senator CARR—Can you establish for me how many applications for postal votes were through the Administrator in the last election?

Ms Clendinning—Yes, Senator.

Answer:

The Administrator's Office does not handle postal applications for Australian elections. Those processes are the responsibility of the Australian Electoral Commission.

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2006

Transport and Regional Services

Question No: TLG 08

Division/Agency: Territories and Local Government

Topic: Participation of Norfolk Islanders in Australian Federal Elections

Hansard Page: 102 (23/05/06)

Senator Carr asked:

Senator CARR—Does the Administrator adjudicate on the eligibility for postal votes on Norfolk Island?

Ms Clendinning—That is another element I would have to check.

Answer:

No. (Please see answers to TLG 06 and TLG 07)

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2006

Transport and Regional Services

Question No: TLG 09

Division/Agency: Territories and Local Government

Topic: Norfolk Island – Expenses of the Administrator

Hansard Page: 103 (23/05/06)

Senator Carr asked:

Senator CARR—What interests me, though, is the reference to ‘Other’ and \$64,000 worth of expenditure under the category of ‘Other’. Can you advise the Committee what that \$64,000 was referring to?

Ms Clendinning—I do not have the details here. I would have to check that.

Answer:

The \$64,159 for ‘Other’ expenses, as provided in the answer to **QON 80** in the February 2006 Additional Estimates Hearings, is broken up as follows:

Storage of the Administrator's household items and personal effects	4,714
Motor vehicle expenses*	59,445
	64,159

- * Of this, \$55,500 relates to the purchase of 2 x motor vehicles, which have subsequently been capitalised. The remainder, approximately \$4,500, relates to ongoing motor vehicle running costs.

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2006

Transport and Regional Services

Question No: TLG 10

Division/Agency: Territories and Local Government

Topic: Christmas Island Crane - Maintenance

Hansard Page: 103 (23/05/06)

Senator CARR—Can I return to the crane. In your last answer you told me that Toll implemented the maintenance regime recommended by Favco. That is correct, is it?

Ms Clendinning—Favco, yes.

Senator CARR—Can I have a **copy** of that maintenance regime?

Mr Mrdak—We will take that on notice and see what form it exists in.

Answer:

Attached are:

1. A copy of the Favelle Favco maintenance regime;
2. a copy of the operator's checklist that is completed before and after each use; and
3. a copy of the crane's maintenance history report.

[TLG 10 attachments A, B and C]

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2006

Transport and Regional Services

Question No: TLG 11

Division/Agency: Territories and Local Government

Topic: Christmas Island Crane - Maintenance

Hansard Page: 104 (23/05/06)

Senator CARR—Could I also have a **copy** of the maintenance schedule that was undertaken by Toll? In particular, I would like to know the dates of inspection, what was inspected on the crane, and what reports were made to you as owners of the crane.

Ms Clendinning—This is in relation to the breakdown of the crane or the maintenance?

Senator CARR—This is in terms of the maintenance of the crane itself. The thrust of my questions last time was that there are management issues at stake here. And I would like to know how often Toll reported to you as the owners of the crane.

Ms Clendinning—I would have to take that on notice.

Mr Mrdak—We will come back to you with a full picture of the regime.

Senator CARR—I would like to know to whom those reports were made and how those reports were made. I am raising this issue because the crane, which is a critical piece of infrastructure—absolutely vital—has been out of service, so I think it is important to establish how it is that the community on Christmas Island has been placed in this position.

Answer:

Toll Ports provide monthly operational and asset reports to the Department.

The record of inspections is being considered for the purpose of legal advice regarding the circumstances surrounding the crane being out of commission. It would, therefore, be premature to release the report before that legal advice is finalised.

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2006

Transport and Regional Services

Question No: TLG 12

Division/Agency: Territories and Local Government

Topic: Christmas Island Crane – Maintenance

Hansard Page: 104 (23/05/06)

Senator CARR—I am particularly interested to know when the last inspection was done prior to the breakdown, and did that report identify cracks in the base of the footings that led to the breakdown.

Ms Clendinning—I do not have that information here.

Senator CARR—It is important to establish whether or not that report did identify this fault. I take it that the engineers' and metallurgists' reports have now been concluded?

Ms Clendinning—Yes. They are implementing the repairs to the crane.

Senator CARR—Can I get a **copy** of that report?

Ms Clendinning—I will have to check that.

Mr Mrdak—We will take that on notice and come back to you on that one.

Answer:

The crane is inspected by the operators before and after each use. The last time the crane was used (and hence inspected) was 1 January 2006. The operator's checklist for those inspections do not note any problems.

A representative of Favelle Favco was on Christmas Island in early January 2006 to repaint the crane. Cracks were detected at the foot of the tower and consequently the engineer removed the wrapping to inspect the footings. Further cracks were discovered, and the crane was removed from service.

The Department's external legal advisers requested copies of the reports from engineers and the metallurgist for the purpose of providing legal advice. The Department has not yet received that legal advice. Consequently, it would be premature to disclose the report, or its contents, as to do so could jeopardise legal professional privilege in the report and could prejudice the Commonwealth's legal position.

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2006

Transport and Regional Services

Question No: TLG 13

Division/Agency: Territories and Local Government

Topic: Christmas Island Crane – Maintenance

Hansard Page: 104 (23/05/06)

Senator CARR—Does that report tell us how the cracks to the base of the footings occurred?

Ms Clendinning—I am not aware of the details.

Senator CARR—Can you advise the Committee as to what was the reason given by the engineers as to why the cracks occurred?

Ms Clendinning—I think the Committee was provided with the investigations report on the failure of the crane dated 8 April.

Senator CARR—Yes. Refresh my memory. Did it establish why the cracks occurred?

Ms Clendinning—I am sorry, Senator. I have not read it recently and I cannot find it at this point.

Mr Mrdak—As Ms Clendinning has indicated, the Department has initiated action, remedial work is now underway and every effort is being made to address the problem. I think that is where our focus has been. I am happy to review the documentation. Unfortunately, we do not have officers here with us this evening who can give you any detail on the engineering advice, but I will endeavour to do that as quickly as possible.

Answer:

As this issue is currently the subject of dispute and legal action (see the response to **TLG 12**) it is not possible to answer the question at this time.

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2006

Transport and Regional Services

Question No: TLG 14

Division/Agency: Territories and Local Government

Topic: Christmas Island Crane – Departmental Position

Hansard Page: 104 (23/05/06)

Senator CARR—I am interested to know whether or not the Department now agrees that the reuse of the footings for an earlier, smaller crane was a contributing cause to the breakdown that occurred in January.

Mr Mrdak—We will take that on notice and come back to you with a position.

Answer:

As this issue is currently the subject of dispute and legal action (see the response to **TLG 12**) it is not possible to answer the question at this time.

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2006

Transport and Regional Services

Question No: TLG 15

Division/Agency: Territories and Local Government

Topic: Christmas Island Crane – Departmental Position

Hansard Page: 104 (23/05/06)

Senator CARR—Is it the Department's view that responsibility for the crane's failure is now to be found in inadequate footings or in other design faults?

Mr Mrdak—Again, my apologies, Senator. I do not think the officers at the table are able to give you that advice.

Senator CARR—I am surprised that the Department does not have a clear view at this stage at senior levels as to what caused the breakdown.

Mr Mrdak—Certainly, we have advice in relation to this matter, and the Department has a position on the matter, but I am unfortunately unable to provide that to you this evening. I do not have the officers at the table who can do that, I am sorry. I will endeavour to do that as quickly as possible.

Answer:

As this issue is currently the subject of dispute and legal action (see the response to **TLG 12**) it is not possible to answer the question at this time.

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2006

Transport and Regional Services

Question No: TLG 16

Division/Agency: Territories and Local Government

Topic: Christmas Island Crane – Responsibility for Decision-Making

Hansard Page: 106 (23/05/06)

Senator CARR—No, who was responsible for the decision in regard to putting the smaller footings on the larger crane; who signed off on that; who was responsible for the project management within the Department; and who would have an issue that you would have to deal with? Those were the four propositions advanced in that question.

Mr Mrdak—Okay, thank you for clarifying that.

Senator CARR—The answer here, as I say to you, is Territories Office senior management.

Mr Mrdak—Now that I have that clarification, I will come back to you with a detailed answer on that matter.

Answer:

A tender process for the upgrade of the existing pedestal of the crane commenced in June 2003.

That decision was made by the then First Assistant Secretary, Territories and Local Government.

In November 2003, a contract was entered into with Christmas Island Enterprises for the upgrade of the existing pedestal. This contract was signed on behalf of the Australian Government by the Director (Executive Level 2), Territories Office Perth.

Gutteridge Haskins & Davey was the Department's project managers for this project.

The Department has not yet received external legal advice on this matter.

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2006

Transport and Regional Services

Question No: TLG 17

Division/Agency: Territories and Local Government

Topic: Christmas Island Crane – Responsibility for Decision-Making

Hansard Page: 107 (23/05/06)

Senator CARR—Who signed off on the satisfactory completion of the contract, then, Minister?

