



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

**STANDING COMMITTEE ON CLIMATE CHANGE,
ENVIRONMENT AND WATER**

(Reference: Annual and financial reports 2007-08)

Members:

**MS M HUNTER (The Chair)
MS M PORTER (The Deputy Chair)
MR Z SESELJA**

TRANSCRIPT OF EVIDENCE

CANBERRA

WEDNESDAY, 18 FEBRUARY 2009

**Secretary to the committee:
Dr H Jaireth (Ph: 6205 0137)**

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Committee Office of the Legislative Assembly (Ph: 6205 0127).

APPEARANCES

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Amended 21 January 2009

The committee met at 2.28pm.

Appearances:

Cooper, Dr Maxine, Commissioner, Office of the Commissioner for Sustainability and the Environment

THE CHAIR: I will formally resume the annual reports hearing of the Standing Committee on Climate Change, Environment and Water, and welcome Dr Maxine Cooper to our hearing this afternoon. I do need to read out the standard script here and ask you whether you have had a chance to read through the privilege statement and whether you understand the implications of that.

Dr Cooper: Yes.

THE CHAIR: Do you have an opening statement or would you like us to ask some questions?

Dr Cooper: Questions would be fine.

THE CHAIR: Thank you, Dr Cooper. I want to start with a question relating to page 3 of the annual report, about the role of commissioner. Has the role of the commissioner been changed in the legislation to reflect that you are now the Commissioner for Sustainability and the Environment?

Dr Cooper: No, it has not. The process that we were asked to go through was to actually consult widely and then bring forth a paper about what we found in our consultations. After that, it was the government's intention prior to the last election for that then to inform the legislation. So we currently, in a legislative sense, work under the commissioner's current act—the Commissioner for the Environment Act—but we have also embraced other activities in moving into what is our new role. Many of those activities do not need to be covered by the legislation explicitly, but they can be undertaken within some of the current framework. The consultation is about helping to refine what are the key issues and targets that the community and the Assembly wish us to focus on.

MS PORTER: What are some of those activities? What do they encompass?

Dr Cooper: There was a review undertaken prior to me being appointed full time, and that was called the Stinson review. We have mentioned that in the annual report. Mr Stinson concluded that the commissioner's role for environment should now incorporate duties relating to sustainability—so giving a greater emphasis to looking at environmental issues, along with looking at the economic and the social implications.

He also said that there is a requirement to incorporate functions of advocacy. Given the resourcing issues prior to my appointment and the expansion of the office, the office had very limited ability to advocate for change, to actually raise awareness in the community. Already, we have got a communication plan and we have engaged a communication person to assist us with getting the messages from, for instance, the

State of the environment report out there on a regular basis.

MS PORTER: Would you be able to give us examples of this advocacy that you are talking about?

Dr Cooper: Yes. Following the release of the *State of the environment* report, we engaged in considerable media and also in considerable numbers of meetings, informing the community about what the report actually said. So we think that is important. We also, in looking at the new role, set up a reference group. One of the sectors in our society that we think is particularly important—all sectors are important but particularly important—when it comes to finding a way to get them aware of the issues is really the 18 to 35 or 40-year-olds. They are busy making their careers; they are busy having families. So being switched on to some of the broader social issues like sustainability and greenhouse is not necessarily at the top of their agenda. We have got this reference group and on that we have got three members from the youth sector.

THE CHAIR: I have a question around this youth advisory group, the reference group. Are they from particular organisations that are connected with the environment or a range of organisations?

Dr Cooper: It is a range. Our reference panel consists of the previous commissioners. So we thought we would mine their wisdom because they have obviously got views. With respect to the youth one, we have got an independent person, Ms Charlie Wood, and she is just there from youth generally. We have got Ms Maiy Azize from the Youth Coalition and Michael Galluzo, president of ACT Reconciliation. We have also got somebody from the Business Council on there, and somebody from the general practitioners council. We have got the head of the climate change school at ANU, Will Steffen, and somebody from the Fenner school. We have also got somebody who chaired the last ACT sustainability committee for the previous government, Professor Brian Roberts, and there is somebody from tourism. So we have got quite a mixture. If you are going to progress sustainability, I think it is an issue that is mainly progressed around social economic factors, with the knowledge of environmental issues.

