



LEGISLATIVE COUNCIL

PORTFOLIO COMMITTEES

BUDGET ESTIMATES 2021-2022 Supplementary Questions

Portfolio Committee No. 7 – Planning and Environment

LOCAL GOVERNMENT

Hearing: 1 November 2021

Answers due by: 29 November 2021

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LOCAL GOVERNMENT

Questions from Mr David Shoebridge MLC

Election

1. What advice have you received about the risk of some or all of the 4 December 2021 council elections failing or being contested in court because of the settings you have put in place?

Answer:

The settings that have been put in place to ensure council elections are COVID-safe have been informed by the advice of the NSW Electoral Commission and are designed to ensure council elections do not fail and are not contested in court.

Synthetic turf

2. Following the findings of the NSW Planning Synthetic Turf study what direction if any have you given to councils across NSW about installation of these fields?

Answer:

This is a matter for the Minister for Planning and Public Spaces, the Hon Rob Stokes.

3. How many fields are being funded through Local Government?

Answer:

See answer to Question 2

Demergers and Demerge NSW

4. Are you aware of the formation of a statewide coalition called the Demerge NSW Alliance (DNA) representing communities from the majority of merged councils who are collectively campaigning for a binding plebiscite on demerging?

Answer:

Yes

5. Given financial viability was given as a main reason for the forced council mergers, can you provide details on the extent of special rates variations applied for by merged councils?

Answer:

Special rates variations applied for by councils are matters determined by IPART.

IPART will have the details of variations applied for.

Armidale Council

6. It is understood that 3 Armidale councillors made complaints to the OLG in September, October and November 2019. Please provide details of the dates and the nature of the responses provided by the OLG, e.g. acknowledgements or other information, and whether the complaints remained unresolved when Armidale Regional Councillors were suspended on 12 June 2020.

Answer:

Complaint 1 - received 23 September 2019. Final reply issued 2 July 2020

Complaint 2 - received 14 October 2019. Acknowledgement issued 23 October 2019. Final reply issued 2 July 2020.

Complaint 3 - received 12 November 2019. Acknowledgement issued 18 November 2019. Final reply issued 8 September 2020.

Snowy Valleys Demerger

7. Why did the Minister refer the demerger to Cabinet? Do you have the power to determine this alone without reference to Cabinet?

Answer:

The Act gives a discretion to the Minister whether to recommend a proposal to the Governor. The Minister can seek advice on a proposal including fellow members of Cabinet, when forming a recommendation to the Governor.

8. Will you release the full report from Deloitte Touche Tomatsu commissioned by the Boundaries Commission (BC)?

Answer:

This is a matter for the Boundaries Commission.

9. Is the Minister aware that based on its ever worsening financial position Snowy Valley Council (SVC) has declared it is not financially sustainable and is set to endorse a proposed 38% Special Rate Variation (SRV)?

Answer:

The decision to apply for a variation is a matter for individual councils.

Questions from Ms Abigail Boyd MLC

RSPCA Capital Works Funding

10. In the last round of estimates, you provided responses to questions taken on notice about RSPCA NSW funding for capital works. Is there any requirement for RSPCA to provide evidence that the funds are directly contributing to improved animal welfare outcomes?

Answer:

Under the executed funding agreement the RSPCA is required to provide a Final Report that outlines the project outcomes and evidence of project completion.

11. In this information you provided, there is an amount of \$20,000 allocated to Tweed Heads for “compliance works”, however there is no RSPCA NSW shelter in the Tweed region. Can you please clarify what the \$20,000 went towards?

Answer:

The funding has been provided to RSPCA NSW for an Opportunity Store in Tweed Heads that is owned by the RSPCA NSW. It is predominantly operated by Volunteers. The funding is being used for compliance work that is related to the upgrade of the electrical board, the installation of new circuit breakers and safety switches, as well as asbestos removal.

Council Pounds

12. Bourke euthanasia of dogs by shooting
- (a) What specifically has the Office of Local Government done in direct response to the euthanasia by shooting of 15 dogs in Bourke Council pound in August?

Answer:

RSPCA NSW is the responsible enforcement agency in relation to animal welfare under the Prevention of Cruelty to Animals Act. The Office of Local Government (OLG) was advised that RSPCA NSW investigated the incident and found no evidence of an offence under the Act.