Mr Mrdak—Sorry, this is the completion of the installation of the crane on its original—

Senator CARR—Yes, 41 and 42 I am referring to. Who has the final completion sign-off responsibility?

Mr Mrdak—It most likely would have been our project manager in the Perth office or an SES officer in Canberra. At that stage, it may even have been myself, as I previously held the position of first secretary, Territories and Local Government some years ago. I will check the exact details of the level of the position who signed off on both the acceptance of the project on installation and also the initial contract.

Answer:

The contract has not been completed. A component of the contract for the purchase of the crane was a defects liability period. The re-painting in January 2006 when the cracks were being identified was being undertaken as part of this defect period. The Department has requested its lawyers to consider the completion of this contract and the defects liability period.

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2006

Transport and Regional Services

Question No: TLG 18

Division/Agency: Territories and Local Government

Topic: Christmas Island Crane - Responsibility for Decision-Making

Hansard Page: 107 (23/05/06)

Senator Carr asked:

Senator CARR—As the senior officer at the time, at any point were you able to establish whether the failure was due to design faults or installation faults?

Mr Mrdak—I am not familiar with the consulting engineers' report on this particular fault. I will undertake to review that material and come back to you with an answer. I have not been directly involved in this engineers' assessment or the review of that matter, but I will take that on personally and come back to you.

Answer:

As this issue is currently the subject of dispute and legal action (see the response to **TLG 12**) it is not possible to answer the question at this time.

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2006

Transport and Regional Services

Question No: TLG 19

Division/Agency: Territories and Local Government

Topic: Christmas Island Crane – Legal Advice

Hansard page: 107 (23/05/06)

Senator CARR—At this stage, it is with the Australian Government Solicitor?

Mr Mrdak—Or one of our other legal panel who provides advice to the Department.

Senator CARR—Can you please advise the Committee as to which one it is? You said one or the other. Which one is it?

Mr Mrdak—We will establish who is providing the advice and the status of it for you.

Answer:

The Department has sought legal advice from Clayton Utz. Advice has not yet been received.

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2006

Transport and Regional Services

Question No: TLG 20

Division/Agency: Territories and Local Government

Topic: Christmas Island Crane – Legal Advice

Hansard Page: 107 (23/05/06)

Senator CARR—Could you advise me on what date that was sought?

Mr Mrdak—Yes, Senator.

Answer:

The Department sought legal advice on 20 January 2006. Interim advice was received from the external legal adviser, Clayton Utz, on 1 February 2006. Final advice will not be received until Clayton Utz receives the engineering consultant's report on the crane.

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2006

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Question No: TLG 21

Division/Agency: Territories and Local Government

Topic: Christmas Island Crane – Departmental Response

Hansard Page: 104 (23/05/06)

Senator CARR—Can I go to the issue of the time line for Comcare responses as the result of the April 2005 failure. The failure occurred on 8 April. Comcare was notified on 11 April. Investigations were commenced on the 14th. That is correct, is it not?

Ms Clendinning—I have not got that detail.

Senator CARR—2005, the report that you referred to before.

Ms Clendinning—Yes. As I said, I have not reread that.

Senator CARR—You can confirm whether I have read that correctly or not?

Ms Clendinning—Yes.

Senator CARR—What is the timetable for the current problems? What is the timetable for action taken by the Department? Was it similarly as quick as had occurred in April 2005?

Ms Clendinning—I assume it has been, but I would have to check that.

Answer:

Comcare was notified of the 2005 incident on 11 April 2005. When that incident occurred, people were using the crane. It was considered that incident was one that needed to be notified to Comcare.

The crane problem identified in January 2006 did not involve any workers. Therefore, there were no occupational health and safety matters that required a notification to Comcare.

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2006

Transport and Regional Services

Question No: TLG 22

Division/Agency: Territories and Local Government

Topic: Christmas Island Crane – Repairs

Hansard Page: 108 (23/05/06)

Senator CARR—I am interested to know why it was that it took from 11 January when the crane broke down to get the metallurgist commissioned on 17 or 18 February. That is correct, is it not?

Ms Clendinning—Yes.

Senator CARR—It took six weeks. Why did it take so long?

Ms Clendinning—I think that problems had to be assessed and then we had to find an appropriately qualified person and get them to the island, but I can check.

Senator CARR—They were able to respond very quickly in April 2005, yet DOTARS took six weeks.

Ms Clendinning—I will have to find out the details of that, Senator.

Mr Mrdak—I am not sure that the nature of the problem was similar in both situations. I think the circumstances in terms of this failure are quite different, but I will check that.

Senator CARR—When did work actually start on the repairs?

Ms Clendinning—I do not know that I have the detail of that here, I am sorry. I will have to check that for you.

Answer:

Norman Disney & Young (NDY) was engaged by the Department on 11 January 2006 to provide an initial assessment of the crane. On 1 February 2006, NDY provided an interim report which recommended further investigative work. The metallurgist was engaged by NDY on 22 February 2006 as part of this investigative work.

The Department could not enter into a contract for the rectification work until the external consultants recommended a design solution for the crane repair.

Investigative and design solution work started on 13 January 2006 and physical construction work commenced on 30 March 2006.

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2006

Transport and Regional Services

Question No: TLG 23

Division/Agency: Territories and Local Government

Topic: Christmas Island Crane Failure – Effects on Community

Hansard Page: 109 (23/05/06)

Senator CARR—So there have been discussions with the Department on that matter? Is that a fair increase, a 13 per cent surcharge on everything that comes onto the island?

Ms Clendinning—I am not sure of the percentage level. I would take your mathematics as right. We are going to be writing to the freight, the shipper, the stevedores to ask for a breakdown of how they have compiled that charge.

Senator CARR—Would you accept that the calculation I made of 13 per cent is right or not?

Ms Clendinning—I am taking it as read, but we will check that.

Mr Mrdak—We will check that and also, as Ms Clendinning said, the Department has contacted or is in the process of contacting that shipping line to ascertain the detail of why they believe such a price quantum increase is warranted. You suggested they have cited the crane breakdown as one factor but it seems to me that would not, in my knowledge of island affairs, warrant that sort of an increase at all.

Answer:

The regular freight rate per cubic meter is \$235 and the surcharge has increased this by \$30. This represents a 12.76% increase.

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2006

Transport and Regional Services

Question No: TLG 24

Division/Agency: Territories and Local Government

Topic: Christmas Island Crane Failure – Effects on the Community

Hansard Page: 109 (23/05/06)

Senator CARR—The advice that has been provided to Christmas Islanders, in the community consultative committee, is that—in fact there have been requests made by the community consultative committee that the Commonwealth pay the freight surcharge. Have you received that request?

Ms Clendinning—Not that I am aware of, Senator.

Mr Mrdak—No.

Senator CARR—Are you aware if the Minister has received that request?

Mr Mrdak—Not to our knowledge.

Senator CARR—The mail must be awfully slow.

Mr Mrdak—We will check that and provide you—

Answer:

That request was made in a letter from the Christmas Island Shire President, Cr Gordon Thomson, received by the Minister for Territories' Office on 9 May 2006. The Minister replied to Cr Thomson on 14 June 2006.

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2006

Transport and Regional Services

Question No: TLG 25

Division/Agency: Territories and Local Government

Topic: Christmas Island Resort

Hansard Page: 112 (23/05/06)

Senator Carr —If you had actually been listening you would know that there are a number of Portfolio areas that have to be covered in this time line. I am interested to know what has happened to the lease of the resort on the island.

Ms Clendinning —Christmas Island Resort?

Senator Carr —Yes. It is still Crown land, is it not?

Ms Clendinning —Yes, I think so. I will have to check that.

Answer:

The land on which the Christmas Island Resort is situated is Crown land.

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2006

Transport and Regional Services

Question No: TLG 26

Division/Agency: Territories and Local Government

Topic: Christmas Island Resort

Hansard Page: 112 (23/05/06)

Senator Carr —Is it the case that the Minister has acknowledged the need for resolution to the ongoing use of the Resort?

Ms Clendinning —I am not sure. I will have to check.

Answer:

The lease for the Christmas Island Resort is currently held by Soft Star Pty Ltd. While the Minister supports the re-opening of the Resort, the future use of the Resort is a matter for the lessee.

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2006

Transport and Regional Services

Question No: TLG 27

Division/Agency: Territories and Local Government

Topic: Christmas Island Resort

Hansard Page: 112 (23/05/06)

Senator Carr —What work are you doing as a Department to resolve the problems associated with the deterioration of the Resort?

Mr Mrdak —I am not aware of any such work at this stage. It is held in a private company by that entity. It is their responsibility at the end of the day. As Ms Clendinning has indicated, this matter, we understand, was raised with the Minister during his recent visit to the island. We will follow that up and see what was raised and what action was proposed.

Answer:

Maintenance is the responsibility of the lessee, Soft Star Pty Ltd.

