

LEGISLATIVE COUNCIL
Question on notice

21 JUN 2011

Tuesday, 12 April 2011

3822. Hon Robin Chapple to the Minister for Mental Health representing the Minister for Environment.

I refer to a newspaper article entitled, 'Property Rights taken to Parliament', which appeared in the *Narrogin Observer* on 27 October 2010, photographs taken on 21 January 2010, depicting clearing of vegetation and construction of bores undertaken with exploration equipment available for viewing at www.mp.wa.gov.au/rchapple/Kaltails, a document dated 3 December 2009 entitled, 'KCGM Mining Proposal and Works Approval Application', a media statement dated 1 May 2005 entitled, 'Unauthorised native vegetation clearing conviction', and another dated 30 November 2009 entitled 'Illegal land clearers fined \$10000 each', and I ask -

(1) With reference to the newspaper article dated 27 October 2010 referred to above, can the Minister explain why Department of Environment and Conservation (DEC) was prepared to spend significant resources and effort to prosecute a Munglinup farmer who cleared native vegetation on his property which resulted in him spending 90 days in jail, for breaching a court order preventing him from clearing land?

(2) If no to (2), why not?

(3) Can the Minister explain why the DEC is not prepared to spend significant resources in a similar consistent manner, as to how other persons referred to above in the media statements have been prosecuted, and at the very least prosecute a large corporation KCGM employees/contractors who have cleared native vegetation as part of exploration/construction activities, without obtaining a native vegetation clearing permit under the *Environmental Protection Act 1986*?

(4) If no to (3), why not?

(5) Will the DEC prosecute KCGM for clearing native vegetation without obtaining a native vegetation clearing permit?

(6) If no to (5), why not?

(7) If yes to (5), when will prosecution proceedings be commenced?

Answer

The Minister for Environment has provided the following response:

(1)-(2) The action taken by the Department of Environment and Conservation (DEC) has been consistent with its functions under the *Environmental Protection Act 1986*. The case referred to remains under investigation by the DEC and it would be inappropriate for me to comment on this matter.

(3)-(4) DEC's investigations into reports of unlawful clearing and any subsequent action are carried out in accordance with its Enforcement and Prosecution Policy 2008. Investigations are assessed for potential environmental impacts. Under section 20 of the Act, a delegation of the DEC CEO's powers in respect of the clearing provisions has been made to the Department of Mines and Petroleum (DMP) for mining or petroleum related activities. Under the delegation, DMP administers the clearing provisions of the Act and investigates reports of alleged unauthorised clearing. DMP completed the investigation into KCGM on 22 December 2010 and referred the matter to DEC for its consideration in accordance with the delegation.

(5)-(7) DEC reviewed the DMP investigation into the alleged unlawful clearing of approximately 0.96 hectares of native vegetation on the KCGM Kaltails operation. In accordance with its Enforcement and Prosecution Policy and in consultation with DMP, DEC decided that a letter of warning was appropriate in this case. On 11 March 2011, a letter of warning was sent to KCGM acknowledging that KCGM had reviewed the incident and implemented new procedures to ensure there would be no reoccurrence in the future.