OLG exercised its powers under the Companion Animals Act 1998 to request further information from the Council to conclude its enquiries.

OLG issued updated advice and guidance to all NSW Councils on July 30 and September 9 to assist them in the operation of pounds during the COVID-19 outbreak. In that

guidance Councils were reminded of their statutory obligations under the Companion Animals Act and in particular the welfare of animals in their care.

OLG has urged Councils to continue to work with rehoming organisations and volunteers to care for animals, where that can be undertaken in a safe manner consistent with NSW Health advice.

Under the instruction of the Minister for Local Government, OLG have commenced work to conduct a comprehensive review into current animal rehoming practices, which will investigate ways to reduce companion animal euthanasia rates, including any need for legislative reform.

In addition to this review, OLG will continue to work with animal welfare groups and councils, especially those in regional and rural NSW, to reduce euthanasia rates particularly with the additional challenges created by the COVID-19 outbreak.

- (b) What changes have been made to OLG's council pound data collection, audit processes, or guidelines following the euthanasia by shooting of 15 dogs in Bourke Council pound in August?

Answer:

These issues will be examined as part of the Government's comprehensive review of animal rehoming practices in council pounds across New South Wales

13. Companion animals born in council pounds

- (a) If pregnant companion animals give birth at the pound (regardless of the length of time they spend at the pound or whether they go to rescue eventually), are these kittens and puppies required by the OLG to be given individual impound numbers and entered on the Impound Register by Council?

Answer:

Under Section 30 of the *Impounding Act 1993* (Act), Councils must keep a record for all impounded animals.

- (b) If they are not required by the OLG to be individually entered on the Impound Register by Council, how can the Pound Data Reports be considered accurate?

Answer:

See answer to 13a.

- (c) If some of these kittens/puppies die or need to be euthanised at the pound and they have not been given individual impound numbers, is there a record of this kept by Council and is this information sent to the OLG for their data/Pound Data Reports?

Answer:

See answer to 13a.

Questions from the Hon Mark Buttigieg MLC on behalf of the Opposition
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Model Code of Conduct

14. In June this year you announced a review into the model code of conduct. When will that review be complete?

Answer:

On 26 November I announced the *Councillor Conduct Accountability in NSW Local Government* consultation paper and I encourage the community to provide their feedback.

It is expected that the review of the framework for dealing with councillor misconduct will be completed in 2022.

- (a) What agency/organisation has been tasked with conducting that review?

Answer:

Mr Gary Kellar PSM has been appointed to carry out the review.

- (b) How much is the agency/organisation being paid to conduct the review?

Answer:

Mr Kellar is being paid an hourly rate of \$200 + GST and a daily rate of \$1,600 + GST.

- (c) How much did the Office of Local Government spend on investigating code of conduct complaints (including resources, staffing hours, etc) in 2018/19?

Answer:

Misconduct investigations are a core function of the work of the Investigations Team in the Office of Local Government, but the role of the Team is broader in scope, dealing with other matters, and no separate budget details are held.

- i. How much did the Office of Local Government spend on investigating code of conduct complaints (including resources, staffing hours, etc) in 2019/20?

Answer:

Refer to answer to question 14(c).

- ii. How much did the Office of Local Government spend on investigating code of conduct complaints (including resources, staffing hours, etc) in 2020/21

Answer:

Refer to answer to question 14(c).

- (d) How many full time equivalent staff at the Office of Local Government were tasked with investigating code of conduct complaints in 2018/19?

Answer:

As at 20 June 2019 there were 6 FTE staff whose role included the investigation of misconduct complaints. For the reasons stated above, it is not possible to identify FTE staffing with respect to misconduct investigations alone.

- i. How many full time equivalent staff at the Office of Local Government were tasked with investigating code of conduct complaints in 2019/20?

Answer:

As at 30 June 2020 there were 6 FTE staff whose role included the investigation of misconduct complaints. For the reasons stated above, it is not possible to identify FTE staffing with respect to misconduct investigations alone.

- ii. How many full time equivalent staff at the Office of Local Government were tasked with investigating code of conduct complaints in 2020/21?