Soft Star Pty Ltd has agreed to surrender parts of the lease which cover critical road and water infrastructure. Funding has been provided through the Indian Ocean Territories Services Programme to repair and upgrade these assets. The Department expects to commence these works in the 2006-07 financial year.

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2006

Transport and Regional Services

Question No: TLG 28

Division/Agency: Territories and Local Government

Topic: Christmas Island Resort

Hansard Page: 112 (23/05/06)

Senator Carr —Thank you. Can you advise the Committee what impediments there are to the Commonwealth reclaiming the lease?

Mr Mrdak —Certainly. We will examine the nature of the lease arrangement.

Answer:

Soft Star Pty Ltd holds a 99 year lease, which commenced on 17 May 1989, for the Christmas Island Resort. The Australian Government has the usual rights of a leaseholder in respect of the terms of the lease that governs the use of the land by the lessee.

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

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Transport and Regional Services

Question No: TLG 29

Division/Agency: Territories and Local Government

Topic: Christmas Island Resort

Hansard Page: 112 (23/05/06)

Senator Carr —Can I have, as part of your previous answer, any advice as to what the Commonwealth intends to do in regard to returning the site for community management or community use. Is it the Department's intention, for instance, to re-acquire the lease?

Mr Mrdak —I am not aware of any intention by the Commonwealth to reacquire the lease. There have been ongoing negotiations into certain aspects of the lease such as access to roads and water supply. That has been a contentious issue between the Commonwealth and the private owners of the lease for some time, but I am not aware of any Commonwealth intention to reacquire the lease. I will check with the Minister and the relevant officers and come back to you if there is any change in that position.

Answer:

See the answer to **TLG 28**.

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2006

Transport and Regional Services

Question No: TLG 30

Division/Agency: Territories and Local Government

Topic: Christmas Island

Hansard Page: Written Question

Senator Siewert asked:

I refer to Minister Campbell's answer to Question on Notice Number **1679**, asked on April 3, 2006 regarding mining on Christmas Island. Given that none of the current areas under rehabilitation meet completion criteria of restoring Functional Native Vegetation what does the Department intend to do to ensure that the rehabilitation meets rehabilitation completion criteria?

Answer:

Phosphate Resources Limited (PRL) pay a conservation levy to fund rehabilitation at a rate linked to exported phosphate tonnage. Conservation levy funds are held by the Department of Transport and Regional Services (DOTARS) and used to fund rehabilitation. It is expected that the levy money will ensure funding for rehabilitation beyond the current mine life.

DOTARS convenes a rehabilitation committee, comprising of representatives from DOTARS, Parks Australia North, the Department of the Environment and Heritage, Western Australian Department of Environment, Western Australian Department of Industry and Resources (DOIR) and PRL's environmental consultants. It is the committee's view that full restoration of Functional Native Vegetation is at least twenty years away.

PRL provides an annual environmental report (AER) to DOIR as per their obligations under the *Mining Act 1978 (WA)(CI)*. DOIR perform annual inspections to confirm the accuracy of the AER submitted by PRL. DOTARS does not have access to the AER.

Dr David Mulligan from the Centre for Mined Land Rehabilitation has been appointed by the Parks Australia Division of the Department of the Environment and Heritage to undertake a review of the Christmas Island Rainforest Rehabilitation Plan. Dr Mulligan's report will provide the benchmark standards for rehabilitation processes for all of Christmas Island.

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2006

Transport and Regional Services

Question No: TLG 31

Division/Agency: Territories and Local Government

Topic: Christmas Island

Hansard Page: Written Question

Senator Siewert asked:

I refer to the answer to question No **TLG 21** and **22** (17/02/06). What were the results of the audit against the lease conditions?

Answer:

In reference to **TLG 21** (17/02/06), the environmental performance audit was paid for by Phosphate Resources Limited (PRL). PRL provided its audit to the Department in confidence and its content, including the results, is not publicly-available.

TLG 22 referred to a Departmental audit of PRL's general lease conditions. That Departmental audit focused on the assessment of PRL's financial liabilities. The lease entered into by the Department with PRL contains confidentiality provisions that preclude the release of the information sought.

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

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Transport and Regional Services

Question No: TLG 32

Division/Agency: Territories and Local Government

Topic: Norfolk Island – *Employment Amendment Act 2003*

Hansard Page: Written Question

Senator Carr asked:

In answer to QON **TLG 68**, the Department says that it received advice from DEWR that informed the Minister's decision to sign off on the Norfolk Island *Employment Amendment Act 2003*.

This advice stated that: "...the proposal is not inconsistent with any treaties to which Australia is currently a party".

Did the advice inform DOTARS that the Australian Government had made its intention clear to ratify ILO Convention 182, on abolishing the worst forms of child labour?

Answer:

In its letter dated 24 March 2004 to the Department of Transport and Regional Services, the Department of Employment and Workplace Relations (DEWR) advised that:

Australia is in the process of ratifying International Labour Organisation Convention 182 on the Worst Forms of Child Labour. If Convention 182 is ratified and a decision is made that it should apply to Norfolk Island a general review of Norfolk Island's child employment laws would be required to consider, among other things, whether Norfolk Island would need to enact anti-exploitation laws.

In his letter of 27 April 2004 instructing the Administrator to assent to the Norfolk Island legislation, the then Minister responsible for Territories included that information as well as subsequent advice from DEWR clarifying the ratification process:

DEWR will contact my Department and the Norfolk Island Administration to discuss the nature and content of a declaration on its application to Norfolk Island.

DEWR has not contacted DOTARS about ILO Convention 182 since 2004.

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ANSWERS TO QUESTIONS ON NOTICE

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Question No: TLG 33

Division/Agency: Territories and Local Government

Topic: Norfolk Island – *Employment Amendment Act 2003*

Hansard Page: Written Question

Senator Carr asked:

Did DEWR inform you that, at a meeting of the Workplace Relations Ministers' Council held on 23 March 2003, the Commonwealth and all State and Territory Ministers supported the Convention and agreed to provide formal commitment to achieve compliance with it?

- a. Was Norfolk Island represented at that meeting of the Workplace Ministers?
- b. Was its agreement sought? If not, why not? Why is Norfolk Island excluded from the process gone through with the other Territories and the States?
- c. Did DEWR draw your attention to the answer to a Question on Notice provided to the House on **10 February 2002** in which this information was provided?

Answer:

No.

(a) & (b) These questions are the responsibility of the Department of Employment and Workplace Relations.

(c) No.

Revised answer (19/07/06):

No.

(a) & (b) These questions have been referred to the Department of Employment and Workplace Relations.

(c) No.

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Question No: TLG 34

Division/Agency: Territories and Local Government

Topic: Norfolk Island – *Employment Amendment Act 2003*

Hansard Page: Written Question

Senator Carr asked:

Did you receive advice from DEWR that this Norfolk Island legislation would not comply with ILO Convention 182, which Australia was intending to sign?

Answer:

No. The response to **TLG 32** indicates that the Department of Employment and Workplace Relations (DEWR) advised that the Norfolk Island legislation ‘is not inconsistent with any treaties to which Australia is currently a party’. DEWR also advised that: ‘If ILO Convention 182 is ratified and a decision is made that it should apply to Norfolk Island, a general review of Norfolk Island’s child employment laws would be required to consider, among other things, whether Norfolk Island would need to enact anti-exploitation laws’.

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2006

Transport and Regional Services

Question No: TLG 35

Division/Agency: Territories and Local Government

Topic: Norfolk Island – *Employment Amendment Act 2003*

Hansard Page: Written Question

Senator Carr asked:

Did you receive advice from DEWR that the Australian Government had sought, and received, commitments from all States and Territories that they would amend their legislation, if necessary, to comply with ILO Convention 182?

- a. Has Norfolk Island, as an External Territory, made such a commitment?
- b. Will it make such a commitment? If not, why not?

Answer:

No.

(a)-(b) The Department of Employment and Workplace Relations (DEWR) has not contacted DOTARS about ILO Convention 182 since 2004 (see **TLG 32**). Given the terms of that earlier advice, DOTARS understands that Norfolk Island has not yet been asked to make any commitment.

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2006

Transport and Regional Services

Question No: TLG 36

Division/Agency: Territories and Local Government

Topic: Norfolk Island – *Employment Amendment Act 2003*

Hansard Page: Written Question

Senator Carr asked:

In answer **TLG 101** the Department makes the following statement:

When developing advice for the Minister on Schedule 3 Bills, the Department seeks the advice of relevant Portfolios on whether the Bill is consistent with Australian law, Australian Government policy and Australia's international obligations.

- a. Can you confirm that the Australian Government actually has a policy regarding ILO Convention 182, that being, to ensure that all State and Territory legislation on child labour complies with the Convention?
- b. Can you further confirm that Australia intends to sign ILO Convention 182 at the meeting of the ILO currently underway?
- c. Did you advise the Minister of that policy, and of the Australian Government's intention?