MS PORTER: What you were saying before was that you think that particular age group that you were discussing may not have it as front-of-mind awareness?

Dr Cooper: That is right.

MS PORTER: Have you got any evidence that that is the case?

Dr Cooper: Mainly from where people are actually getting involved in terms of some of the activities around the place. With SEE-Change, when I meet with those groups, you do notice a bias towards one particular age category.

MS PORTER: Yes, I have noticed that as well.

Dr Cooper: It is just through my observations. I do not have any empirical data but I am sure there would be some empirical data, if the committee wishes to try and find it.

MS PORTER: It would be very interesting to find it.

THE CHAIR: With respect to the Stinson review, is it possible that the committee can have a copy of that review?

Dr Cooper: Absolutely; it is on our website. The philosophy of the office is absolutely to have everything open and frank, so that is on our website, along with a paper that outlines what some of the issues could be. He also said we should be focusing in the office on the implementation of sustainability frameworks across government and monitoring those—if you like, a kind of a watchdog role on government, to then be able to say, “This year, the real difference made is X or Y.” He asked for us also to be considered by the government for a role in catchments, given their importance, as we have just heard, in terms of water and what this city does. He also talked about having enough resourcing, which we do have, to establish focus reference groups as we need for particular issues.

MR SESELJA: While you are talking about making documentation available, page 6 of the report talks about the biosphere visit to Spain and that a report of the findings was provided to the minister in March 2008. Are you able to make that report available to us?

Dr Cooper: Because that was a report that the minister asked for, I would appreciate it if we could actually ask the minister to make that available. I am happy to ask the minister and make it available, but at the moment I think it is still sitting there to be considered.

MR SESELJA: So you will get back to us on that?

Dr Cooper: Hopefully, I will be able to just send it through, but I will check with the minister’s office.

MR SESELJA: What came from that visit? Are you able to talk us through that?

Dr Cooper: We looked at several biosphere sites and because of the diversity of them—they are all enormously different—some of the key messages, I think, that we took away were that a biosphere site can be what you want it to be. A lot of them have actually been used in the form of economic development for a region and for promoting things like tourism. So while the aim is to protect the environment, the integration with the economic and the social aspects was enormous.

MR SESELJA: I know Ms Porter was on this investigation into the biosphere as well. One of the things we found with it was that, whilst the committee certainly concluded that it was a positive, there was a certain vagueness at times about what it should be doing and what it was doing. Did you get that sense in the biospheres overseas or was it a greater clarity than we experienced?

Dr Cooper: No, it was a local product tailored to the local needs. So the diversity in what you could do under a biosphere and the purpose of them were enormous. They are now changing, I think, from being nature-based in terms of focusing on natural

areas to being very much incorporated into having urban areas and the impact of urban areas on the natural systems, with a key focus on sustainability issues.

MS PORTER: As a supplementary to that, was it your experience, then, that you saw a range of urban and non-urban sites?

Dr Cooper: Absolutely.

MS PORTER: More urban sites?

Dr Cooper: No. There is always more of the rural and the nature reserves because of where they have evolved from, but there are more of the urban ones now being created. Some of the other key messages were that it has to be owned by all the community and the community actually has to drive the operations of it. Running it as a government program, I think, would have problems and I think that is why originally it was asked of this office whether there would ever be any progression to work with the community to bring it to fruition. But we would need to be very clear on what our objectives were and we would also need to be clear in terms of: is it just the ACT or do you actually go across the border and look at the outcomes you want to achieve as the region?

THE CHAIR: So there has been, I guess, some thought gone into the fact that it would not be government-run; the Commission for Sustainability and Environment could play quite a key role in progressing that, if it was decided to go ahead?

Dr Cooper: It was originally thought the office could bring the community together and then put up what it should be doing, how it could work, because it could be parts of the ACT with parts of the region. It may not necessarily be the whole. The other thing about a biosphere, unlike a world heritage, is that it does not have another layer of approval. This is very much a cooperative approach and, as I said, a lot of the areas use as it marketing tag.

THE CHAIR: One of its main benefits is tourism?