Answer:

As at 30 June 2021 there were 7 FTE staff whose role included the investigation of misconduct complaints. For the reasons stated above, it is not possible to identify FTE staffing with respect to misconduct investigations alone.

- (e) Has the Office of Local Government investigated why 52 code of conduct complaints were lodged with Lismore Council in 2019/20?

Answer:

It would not be appropriate for the Office of Local Government to publicly comment on complaints made under a council's code of conduct or the circumstances in which they are made.

- (f) Has the Office of Local Government investigated why Georges River Council were forced to spend more than \$200,000 in 2019/20 to investigate code of conduct complaints?

Answer:

It would not be appropriate for the Office of Local Government to publicly comment on complaints made under a council's code of conduct or the circumstances in which they are made.

- (g) Has any councillor in NSW being reprimanded/sanctioned/warned for making blatantly baseless code of conduct complaints?

Answer:

No

Coastal and Estuary Fund

15. A total of \$83.6 million was made available as part of the 2016/17 to 2020/21 Coastal and Estuary Grants package. \$7 million was for 'investment in state-wide science and technical advice. How much of that \$7 million has been spent?

Answer:

\$5,904,785 (as of 1 July 2021) has been spent. The remaining funds will support program implementation.

- (a) Can you provide a detail breakdown of how that \$7 million (if it was all spent) was spent?

Answer:

\$5,904,785 has been spent on marine and LiDAR coastal mapping, specialist scientific staffing, and associated technical advice. This will deliver state-wide mapping to

underpin the new legislative framework for coastal management. In particular, state-wide mapping will:

- establish the spatial extent of the coastal vulnerability areas
- inform the development of regional and subregional land use plans
- provide the context for smaller scaled more detailed coastal hazards mapping
- inform the development of local councils' coastal management programs.

The state-wide mapping will also provide baseline data of coastal bathymetry and sediment compartments.

Later stages will deliver high resolution data and tools to underpin the development of coastal management programs, including:

- sediment compartment data – collection of nearshore bathymetry and sediment data to refine initial coarse level sediment compartment mapping
- development of probabilistic erosion tools/assessment to inform cost benefit analysis and development of coastal management programs.

(b) How much of the \$83.6 million was spent prior July 1, 2021?

Answer:

The \$83.6 million allocated for coastal management includes several components:

- Since 2016 (up to 1 July 2021), \$49.41 million has been awarded or spent on grants under the Coastal and Estuary Grants Program. This includes 203 new grants totalling \$42.41 million awarded to local government.
 - Please refer to the response at 15(a) for information about state-wide science and technical advice.
 - \$4.69 million has been spent on providing additional technical advice and support to local government to help them manage the coastal zone, enabling the review and assessment of planning proposals to ensure consistency with the coastal management framework and supporting the NSW Coastal Council.
- i. Are unspent funds still accessible to councils under the same grants program and if so, when does the funding window expire?

Answer:

Yes.

16. In 2019 Claudine Lyon was commissioned to conduct an independent report that looked at increasing access to funds under the program. How many of the 38 recommendations were adopted?

Answer:

The Department of Planning, Industry and Environment has initiated or completed work on 32 recommendations from the report.

- (a) How much was Claudine Lyon paid to prepare the report?

Answer:

\$48,800.

- (b) Was money from the Coastal and Estuary Grants Program used to pay the fees of Claudine Lyon?

Answer:

No.

Local Government Grants Commission

17. How regularly do the members of the Local Government Grants Commission meet?

Answer:

This is a matter for the Grants Commission.

- (a) Were the three roles on the commission appointed by yourself (held by Aileen MacDonald, Bruce Notley-Smith and Allan Baptist) advertised?

Answer:

The nomination of candidates for appointment to the Grants Commission was made in accordance with the *Local Government Act 1993*.

- i. If they were advertised, how many applicants were there?

Answer:

Refer to answer to question 17(a).

(b) How much are the members of the commission paid annually?

Answer:

Payments are made in accordance with the Classification and Remuneration Framework for NSW Government Boards and Committees (the Framework), as announced in Premier's Memorandum 2012-18.

(c) How much were the previous members of the commission paid annually?