Answer:

- (a)-(b) These are matters for the Department of Employment and Workplace Relations (DEWR). See answers to **TLG 33 – TLG 35**.
- (c) The information provided by DEWR was referred to the then Minister for Territories and that information formed the basis of the Minister's instructions to the Administrator in relation to the *Employment Amendment Act 2003* (NI). See answers to **TLG 32** and **TLG 35**.

Revised answer (19/07/06):

- (a)-(b) These questions have been referred to the Department of Employment and Workplace Relations (DEWR). See answers to **TLG 33 – TLG 35**.
- (c) The information provided by DEWR was referred to the then Minister for Territories and that information formed the basis of the Minister's instructions to the Administrator in relation to the *Employment Amendment Act 2003* (NI). See answers to **TLG 32** and **TLG 35**.

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ANSWERS TO QUESTIONS ON NOTICE

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Question No: TLG 37

Division/Agency: Territories and Local Government

Topic: Register of Pecuniary Interests: Norfolk Island Legislative Assembly

Hansard Page: Written Question

Senator Carr asked:

Are you aware of claims that the Norfolk Island Legislative Assembly's register of pecuniary interests is not maintained up-to-date, and that it is often, at least not accessible as required under the *Legislative Assembly (Register of Members' Interests) Act 2004*?

- a. Isn't the matter of such a register something that properly belongs in the Australian *Norfolk Island Act*?
- b. Why is there no provision of this kind in that Act?

Answer:

No.

- (a)-(b) The December 2003 Report on Norfolk Island Governance by the Joint Standing Committee on the National Capital and External Territories included a recommendation that the *Norfolk Island Act 1979 (Cth)* be amended to establish a register of pecuniary and non-pecuniary interests and the mechanisms for ensuring compliance.

The Australian Government's October 2005 response to that Report noted that the Norfolk Island Government had introduced a Code of Conduct for members of the Legislative Assembly and that this included a register of pecuniary and non-pecuniary interests and a Privileges Committee to investigate and enforce breaches of provisions of the legislation.

The Government response also noted that a 'more comprehensive Government response will be provided once the Australian Government has considered both reports associated with this inquiry [governance and financial sustainability]'.

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

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Transport and Regional Services

Question No: TLG 38

Division/Agency: Territories and Local Government

Topic: Assessments by the Department of Performance of Norfolk Island Government

Hansard Page: Written Question

Senator Carr asked:

Answers **TLG 102, 104, 105, 116, 117** and **118** go to assessments made, or not made, by the Department of the performance of the Norfolk Island Government.

The Department denies that it makes, or has made, assessments of the performance of the Norfolk Island Government in service provision, social welfare, health and a range of other areas.

However, you also say, in answer to **TLG 104**, that the Department considered Schedule 2 matters in making its assessment in its submission to the JSC Inquiry into the Indian Ocean Territories, in particular in stating in evidence that Norfolk Island “struggles” with service delivery.

- a. How does the Department obtain the evidence on which a statement like this one is based? What processes does it employ to make the relevant observations and assessments?
- b. How does that process fit with your insistence that, in particular Schedule matters are not your business, but “matters for the Norfolk Island Government”?

Answer:

- (a) The Department obtains information and evidence on Norfolk Island issues from a variety of sources, the majority of which are accessible to the public. These include:
 - the submissions to, and findings of, Parliamentary Committees such as the Joint Standing Committee on the National Capital and External Territories;
 - independent reports on Norfolk Island’s financial position (such as that by Acumen Alliance) and on health services (by Griffith University and the Centre Sydney Area Health Service);
 - Norfolk Island Annual Reports;
 - Norfolk Island Legislative Assembly Hansards;
 - Norfolk Island Government or Administration reports tabled in the Legislative Assembly and available to the public;

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ANSWERS TO QUESTIONS ON NOTICE

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- Norfolk Island Government media releases;
- the Norfolk Island Government websites (including those of Government Business Enterprises;
- articles and letters in the local weekly newspaper *The Norfolk Islander*; and
- submissions from on-Island interests such as the Norfolk Island Chamber of Commerce.

The Department also monitors submissions to inquiries such as that currently being undertaken by the Commonwealth Grants Commission (submissions which are publicly available on the CGC website). The Commonwealth Grants Commission's 1997 Report on Norfolk Island is a definitive source of information.

- (b) The Department uses information available to it (see (a) above) to ensure that the Minister responsible for Territories matters is aware of significant developments, whether they relate to schedule or non-schedule matters under the *Norfolk Island Act 1979* (Cth).

However, under the current governance arrangements as established by the Norfolk Island Act, the Australian Government has no statutory authority to intervene in Schedule 2 matters. The extent of the Australian Government's involvement in Schedule 3 matters is defined under the Norfolk Island Act.

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

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Question No: TLG 39

Division/Agency: Territories and Local Government

Topic: Tendering Processes: Norfolk Island

Hansard Page: Written Question

Senator Carr asked:

In answers to **TLG 58-65**, we have yet another case study in the Department's inconsistency of approach to answering questions posed by this Committee.

First, with TLG 58, we have an instance where the Committee requested some information about Norfolk Island tendering processes – something that, on form, I expected you would answer with your stock line: *“This is a matter for the Norfolk Island Government.”*

But you didn't answer that way: instead you sought some information from that Government, and provided it to the Committee.

- a. Why did you take this approach in this instance?
- b. Did the Norfolk Island Government provide you with a copy of its tendering guidelines, so that you could ascertain for yourselves whether they complied with the Australian Standard AS 4120-1994 Code of Tendering?
- c. If not, can you please **ask** for this document, and **provide** it to the Committee?

Answer:

- (a) The information was provided in the context of the Australian Government's interest in the management of Norfolk Island projects for which Australian Government funding had been provided, either by way of interest-free loans or by grant of funds.
- (b) No. The Department accepted the Norfolk Island Government's advice on this matter.
- (c) See **attachment**.

[TLG 39 attachment – not included. Available from committee secretariat on request.]

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ANSWERS TO QUESTIONS ON NOTICE

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Transport and Regional Services

Question No: TLG 40

Division/Agency: Territories and Local Government

Topic: Tendering Processes: Norfolk Island

Hansard Page: Written Question

Senator Carr asked:

Secondly, TLG 59 asks for a copy of a probity auditor's report on the airport runway and the Kingston Pier projects. You note (*Hansard* 17/02/06 p.46) that you would "have to ask the Norfolk Island Government" for that.

- a. Did you ask them?
- b. If so, what was the response?
- c. If not, why not?
- d. Can you please attempt to get hold of this report for the Committee?

Answer:

(a)-(d) The probity audit reports on the tendering processes for the Airport Runway project and the Kingston Pier project are **attached** (TLG 40 Attachments A and B).

[TLG 40 attachments A and B]

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2006

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Question No: TLG 41

Division/Agency: Territories and Local Government

Topic: Tendering Processes: Norfolk Island

Hansard Page: Written Question

Senator Carr asked:

Thirdly, TLG 60 was taken on notice so that the Department could obtain and provide the information – if I read correctly the comment: *“We do not have that advice with us. We would need to take that on notice.”* (Hansard of 17/02/06 p.47).

- a. Why did this information suddenly become a “matter for the Norfolk Island Government”, as opposed to something you were going to provide for us?
- b. You hadn’t indicated that this was an inappropriate matter for us to request information about from you. Why did you not indicate that back in February?
- c. Can you provide this information?
- d. Will you provide it?

Answer:

- (a) + (b) The evaluation processes undertaken by the Norfolk Island Tendering Committees for the Airport Runway, Kingston Pier and Cascade Cliff projects are matters for the Norfolk Island Government not the Department of Transport and Regional Services.
- (c) Yes.
- (d) The probity auditor for these projects was Mr Gary Clarke of Gary Clarke Consulting (NSW) – see **attachment** for further information.

[TLG 41 attachment]

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

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Transport and Regional Services

Question No: TLG 42

Division/Agency: Territories and Local Government

Topic: Tendering Processes: Norfolk Island

Hansard Page: Written Question

Senator Carr asked:

Fourthly, TLG 61 is answered in full. Is there a provision somewhere that requires the Norfolk Island Government to advise the Attorney-General details of tenders let? Where can we find that provision?

Answer:

The reference to the Attorney-General was an error. **TLG 61** should have referred to advice provided by the Norfolk Island Government to the Australian Government.

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ANSWERS TO QUESTIONS ON NOTICE

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Transport and Regional Services

Question No: TLG 43

Division/Agency: Territories and Local Government

Topic: Tendering Processes: Norfolk Island

Hansard Page: Written Question

Senator Carr asked:

Fifthly, TLG 63 and 64 request further information about the involvement of members of the Legislative Assembly in companies associated with these projects, and also about who makes tender decisions of this kind in the Norfolk Island Government.

Why are these “matters for the Norfolk Island Government” such that the Committee cannot have information about them?

Answer:

The Australian Government has no role in the decision-making processes of the on-Island tender committees. These are matters for the Norfolk Island Government.