Dr Cooper: It is tourism; it is also getting the local community networked so that they actually take actions that have benefits for environment, economic and social outcomes. I guess one of the things is that our website might become an important component of linking for information on some of that.

THE CHAIR: Thank you. Are there any more questions on the biosphere?

MR SESELJA: Not on the biosphere.

MRS DUNNE: Not on the biosphere, no.

THE CHAIR: I move on to the *State of Environment Report* indicators on page 7. Are the indicators used in the report the same ones as have been used in previous reports?

Dr Cooper: Yes.

THE CHAIR: Looking at those indicators, why are they being reviewed in consultation with CMD rather than with the new environment department, because there was some talk about reviewing that?

Dr Cooper: We started work on this when there was not the new department.

MRS DUNNE: This report was tabled in September.

THE CHAIR: Of course, that is true. It was the last financial year, yes.

Dr Cooper: Yes, and we have got a working group put together and it does involve members from the new department.

THE CHAIR: They are going to be incorporated into that because of the changes?

Dr Cooper: And we are also looking at regional indicators because we do the regional work and we believe you cannot draw sustainability around the border; it has actually got to link across.

THE CHAIR: I guess one of those areas is some of our waterways. We have things like Ginninderra Creek. A lot of work has been done by a catchment group out there. But of course, there is a border and it needs cooperation, I understand, from across the border to really go through and clean it out and to be, I guess, looking after that creek further up. What sort of role do you see the commissioner could have, particularly in liaising with the New South Wales counterpart, on being able to get some of these regional projects or initiatives going?

Dr Cooper: We currently work with the 17 regional councils on their *State of the environment report*. In fact, we do it on their behalf; they pay for it. So we have links with them in that regard. But on the particular issue you have raised, I would actually ask the NRM, the National Resource Management Committee that is set up, that has specific focus on those catchment issues, to deal with it. So we would be more than happy to support, more than happy to do, if it needed, an investigation into cross-border cooperation because the work that we have done on the lowland native grasslands, for the Belconnen site, which involved the Defence Department, I think, has been a little bit of a catalyst in getting them to do the right thing from a land management perspective. Yet jurisdictionally we really do not have power in that area.

MRS DUNNE: When I can, Madam Chair, I would like to ask some questions on the *State of the environment report*.

THE CHAIR: Did you have one on that?

MS PORTER: On the *State of the environment report*, no. I was just going to mention an amount of money that was mentioned in relation to your budget that occurred in the same paragraph that mentioned the ACR councils. It talks about the \$449,000 to support the expanded role. That would be in the area of the expanded role of sustainability, I presume. Is that what you said?

Dr Cooper: Yes. If we are going to take on a catchment, public reporting on issues on that, that is all captured for that. In regard to our money for the regional report, each of the councils contributes and that is quite separate.

MRS DUNNE: We have had this discussion ourselves but, for the purpose of annual reports, could you give an exposition on the causes of the delays in the bringing out of the *State of the environment report* that was due in April? It came out in August, I recall.

Dr Cooper: Yes. A lot of those occurred before I took up the role. The objective with the state of the environment reports is that you start collecting data as early as you can and put into place a system for that. And it is the commissioner's report; so it is a bit difficult for people to do a lot of work and make some recommendations until they have actually got a commissioner. That was part of it. Also within the office, as we have made quite public through our annual report, there were issues on inappropriate procurement procedures and some staffing issues. Essentially we established a new office, made sure that the government procurement procedures were being followed and resolved some issues. Is that sufficient?

MRS DUNNE: Possibly. I therefore seek your view on this. You made the point that the *State of the environment report* is the commissioner's report; it occurs once every four years. But if we got to a situation in late 2011, 2012, where we had a new commissioner, for whatever reason, are we going to be confronted with the same issue?

Dr Cooper: No. We are actually setting up the system now of collecting data, working out the program, reviewing the indicators, putting into place a whole framework. Also, the staffing of the commissioner's office was a bit problematic, as is conveyed every year, I think. Now that we have got more staffing—here are my two senior officers—one would hope that the continuity of the senior officers too would be available to keep that going.

MRS DUNNE: You think that we have got over the hump. A variety of members—Ms Tucker, Dr Foskey and I—advocated year after year for more funding, which you now have.

Dr Cooper: That is right.