Answer:

Refer to answer to question 17(b)

Local Government Boundaries Commission

18. How regularly do the members of the Local Government Boundaries Commission meet?

Answer:

This is a matter for the Boundaries Commission.

(a) How much are the members of the commission paid annually?

Answer:

Payments are made in accordance with the Classification and Remuneration Framework for NSW Government Boards and Committees (the Framework), as announced in Premier's Memorandum 2012-18.

(b) How much were the previous members of the commission paid annually?

Answer:

Refer to answer to question 18(a)

(c) Were the positions on the commission advertised?

Answer:

The membership of the Commission and the process for nomination was done in accordance with the *Local Government Act 1993*.

i. If so, how many people applied for a position on the commission?

Answer:

Refer to answer to question 18(c)

19. In July this year you announced an independent statutory review into the commission. Has that review commenced?

Answer:

The review parameters are in the process of being established

(a) When is that review expected to be concluded?

Answer:

More details about the review will be announced once available

(b) Why did you call for the review?

Answer:

The review will examine the effectiveness of the membership composition, functions and processes of the Local Government Boundaries Commission.

(c) Who is conducting the review and how much are they being paid to do so?

Answer:

More details about the review will be announced once available.

Council finances

20. The Time Series Data for 2019/20, published by the Office of Local Government showed there were a number of councils that had negative Operating Performance Ratios. Several of those were merged councils including: Hilltops (-21.4); Cootamundra Gundagai (-19.5); Central Coast (-15.9); Murray River (-14.2); Snowy Valleys (-11.1); Federation (-10.4); Murrumbidgee (-9.1); Georges River (-8.2); and Snowy Monaro. What has the Office of Local Government done to specifically address the negative operating performance ratios of each of those councils?

Answer:

Councils are independent entities and have obligations to perform their duties to meet community expectations as expressed through their elected Councils (or Administrators as the case may be).

- (a) Do you anticipate any of those councils will be placed in administration within the next 12 months?

Answer:

It is not possible to speculate on what, if any, intervention action might occur in the future.

- (b) Do you anticipate any of those councils will be placed in administration within the next 24 months?

Answer:

It is not possible to speculate on what, if any, intervention action might occur in the future.

Office of Local Government

21. On 1/11/2021, Secretary of the Department of Planning, Industry and Environment, Keirsten Fishburn confirmed the Office of Local Government had its “own identity” despite being part of a larger cluster. Given that fact, how many full time equivalent staff are currently employed in the Office of Local Government?

Answer:

I refer you to the Department of Planning, Industry and Environment’s Annual Report.

- (a) How many full time equivalent staff were employed in the Office of Local Government in 2020/21?

Answer:

Refer to answer to question 21.

- (b) How many full time equivalent staff were employed in the Office of Local Government in 2019/20?

Answer:

Refer to answer to question 21.

- (c) How many full time equivalent staff were employed in the Office of Local Government in 2018/19?

Answer:

I refer you to the Office of Local Government Annual Report 2018-19.

22. What is the budget of the Office of Local Government in 2021/22?

Answer:

This information will be detailed in the upcoming Department of Planning, Industry and Environment's Annual Report 2021/22.

- (a) What was the budget of the Office of Local Government in 2020/21?

Answer:

I refer you to the Department of Planning, Industry and Environment's Annual Report.

- (b) What was the budget of the Office of Local Government in 2019/20?

Answer:

Refer to answer to question 22(a).

- (c) What was the budget of the Office of Local Government in 2018/19?

Answer:

I refer you to the Office of Local Government Annual Report 2018-19

23. How much was the payout figure for the former head of the Office of Local Government, Tim Hurst following his resignation?

Answer:

Mr Hurst received his statutory accrued leave entitlements (recreation leave and extended leave) in accordance with the terms of his contract of employment.

- (a) What was Mr Hurst's salary prior to leaving the Office of Local Government?

Answer:

Mr Hurst was paid as a Band 3 Executive in line with the Public Service Commission Executive Remuneration Framework.

- (b) What is Brett Whitworth's salary as head of the Office of Local Government?

Answer:

Mr Whitworth is paid as a Band 3 Executive in line with the Public Service Commission Executive Remuneration Framework.