Under the funding arrangements for these projects, the Department (on behalf of the Australian Government) is entitled to a range of financial and progress reports. Given the Australian Government’s direct interest in the funding aspects, the Norfolk Island Government has provided the following information.

Involvement of Members of the Legislative Assembly in Companies Associated with these Projects

Cascade Cliff Safety Project:

John T Brown MLA (Director, Island Industries)

Airport Runway Project:

John T Brown, Minister for Community Services (Director, Island Industries Pty Ltd);
Neville C Christian, elected as MLA in 2004 and appointed Minister for Finance in June 2006 (General Manager, Island Industries Pty Ltd);
Timothy J Brown, Deputy Speaker (employee Island Industries Pty Ltd)

Kingston Pier Refurbishment:

John T Brown, Minister for Community Services (Director, Island Industries Pty Ltd);
Neville C Christian MLA (General Manager, Island Industries Pty Ltd);
Timothy J Brown MLA, Deputy Speaker (employee Island Industries Pty Ltd)

Decision-Making on Tender Processes

Senate Rural and Regional Affairs and Transport Legislation Committee

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Tenders are determined by the Tender Committee, which consists of the Executive Members (Ministers) of the Norfolk Island Legislative Assembly and the Chief Executive Officer (CEO) of the Norfolk Island Administration.

Cascade Cliff Safety Project

The Cascade Cliff Safety Project tenders were evaluated by the Snowy Mountains Engineering Corporation (SMEC), which made its recommendation to the Cascade Cliff Management Board. This recommendation was considered by the Legislative Assembly.

The Executive Member responsible for the Cascade Cliff at the time that the Cascade Cliff Safety Project tender was awarded (March 1999) was Gary Robertson, Minister for Tourism and Commerce.

Airport Runway Project

The members of the tender committee for the Airport Runway project were:

(In October 2004)

Geoff Gardner, Chief Minister

Graham Donaldson, Minister for Finance

David Buffett, Minister for Community Services and Tourism

Luke Johnson, CEO

(In February 2005)

Geoff Gardner, Chief Minister

Ron Nobbs, Minister for Finance

Vicky Jack, Minister for the Environment

Anthony Middleton, Acting CEO

(Executive Member responsible for the airport: Minister for Finance)

Kingston Pier Refurbishment

The members of the tender committee for the Kingston Pier project were:

Geoff Gardner, Chief Minister

Ron Nobbs, Minister for Finance

Vicky Jack, Minister for the Environment

Steve Mathews, Acting CEO

(Executive Member responsible for Kingston Pier: Minister for the Environment)

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

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Transport and Regional Services

Question No: TLG 44

Division/Agency: Territories and Local Government

Topic: Norfolk Island Administrator: Reporting

Hansard Page: Written Question

Senator Carr asked:

Does the Administrator of Norfolk Island report, either routinely or occasionally, to the Minister on any of the following matters pertaining to governance on Norfolk Island:

- Remuneration of public officials;
- Identity of public office holders;
- Appointment of public office holders, and the renewal or otherwise of their appointments;
- Any problems or issues concerning the fitness of particular public office holders to hold such office;
- Any problems or issues concerning the regulation of the legal profession and other holders of legal office;
- The engagement of consultants by the Norfolk Island Government;
- Matters pertaining to the application and administration of the *Social Services Act* (NI)
- Probity reports on tendering processes for Government projects, and the identity of probity auditors;
- The identity of companies involved in projects let by tender;
- Tendering processes and the selection of successful tenders by the Government;
- The availability, levels and conditions attaching to pensions and benefits;
- The health services regime;
- Industrial relations and regulation;
- Workers' compensation provisions; and/or
- Superannuation arrangements?

Answer:

The practice of successive Australian Governments has been for the Administrator to report in general and confidential terms on issues pertaining to governance on Norfolk Island. These may include commentary on the matters outlined above, most of which are the direct responsibility of the Norfolk Island Government.

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

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Transport and Regional Services

Question No: TLG 45

Division/Agency: Territories and Local Government

Topic: Walsh as Notary Public: Powers of the Administrator

Hansard Page: Written Question

Senator Carr asked:

Under section 11(5) and (7), does the Administrator have the power to convene a meeting of the Norfolk Island Executive Council, and to introduce for discussion the matter of the tenure of office of a Notary Public in the Island's jurisdiction?

Could the Administrator take such action at the request of the Minister for Territories?

Answer:

Yes. The Administrator has power under section 11 of the *Norfolk Island Act 1979* (Cth) to convene a meeting of the Norfolk Island Executive Council and to introduce for discussion a matter relating to a Notary Public in the Territory's jurisdiction. Section 7 and Schedule 2 of the Act also provide that the Administrator is bound by the advice of the Norfolk Island Government or Executive Council in respect of issues, including tenure, within the Norfolk Island Government's legislative and executive authority.

Please see also response to **TLG 61** question on notice.

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ANSWERS TO QUESTIONS ON NOTICE

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Transport and Regional Services

Question No: TLG 46

Division/Agency: Territories and Local Government

Topic: Walsh as Notary Public **Public:** Powers of the Administrator

Hansard Page: Written Question

Senator Carr asked:

In answer to QON **TLG 119**, the Department says that the matters raised “*are matters for the Norfolk Island Government*”.

The matters concern the tenure of Dr John Walsh in the position of Notary Public.

- a. What action is open to the Administrator, acting on behalf of the Australian Government and/or in response to concerns raised during Parliamentary processes such as Senate Estimates, to investigate, and then to deal with, issues such as this?
- b. What kind of action is open to the Minister?
- c. What action has been taken by (1) the Minister and (2) the Administrator, to investigate and deal with claims that Dr Walsh may have acted improperly in the position as Notary Public?

Answer:

- (a)-(b) Issues concerning Notaries Public, Justices of the Peace and the legal profession on Norfolk Island are the responsibility of the Norfolk Island Government under the self-government arrangements established by the *Norfolk Island Act 1979* (Cth). That Act also requires the Administrator to act in accordance with advice given by the Norfolk Island Government or Executive Council in respect of such matters. Concerns that a Notary Public on Norfolk Island may have acted improperly would therefore need to be referred to the Norfolk Island Government for its consideration and action. The Official Secretary of the Office of the Administrator routinely refers the Hansards Senate Rural and Regional Affairs and Transport Legislation Committee to the Norfolk Island Secretary to Government for the Norfolk Island Government’s information.
- (c) Neither the Minister nor the Administrator has statutory authority to take action in relation to the appointment of a Notary Public or a member of the legal profession on Norfolk Island. See **TLG 48** (c) and (d).

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

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Transport and Regional Services

Question No: TLG 47

Division/Agency: Territories and Local Government

Topic: Norfolk Island Administrator: Reporting

Hansard Page: Written Question

Senator Carr asked

Answers **TLG 121-128** concern a series of questions on the activities of Dr John Walsh associated with a Mr Michel Lafosse, who is a pretender to the Scottish throne. Mr Lafosse is currently under investigation by the British Home Office, over claims, reported in the British media, that he used a forged birth certificate to obtain a British passport in a name other than his own.

- a. Are you aware of these developments?
- b. Are you aware that the British Home Office Special Cases Unit is examining this case?
- c. Are you aware that, among the documents under examination by the British Home Office are several, including what is alleged to be a forged birth certificate, that were certified by Dr John Walsh in his capacity as Notary Public?
- d. Why do you say, in answer to **TLG 128**, that “*This is a matter for the Norfolk Island Government*”?

Answer:

- (a) No.
- (b) No.
- (c) No.
- (d) The Norfolk Island Government has legislative and executive responsibility under the *Norfolk Island Act 1979* (Cth) for the regulation of Notaries Public on Norfolk Island. The same is true of regulation of the legal profession on Norfolk Island. Accordingly, any concerns related to the professional conduct or activities of a Notary Public or a member of the legal profession on Norfolk Island (or operating within Norfolk Island’s legal jurisdiction) are matters for the Norfolk Island Government.

Senate Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

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Transport and Regional Services

Question No: TLG 48

Division/Agency: Territories and Local Government

Topic: Norfolk Island Administrator: Reporting

Hansard Page: Written Question

Senator Carr asked

Here we have a case where Dr Walsh, as Notary Public, is alleged to have exercised his powers as such to certify a series of forged documents that have led to the issue, by the UK Government, of a passport in a false name.

- a. Isn't it the case that Dr Walsh, as Notary, could potentially place the Australian Government in a similar position, in a similar manner?
- b. Isn't it in the interests of the Australian Government that Dr Walsh, if these allegations are true, should not hold the office of Notary Public on Norfolk Island?
- c. Therefore, wouldn't it be appropriate for the Minister to approach the Administrator with a view to his taking action on this matter? If not, why not?
- d. In answer to **TLG 129**, the Department says that it will not look into this matter. Why will it not?