MRS DUNNE: It is now a full-time position. You think that that all means that we will not actually get in the situation again where the statutory reporting timetables are missed?

Dr Cooper: I would hope that is the case. You will recall there was a gap in time between different appointments. That was hopefully a one-off.

THE CHAIR: I want to follow up on that a bit. You are now fully staffed?

Dr Cooper: No. We have got one position that we have got somebody in temporarily but at the moment we are still looking at our recruitment program. One of the things I have done is hold off the last one just a little bit till the future long-term direction of

what are the priorities through this consultation are. But I must say that we have filled positions on different acting arrangements.

THE CHAIR: And that has been working well?

Dr Cooper: Yes.

THE CHAIR: I have one question touching on the issue Mrs Dunne raised or, Dr Cooper, you might have raised on the procurement. There were some irregularities that were reported in this annual report. Are you able to elaborate on that?

Dr Cooper: I would prefer not to, if it is okay with the committee, because it actually involves a senior officer who needed to be skilled in an area that they were not skilled in. When issues like that occur, you simply, as we did, call in the procurement people and we had a review and we then put things in place.

MR SESELJA: What was the outcome, though, in terms of prior to that? What was the result of that officer not having the relevant skills in procurement?

Dr Cooper: The procurement just was not undertaken according to the ACT government's procedure for procurement.

MR SESELJA: What aspects of the procedures were not followed?

Dr Cooper: There were several aspects: contracts not properly documented; there were not some contracts even in place for some of the services that were provided. It was a unique situation I had never encountered before and it was simply due to somebody not being totally across the requirements of procurement and that, I think, occurred in a period when the office did not have a commissioner. So they were trying to do some things in a very positive way but the right frameworks were not there.

MR SESELJA: When they did not have the commissioner, whom did they report to? Was it to the minister?

Dr Cooper: No, I do not think so. I think it was through the Department of Territory and Municipal Services for those kinds of issues but the department may be unaware that a person does not even know that they do not know—does that make sense?—until somebody comes in and asks a few questions.

MR SESELJA: This first became apparent when you became commissioner and started asking questions?

Dr Cooper: It evolved, yes, because when I first went in—one assumes things are being done according to the requirements—I was in there thinking of just leaving that person because I was focused on the lowlands work for the *State of environment report* collation and then it became apparent when I started asking for details on different things.

MR SESELJA: And is there a risk that as a result of these failures the territory suffered any sort of loss?

Dr Cooper: No, because we actually went through and got the information we needed under the contracts and made sure that the delivery of the goods, even without some of those contacts, occurred. So there was never any ill intent; it was just a matter of the procedures were not put in place.

THE CHAIR: I am sorry we are jumping around a little bit—

Dr Cooper: That is all right.

THE CHAIR: but I want to go back to page 7 around state of the environment outcomes. It states that following the release of the state of the environment report the office “will work to encourage behavioural and policy changes in key areas”. What is being proposed there?

Dr Cooper: We have got a communication program and ours is about raising awareness. On certain days or certain weeks in the year, when it is waste week or whatever—you may have already heard me—I will go out to one of the radio stations and just talk about what we found in our report and what needs to be done. Because we are small we still have a resource limitation of course. We will dovetail onto activities that the community needs to be aware of. Also, though, if we review something and find that there is an issue, we will certainly raise that at the right time. In that regard, for the first time, I think, the office is actually getting a communication plan to help us do that, and we are using some of our resources, as I mentioned earlier, to have the services of a private person when we need help on some of that.

MS PORTER: So did you say that you have a communication plan or you are developing it?

Dr Cooper: We are developing one at the moment.

MS PORTER: Right, so we will obviously be able to get hold of that—

Dr Cooper: Yes.

MS PORTER: on the website perhaps. Will it be there, or will it be a private internal document?

Dr Cooper: It will be an internal document, but for a committee like this we would be more than happy to make it available.

THE CHAIR: I was wondering about progress on another recommendation from the state of the environment report, which was about indoor air quality. Are there any updates on that?

Dr Cooper: No, because we will update information on all our recommendations in our next annual report, and the government are yet to respond to the state of the environment report. So we expect that the government will formally respond to it, and they may actually say, “No, we don’t agree with that recommendation; we are not going to action it,” or they may say, “Look, we are already doing something.”

