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Ms Julia Knight
Secretary
"Ice" Select Committee
GPO Box 3721
DARWIN NT 0801

Dear Ms Knight

RE: ANSWER TO WRITTEN QUESTIONS – "ICE" SELECT COMMITTEE

On 19 June 2015, the Deputy Chief Executive Officer of the Department of the Attorney-General and Justice, Ms Meredith Day, the Director of Research and Statistics, Ms Carolyn Whyte, the Acting Director of Legal Policy, Ms Jenni Daniel-Yee, and Senior Policy Lawyer from the Legal Policy Unit, Mr William McNeil, appeared before the "Ice" Select Committee. Subsequent to their appearance, the Department received the following request from the Committee:

"The Committee notes that the NT Police Service has recommended a number of legislative amendments to the Department of the Attorney-General and Justice aimed at disrupting demand, supply and trafficking of methamphetamines. For each of the proposed amendments can you please provide the following data:

- *Issues the Department may have identified with the proposed reforms*
- *Status of the proposed reforms*

Can you also advise whether the department has considered any legislative reforms regarding remediation of premises used as clandestine laboratories."

The Department of the Attorney-General and Justice response is as follows:

Proposed reforms

Reforms relating to drug house notices and moving amphetamine, ketamine and other phenethylamine based compounds from Schedule 2 to Schedule 1 of the *Misuse of Drugs Act* were discussed during the "Ice" Select Committee hearings.

The drug house notice issue is still being considered by the Department of the Attorney-General and Justice as there are issues concerning notification to parties not subject to the order who have an interest in the premises (as a co-tenant for example). Further discussions will be required with NT Police to resolve these issues.

Regulations to move the amphetamine, ketamine and other phenethylamine based compounds to Schedule 1 are being drafted.

Declared drug routes

NT Police have also asked the Department of the Attorney-General and Justice to examine legislative reforms relating to declared drug supply routes. Section 52B of the *Controlled Substances Act 1984* (SA) allows for routes to be declared and for police officers to exercise search powers over any vehicle within the declared area. The power extends to seizure of any dangerous drug.

In the NT, similar powers already exist in relation to kava (section 32 of the *Kava Management Act* refers) and liquor (Part VIII Division 3 of the *Liquor Act* refers).

The issues the Department are currently examining relate to:

- a) restrictions on the size of the declared drug route, noting that in the South Australian legislation the drug supply route cannot be larger than 5 square kilometres. The Department of the Attorney-General and Justice is also looking at whether there should be greater flexibility in what can be declared, for example, an area not exceeding 5 square kilometres or a roadway between two points not exceeding 5 kilometres in length;
- b) restrictions on how long the area (or roadway) may be a declared area or roadway, noting that in the SA legislation the declaration can only last for 14 days and can be repealed at any time by the authorising officer;
- c) restrictions on how many areas (or roadways) in the NT can be declared at any one time;
- d) restrictions on the rank of police officer who can make a declaration, noting that in the SA legislation a declaration can only be made by an officer at the rank of Inspector or above;
- e) restrictions on the area (or roadway) that may be declared, noting that in the SA legislation, the area must be more than 30 kilometres from the Adelaide General Post Office;
- f) requirements on the Commissioner of Police to issue a General Order relating to how this authority is to be used; and
- g) what specific search and seizure powers should be granted, noting that the SA legislation, the *Kava Management Act* and the *Liquor Act* contain specific search and seizure powers.

These declared drug route issues are currently being examined by the Department of the Attorney-General and Justice and Cabinet are yet to be briefed on this issue.

Remediation of premises used as clandestine laboratories

The Department of the Attorney-General and Justice has not been asked to consider reforms regarding remediation of premises used as clandestine laboratories. There are provisions in the *Sentencing Act* that can be used by NT Police and other agencies to recover costs incurred as a result of remediation.

Section 89 of the *Sentencing Act* contains powers for a court to “order an offender to pay the reasonable costs incurred by the Territory arising out of the commission of the offence including the costs of removing, disposing, dispersing, destroying, rehabilitating and cleaning up a thing used in or associated with the commission of the offence”.

Section 88(c) of the *Sentencing Act* may also be applicable where the offence occurs in or on public housing. Section 88(c) notes that a court may order an offender to:

“(c) pay compensation for the loss or destruction or damage to property that occurs in the course of or in connection with the commission of an offence.”

I also note that there are provisions in the *Criminal Property Forfeiture Act* relating to the forfeiture of crime-used property and crime-used property substitution provisions are applicable where the property used is not owned by the offender. The *Misuse of Drugs Act* also contains ‘declared drug trafficker’ provisions that allow a court to forfeit all property owned by a qualifying offender, regardless of whether the property was used or derived from the commission of an offence. The *Criminal Property Forfeiture Amendment Act 2014* clarified the application of the crime-used property and substitution clauses.

Yours sincerely



Greg Shanahan
Chief Executive Officer

7 July 2015