Answer:

- (a) The Department of Transport and Regional Services cannot speculate on this matter.
- (b) This is a matter for the Norfolk Island Government to determine given its responsibility for regulation of the legal profession under the *Legal Profession Act 1993* (NI).
- (c) Neither the Minister nor the Administrator has statutory authority to take action in relation to the appointment of a Notary Public or a member of the legal profession on Norfolk Island.
- (d) This remains a matter for the Norfolk Island Government under current arrangements. On 20 February 2006, the Australian Government announced its intention to develop two broad options for Norfolk Island's future governance: a 'modified self-government model', with greater powers for involvement by the Australian Government than currently exist; and a 'local government model' under which the Australian Government might assume responsibility for state-type functions.

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ANSWERS TO QUESTIONS ON NOTICE

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Transport and Regional Services

Question No: TLG 49

Division/Agency: Territories and Local Government

Topic: Dr John Walsh - Pension

Hansard Page: Written Question

Senator Carr asked:

In answer to **TLG 140**, the Department declines to provide information concerning a pension apparently received from the Norfolk Island Government by Dr John Walsh and his partner.

- a. In principle, could you obtain this information from the Norfolk Island Government, or at least seek it?
- b. Can you confirm that Norfolk Island has no privacy laws?
- c. Can you further confirm that the Federal Privacy Act does NOT apply to the machinery of government in states and territories, including that of Norfolk Island?
- d. So there is no impediment of that kind to prevent the Norfolk Island Government from providing you with details about pension recipients on Norfolk Island?
- e. Will you seek this information for the Norfolk Island administration? If not, why not?
- f. Why did you provide, in answer to **TLG 142**, the answer that “This is a matter for the Norfolk Island Government”?
- g. Why is the Department’s approach in framing this answer not consistent with your approach in answering, for example, **TLG 01, 02, 03, 04, 05** and **06**, where you provided information that went to the detail of various pieces of Norfolk Island legislation?
- h. Would you agree that what is requested here goes to the provisions of the Norfolk Island Social Services Act 1980?
- i. Why can you not provide this information?

Answer:

- (e) No. It is not appropriate for the Department to ask the Norfolk Island Government to disclose private information about the social security entitlements of Norfolk Island residents.
- (f) The Norfolk Island Government has not enacted any specific privacy legislation. However, the Department is aware that Norfolk Island public servants are subject to general confidentiality requirements.
- (g) The operation and scope of the *Privacy Act 1988* (Cth) is a matter for the Attorney-General.

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- (h) This is a matter for the Norfolk Island Government.
- (i) As indicated at (a) above, it would be inappropriate for the Department to seek such information.
- (j) Under Schedule 3 of the *Norfolk Island Act 1979* (Cth), the Norfolk Island Government has executive responsibility for 'Social Security'. This includes the determination and payment of pensions and other benefits. It is the Norfolk Island executive member, not the Minister responsible for Territories, who has the power 'to grant a benefit to persons who do not meet the criteria as normally applied'.
- (k) The information in TLG 01, 02, 03, 04, 05, 06 was provided in response to questions which included specific reference to the powers of the Minister or the Administrator, direct questions about responsibility for certain functions or questions about issues which were a matter of public record.
- (l) No. The information being requested does not relate to general information about the application of the *Social Services Act 1980* (NI) but rather to the question of whether decisions have been made under that Act in relation to the entitlements of specific Norfolk Island residents.
- (m) See answers (a) to (h) above.

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Question No: TLG 50

Division/Agency: Territories and Local Government

Topic: Dr John Walsh - Pension

Hansard Page: Written Question

Senator Carr asked:

The opening question in **TLG 143** again goes to the provisions of the Norfolk Island *Social Services Act 1980*.

- a. Can you confirm that?
- b. Why can you not answer it?
- c. Can you please provide an answer to question (b) as listed here – whether or not the Department can obtain from the Norfolk Island Government information about the pension entitlements of Dr John Walsh and his partner?

Answer:

See answers provided in response to **TLG 49**.

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Question No: TLG 51

Division/Agency: Territories and Local Government

Topic: Walsh - Positions of Public Office

Hansard Page: Written Question

Senator Carr asked:

Please inform the Committee of the dates on which Dr John Walsh's terms expire on the following Norfolk Island bodies:

- Administrative Review Tribunal; and
- Gaming Authority

Please confirm the exact positions he currently holds on these two bodies.

Answer:

On 25 May 2006, Dr John Walsh of Brannagh wrote to the Administrator formally resigning from his official Norfolk Island appointments. That letter of resignation was published in *The Norfolk Islander* of 3 June 2006.

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Question No: TLG 52

Division/Agency: Territories and Local Government

Topic: Dr Walsh - Period of Tenure of Positions of Public Office

Hansard Page: Written Question

Senator Carr asked:

Can you ask the Norfolk Island Government whether Dr John Walsh of Brannagh held, for any of the years 1994-2000, any of the following positions?

- Member of the Gaming Authority;
 - Magistrate of the Court of Petty Sessions, and
 - Member of the Administrative Review Tribunal?
- a. Can you ask the Norfolk Island Government to provide details?
- b. If you cannot ask these questions of the Norfolk Island Government, why not?

Answer:

These appointments are matters for the Norfolk Island Government. Two of the three statutory positions were not in existence throughout the entire period in question. The Norfolk Island Gaming Authority was established in 1999 under the *Gaming Supervision Act 1998* (NI) and the Administrative Review Tribunal was established in 1997 under the *Administrative Review Tribunal Act 1996* (NI).

- (a) No.
- (b) These appointments relate to the exercise of the Norfolk Island Government's Schedule 2 responsibilities under the *Norfolk Island Act 1979* (Cth).

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Question No: TLG 53

Division/Agency: Territories and Local Government

Topic: Mr Walsh's Tenure in Positions of Public Office - DOTARS Policy in Answering Questions

Hansard Page: Written Question

Senator Carr asked:

In answer **TLG 135**, the Department provides information as to the date that Dr John Walsh was appointed as Senior Member of the Norfolk Island Administrative Review Tribunal.

But you decline to provide information about:

- The circumstances of the appointment;
- Whether, on his appointment to this position, he was currently a member of the Tribunal; and
- If his appointment to the Tribunal had lapsed prior to his appointment as Senior Member.

What is the material difference, the difference in principle, between the information that the Department was kind enough to provide – the date of the appointment – and on the other hand the other details requested by the Committee?

Answer:

The appointment was made by the Administrator, acting on the instructions of the Norfolk Island Executive Council. Notification of that appointment appeared in the Norfolk Island Government Gazette of 8 August 2003. The circumstances behind the appointment, including whether a previous appointment had lapsed, relate to the exercise of the Norfolk Island Government's responsibilities for 'Inquiries and administrative reviews' under Schedule 2 of the *Norfolk Island Act 1979* (Cth).

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Question No: TLG 54

Division/Agency: Territories and Local Government

Topic: Walsh's Tenure in Positions of Public Office - DOTARS Policy in Answering Questions

Hansard Page: Written Question

Senator Carr asked:

Are you aware that the appointment of Dr Walsh as Senior Member of the tribunal was controversial on Norfolk Island?

- a. Does this explain the Department's reluctance to answer these questions?
- b. Does your frequent answer, "*This is a matter for the Norfolk Island Government*" actually serve as a smokescreen?
- c. Do you use this answer when you would prefer not to provide detailed information, or when you would prefer not to seek out detailed information?
- d. Or perhaps when the Department would prefer not to go on the record as being in possession of certain information – because then you might have to act on it?

Answer:

- (a) No. These matters are not the Australian Government's responsibility.
- (b) No. The *Administrative Tribunal Act 1996* (NI) provides that the senior members of the Tribunal are appointed by the Administrator. The Administrator is required to act in accordance with the advice of the Norfolk Island Executive Council. The Australian Government has no role in these appointments.
- (c)&(d) No.

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Question No: TLG 55

Division/Agency: Territories and Local Government

Topic: Dr John Walsh - Supreme Court Case

Hansard Page: Written Question

Senator Carr asked:

Since the Committee was provided with the answer to **TLG 18**, has the Administrator of Norfolk Island raised with the Department the matter of the case in the Supreme Court of Victoria concerning Dr John Walsh and ING Life Ltd?

- a. Has the Department raised this matter with the Administrator?
- b. Has the Minister raised this matter with the Administrator?
- c. What action has been taken regarding this matter by:
 - The Minister;
 - The Department; and/or
 - The Administrator?

Answer:

No.

(c) No.

(d) No.

(e) No action has been taken. This is not a matter for the Australian Government.

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Question No: TLG 56

Division/Agency: Territories and Local Government

Topic: *Legal Profession Act 1993 (NI)* - Professional Misconduct Etc.

Hansard Page: Written Question

Senator Carr asked:

Since the amendment of the Norfolk Island *Legal Profession Act 1993*, bringing into force various disciplinary procedures involving the Law Society of the ACT:

- a. How many matters have been referred to that body's Professional Conduct Board?
Please provide details of:
 - Type of matter;
 - Number of each type;
 - Dates each case was referred to the Board;
 - Outcome of each case.
- b. Have any matters been referred to the Norfolk Island Supreme Court? Please provide details.
- c. Has any legal practitioner had his or her "entitlement to practise" withdrawn? On what date? For what reason? Please provide the name(s) of the practitioner(s).

Answer:

- (a)-(c) The Norfolk Island Government has legislative and executive responsibility for the 'legal profession' under Schedule 2 of the *Norfolk Island Act 1979* (Cth). The Australian Government has no involvement in these matters.

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Question No: TLG 57

Division/Agency: Territories and Local Government

Topic: Norfolk Island Administrator - Table of Actual Expenditure

Hansard Page: Written Question

Senator Carr asked:

Please explain the large discrepancy in expenditure on travel by the Norfolk Island Administrator between 2004-05 and 2005-March 06.

- a. Please also explain the large discrepancy in the expenditure category "Other" for the same two periods.
- b. What kinds of expenditure are included in the category "Other"?

Answer:

There was less official travel in the period July 2005-March 2006. During 2004-2005, there was one additional trip off-island for compassionate reasons. Costs were met by the Department as provided for in the Administrator's terms and conditions.

(a) and (b) – see answer to **TLG 09**.

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Question No: TLG 58

Division/Agency: Territories and Local Government

Topic: Norfolk Island Administrator - Expenditure

Hansard Page: Written Question

Senator Carr asked:

Please provide for the Committee the following details of the expenditure of the Norfolk Island Administrator for 2005-06:

- a. Professional services (locally engaged staff): what were these services?
- b. Consultancies: please provide details of all consultancies, including dates let, names of firms or individuals engaged, purpose of consultancy, value of consultancy.

Answer:

- (a) The expenditure category "Professional Services" covers the costs of engaging Island based personnel. These include 6 locally engaged staff employed on a full time basis to provide administrative, gardening, kitchen and household services. Local staff are also engaged on a casual or part time basis to provide services such as cleaning or to act as wait staff at functions and events at Government House.
- (b) The Administrator's Office did not fund any consultancies in 2005-2006.

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Question No: TLG 59

Division/Agency: Territories and Local Government

Topic: Minister's Delegation of Powers

Hansard Page: Written Question

Senator Carr asked:

Under what provision of which Act did the Minister, in 1992, delegate the power to appoint Magistrates of the Court of Petty Sessions on Norfolk Island to the Administrator?

- a. Does the Administrator act exclusively on the advice of the Norfolk Island Government in the exercise of this delegated power?
- b. Can the Administrator take advice from any other source, such as the Minister?

Answer:

Under Section 274A of the *Court of Petty Sessions Act 1960* (NI).

- (c) Yes, as required by the *Norfolk Island Act 1979* (Cth).
- (d) Yes. However, various provisions of the *Norfolk Island Act 1979* (Cth) require the Administrator to act in accordance with the advice given by the Norfolk Island Executive Council or Government.

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Question No: TLG 60

Division/Agency: Territories and Local Government

Topic: Removal from Office of Members of the Gaming Authority

Hansard Page: Written Question

Senator Carr asked:

Can you confirm that, according to the Norfolk Island *Gaming Supervision Act 1998*, the Administrator may remove a member from office on various grounds?

- a. Do these grounds include:
 - Mental or physical incapacity to satisfactorily carry out official duties; and
 - Dishonourable conduct?
- b. Would the Administrator act to remove a member on the advice of the Legislature?
- c. If a member of the Gaming Authority had, during several years while holding that office, made monthly sworn declarations to the effect that he was totally physically incapacitated and unable to work, would that constitute *prima facie* evidence that that person was not able to carry out official duties?
- d. If a member had made such monthly sworn statements while nevertheless continuing to perform his duties as a member of the Authority, and also to perform duties associated with other positions of public office held by him, would that constitute “dishonourable conduct” as that term is ordinarily understood?
- e. If a member had, while serving on the Gaming Authority, established an “internet university” that he apparently deliberately misrepresented as equivalent to other Australian universities in quality and standards, and if the Australian Government had issued a Report to the effect that this “university” fell far short of Australian standards, would that constitute “dishonourable conduct”?
- f. If a member had, in another official capacity within the jurisdiction of Norfolk Island – say as a Notary Public – acted in concert with another person to provide false and misleading documentation to the British Government, in order to obtain an advantage for the other person, would that constitute “dishonourable conduct”?

Answer:

The *Gaming Supervision Act 1998* (NI) provides that the Administrator may remove a member from office on various grounds, including mental or physical incapacity to satisfactorily carry out official duties or dishonourable conduct. Various provisions of the *Norfolk Island Act 1979* (Cth) would require the Administrator to act in accordance with the advice of the Norfolk Island Government or Executive Council when exercising that power.

- (e) See above.

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- (f) The application and enforcement of the *Gaming Supervision Act 1998* (NI) is a matter for the Norfolk Island Government. To the extent that the Administrator has a role in the appointment or the termination of appointment of persons holding office under such Schedule 2-related legislation, the Administrator is required to act in accordance with the advice of Executive Council.

- (c)-(f) It would up to the Norfolk Island Government to make judgements concerning possible grounds for removal from office and possible advice to the Administrator. The Administrator has no power to act unilaterally.

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Question No: TLG 61

Division/Agency: Territories and Local Government

Topic: Administrator's Powers

Hansard Page: Written Question

Senator Carr asked:

Can you confirm that, under section 11(5) and (7) of the *Norfolk Island Act 1979*, the Administrator may convene a meeting of the Executive Council at any time, and may introduce any matter for discussion?

- a. Would that power extend to introducing the matter of the continued tenure of a particular holder of public office in the Norfolk Island jurisdiction? Could the Administrator ask the Executive Council to consider such a matter?
- b. Could the Administrator do so at the request of the Minister for Territories?
- c. What form would such a request take?

Answer:

Section 11 of the *Norfolk Island Act 1979* (Cth) states that:

- 'The Administrator may introduce into the Executive Council any matter for discussion by the Executive Council' (s.11(5)); and
 - 'The Administrator may convene a meeting of the Executive Council at any time, and shall convene a meeting whenever requested to do so by 3 or more members of the Executive Council' (s.11(7)).
- (a) Yes.
 - (b) Yes.
 - (c) The request would have to be dealt with in accordance with normal Executive Council procedures, which are generally matters for the Norfolk Island Government to determine. The Administrator's Office advised that the Executive Council procedures would require such a request to be minuted or to be in writing. There would also be a reasonable expectation that any request to the Executive Council concerning alleged impropriety by public office holders would be appropriately detailed and set out the evidentiary basis for such an allegation.

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Question No: TLG 62

Division/Agency: Territories and Local Government

Topic: Walsh as Notary Public

Hansard Page: Written Question

Senator Carr asked:

In answer to QON **TLG 120**, regarding Dr John Walsh's suitability to occupy the office of Notary Public on Norfolk Island, the Department again says that this "*is a matter for the Norfolk Island Government*".

- a. Would you agree that, in the case of other jurisdictions, there have been many occasions where the Australian Government has intervened, one way or another, in the affairs of another Australian jurisdiction?
- b. Would you agree that some examples of such action would be:
 - The enactment of legislation to repeal the Northern Territory's euthanasia law;
 - Statements by the Federal Government to the effect that it will not allow the ACT to enact legislation permitting civil unions between homosexual couples; and
 - Use of the External Affairs power of the Constitution to force Tasmania and Western Australia to enact laws permitting consenting homosexual acts in private?
- c. On what basis does DOTARS refrain from taking action regarding action, or inaction, by the Government of Norfolk Island, where there are legitimate and well-founded concerns about the appropriateness and soundness of such a course, taken by the Norfolk Island Government?
- d. Over what kinds of matters would DOTARS consider intervening to persuade, or to force, the Government of Norfolk Island to take a particular course of action?
- e. Why has DOTARS not done so in this case?

Answer:

- (a) The Commonwealth has power under the Constitution to make laws for peace, order and good government with respect to various subjects. The Commonwealth also has equivalent executive power. The Commonwealth exercises those powers accordingly.
- (b) The Department of Transport and Regional Services (DOTARS) cannot comment on these matters.
- (c) The Australian Government act in Norfolk Island matters in a manner consistent with the *Norfolk Island Act 1979*.

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(d)-(e) DOTARS has no statutory authority 'to persuade, or to force' the Norfolk Island Government to take action.

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Question No: TLG 63

Division/Agency: Territories and Local Government

Topic: “Matters for the Norfolk Island Government”

Hansard Page: Written Question

Senator Carr asked:

In answer to QON **TLG 09**, going to the remuneration provided to certain public office holders on Norfolk Island, the Department provides the following answer, quoted here in its entirety: “*These are matters for the Norfolk Island Government.*”

- a. These matters are provided for in which pieces of Norfolk Island legislation?
- b. Is remuneration for members of the Administrative Review Tribunal covered by the *Administrative Review Tribunal Act 1996*?
- c. Is remuneration for members of the Gaming Authority covered by the *Gaming Supervision Act 1998*?
- d. Under what legislation does the Norfolk Island Government determine the remuneration for members of these bodies?
- e. Can you provide details of the relevant sections of this legislation?

Answer:

- (d) Remuneration for members of the Administrative Review Tribunal is determined administratively by the Norfolk Island Government. Remuneration for members of the Gaming Authority is determined by the Administrator acting under subsection 7(4) the *Gaming Supervision Act 1998* (NI) and on the advice of the Norfolk Island Government.
- (e) The *Administrative Review Tribunal Act 1996* (NI) does not expressly provide for the remuneration for members of the Administrative Review Tribunal.
- (f) Subsection 7(4) of the *Gaming Supervision Act 1998* (NI) provides that the Administrator shall determine the allowances and entitlements of members of the Gaming Authority. The *Norfolk Island Act 1979* (Cth) requires the Administrator to act on the advice of the Norfolk Island Government or Executive Council when exercising that power.
- (g) See above.
- (h) See above.

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Question No: TLG 64

Division/Agency: Territories and Local Government

Topic: Provision of Answers - DOTARS Policy

Hansard Page: Written Question

Senator Carr asked:

You have provided the Committee with a number of answers to questions taken on notice at the last Estimates round that go to detail of various pieces of Norfolk Island legislation.

- a. Can you confirm that, for example, in the case of **TLG 01** from that round, you refer in your answer to Section 5 of the *Administrative Tribunal Act 1996* (NI)?
- b. Can you further confirm that, in your answer to **TLG 02**, you quote a provision from that same Norfolk Island legislation?
- c. Can you confirm that, in answer to **TLG 03**, you refer to provisions of the Norfolk Island *Court of Petty Sessions Act 1960*?
- d. And that, in answers to **TLG 04, TLG 05 and TLG 06**, you refer to the powers and functions provided for by the Norfolk Island *Legal Profession Act 1993*?
- e. Are not these pieces of legislation “matters for the Norfolk Island Government”?
- f. Are not the matters which these pieces of legislation go to actually Schedule 2 matters under the *Norfolk Island Act 1979*? Doesn’t this mean that, under that Act, these matters are entirely within the jurisdiction of the Norfolk Island Government?

Answer:

- (i) Yes.
- (j) Yes.
- (k) The answer refers to the intent of the legislation but does not quote from particular provisions.
- (l) Yes.

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- (m) Norfolk Island legislation is publicly-available and accessible via the Norfolk Island Government's websites. Brief explanations of the intention of amendments to legislation are published in the Norfolk Island Government Gazette. More detailed explanations are contained in the *Norfolk Island Legislative Assembly Hansard*, which can also be accessed through the Norfolk Island Government's websites.
- (n) Legislative and executive authority for the 'head of power' rests with the Norfolk Island Government.

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Question No: TLG 65

Division/Agency: Territories and Local Government

Topic: Provision of Answers - DOTARS Policy

Hansard Page: Written Question

Senator Carr asked:

So what is your policy in supplying answers to questions asked by the Committee that go to Schedule 2 matters under the *Norfolk Island Act*?

- a. What guidelines are issued to those responsible for the drafting of answers that go to this issue?
- b. Can you provide a **copy** of these guidelines?

Answer:

Norfolk Island is a self-governing territory. The Australian Government has a comparable level of access to information concerning the operation of the Norfolk Island Government to that which it has in relation to any other self-governing territory government.

(a)-(b) There are no guidelines.

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Question No: TLG 66

Division/Agency: Territories and Local Government

Topic: Provision of Answers - DOTARS Policy

Hansard Page: Written Question

Senator Carr asked:

In the case of QON **TLG 09**, what is the rationale that was applied that led to the Department's decision not to provide an answer to this question?

Answer:

Matters relating to 'Inquiries and administrative reviews' and 'Lotteries, betting and gaming' are within the legislative and executive authority of the Norfolk Island Government under Schedule 2 of the *Norfolk Island Act 1979* (Cth). Details of the remuneration of members of the Norfolk Island Administrative Review Tribunal and the Norfolk Island Gaming Authority are not publicly-available.

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Question No: TLG 67

Division/Agency: Territories and Local Government

Topic: Provision of Answers - DOTARS Policy

Hansard Page: Written Question

Senator Carr asked:

In the case of **TLG 01-06**, what is the rationale that was applied that led to the answers' detailed references to pieces of Norfolk Island legislation going to Schedule 2 matters?

Answer:

See answers to **TLG 64(e)** and **64(f)**.

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Question No: TLG 68

Division/Agency: Territories and Local Government

Topic: Provision of Answers - DOTARS Policy

Hansard Page: Written Question

Senator Carr asked:

What is the difference between these two sets of cases?

Answer:

The difference is that the information requested in TLG 01-06 (concerning the role of the Administrator or Minister in appointments or the regulation of appointments under Norfolk Island legislation) was publicly-available (see answer to **TLG 64-e**) but the information requested in TLG 09 (the remuneration payable to members of the Norfolk Island Administrative Review Tribunal and the Gaming Authority) was not (see answer to **TLG 66**).

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Question No: TLG 69

Division/Agency: Territories and Local Government

Topic: Green Waste Machine

Hansard Page: Written Question

Senator Carr asked:

What role, if any, did DOTARS play in the decision by the Natural Heritage Trust to fund a green waste machine for Norfolk Island?

- a. Has DOTARS contributed to the cost of purchase of the machine? To what extent?
- b. Has the Norfolk Island Government contributed? To what extent?

Answer:

DOTARS had no involvement in the decision to fund a green waste machine for Norfolk Island. This was solely the responsibility of the Department and Environment and Heritage.

- (a) No.
- (b) DOTARS has no information on this matter.

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Question No: TLG 70

Division/Agency: Territories and Local Government

Topic: Green Waste Machine

Hansard Page: Written Question

Senator Carr asked:

Will DOTARS face an ongoing cost for the operation and/or maintenance of this machine?

- a. What cost?
- b. What will the Norfolk Island Government contribute for these costs?

Answer:

No.

- (c) N/a.
- (d) DOTARS has no information on this matter.

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Question No: TLG 71

Division/Agency: Territories and Local Government

Topic: Greenwich “University”

Hansard Page: Written Question

Senator Carr asked:

In answer to QON **TLG 17**, the Department refers to an entity established by Dr John Walsh on Norfolk Island as a “University”, using quotation marks around the term “University” and also the name “Greenwich University”.

- a. Why did the Department place the quotation marks around these terms?
- b. Does the Department consider that this entity is claiming to be something it’s not?
- c. Has the Norfolk island Government repealed the *Greenwich University Act*?
 - I. When did it do so?
 - II. Was that action taken after intervention by DOTARS, or by the Minister?
 - III. Can you describe the events that led to this action by the Norfolk Island Government?

Answer:

- (a)-(b) Greenwich was never an accredited university under the National Protocols for Higher Education Approval Processes.
- (c) No. However, the *Higher Education Legislation Amendment Act (No 3) 2002* (Cth), which came into effect on 2 December 2002, had the effect of overriding the Norfolk Island legislation and preventing the unauthorised use of the title “university” in the external Territories. Those provisions now form part of the *Higher Education Support Act 2003* (Cth).

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Question No: TLG 72

Division/Agency: Territories and Local Government

Topic: Administrator's Powers

Hansard Page: Written Question

Senator Carr asked:

When did Dr John Walsh of Brannagh cease to be a Magistrate of the Norfolk Island Court of Petty Sessions?

- a. What were the circumstances of his ceasing to hold this position?
- b. The Administrator of Norfolk Island has delegated power to appoint Magistrates to this Court, on the advice of the Norfolk Island Government. Is that correct?
- c. What role did the Administrator play in Dr Walsh's ceasing to hold the position of Magistrate?
- d. Please provide **copies** of any relevant correspondence between the Administrator and DOTARS about this matter.

Answer:

On 25 May 2006, Dr John Walsh of Brannagh wrote to the Administrator formally resigning from his official Norfolk Island appointments. That letter of resignation was also published in *The Norfolk Islander* of 3 June 2006. The Administrator referred the letter to the Minister for Territories for his information. A letter dated 29 May 2006 from the then Norfolk Island Chief Minister, noting that 'Mr Walsh's appointment as Magistrate had already expired in August 2005' and commenting on other aspects of the resignation letter, was later referred to the Minister's Office. Copies of this correspondence are attached.

- (a) Dr Walsh's term of appointment as a Magistrate of the Norfolk Island Court of Petty Sessions expired in August 2005.
- (b) Yes. However, the Administrator has not been delegated powers to appoint the Chief Magistrate or appoint as Magistrate a person who at the time of appointment is the Chief Magistrate or a Magistrate of the Magistrates Court of the Australian Capital Territory.
- (c) None. Dr Walsh's appointment as a Magistrate expired.
- (d) The correspondence from the Administrator to the Minister on this matter is **attached**.

[TLG 72 attachment]