THE CHAIR: Is the normal time frame for that three months—

Dr Cooper: I think it is six months.

THE CHAIR: in which the government has to respond?

Dr Cooper: Yes, but given the election I also think the government is asking for an extension.

MRS DUNNE: Yes, that is my recollection. I think there was a statement in December. I have a vague recollection—the secretary might like to check—that there was—

Dr Cooper: I think there was but I cannot confirm that.

THE CHAIR: Obviously an election is a once every four years sort of event, but even with the six months to respond does that have any impact on or cause any difficulty with getting towards your next state of the environment report?

Dr Cooper: No, because we are actually trying to look at the outcomes. So, if they respond, we may not necessarily agree with their response. Of course we will respect that the government is the government, but if it is an issue it actually is still an issue. Does that make sense?

THE CHAIR: Yes, certainly.

MRS DUNNE: Can I ask about the lowland grasslands study?

THE CHAIR: Yes.

MRS DUNNE: We have seen the Belconnen mobile transmission station report, where there are 20-odd other areas that are under—

Dr Cooper: There are at least around 50; I wish there were 20.

MRS DUNNE: So where are we with the remainder of that report or those reports?

Dr Cooper: With that report, at the moment I am literally in the office finalising the recommendations and then we will give it to the minister, because the minister asked for that investigation, and then it will be up to him to release it or I think he has a limited time to table it or its recommendations in the Assembly; I think it is 15 sitting days.

Part of the reason why we are taking time is that it does require all those sites. We have employed an ecologist to go and look at those sites and give me advice on the threatening processes. Then, when we have come up with some recommendations, both at the macro level for all grasslands and on specific sites, we have liaised with the land managers and the owners of those sites, which involve both commonwealth and ACT agencies, because when we make the final recommendations we want to

make sure that they can be ones to be progressed.

MRS DUNNE: And are those sites owned by commonwealth and ACT agencies? Are they all pockets of land in public ownership or are some of them in private ownership?

Dr Cooper: Some of it is held privately.

MRS DUNNE: Okay.

MS PORTER: Have you got an idea of what the percentage would be between the privately owned and the publicly owned land?

Dr Cooper: The privately owned are generally on the smallholdings. It is like Reid church; it has some land, so you will get it associated with an activity. Then the major holdings are really between the ACT government and the commonwealth government. A very large area is around the airport that the airport has, as well as defence land.

THE CHAIR: I note on page 9 that the commissioner received 240 phone calls but only a handful of these were queries for the commission itself. I think there were only six complaints received during the year, which for any agency is always a good thing. Has the number of calls to the commission diminished since the new listing came out from Canberra Connect?

Dr Cooper: It has, but we still get people calling, particularly after hours when they leave a message on our answering machine. I think they phone around and then find a voice where they think they can leave their problem. We always refer it on to Canberra Connect or the right agency. But, yes, it has dropped significantly.

THE CHAIR: You have spoken about your getting together communication plans and I am assuming at the heart of that also is being able to, I guess, educate the community and promote to the community who the commission is and is not—that you are not there to get cats out of trees or—

Dr Cooper: That is right, and we find we get more complaints about government every time we raise our head because people know and they then come in. But I would imagine over time that that will level out once they know you are there and then it will just sort of come forth as the issues come forth.

MR SESELJA: Page 10 looks at some of the particular complaints dealt with by the commission. I am interested in this Chifley gum tree issue. I am not interested in this specific case, but you say:

This case, however, raised the dual issues of appropriate site planning and whether there is a need to have legislation amended to assist in making decisions regarding the retention of trees where persons with a disability are directly affected.

You and I discussed this in a private meeting this week as well. Are you able to talk us through how you feel that that legislative process in terms of tree protection is working at the moment from your perspective?

Dr Cooper: With the tree protection, I think its strategic intent is yet to be met. The strategic intent of the tree legislation was ultimately to have a tree register, and the trees on the tree register were the ones that really required a focus of the community in terms of any tree damaging activities. It may also be that in some developing areas some tree protection might cover that particular area. But for the rest of Canberra it would therefore lift the current tree requirements so that you did not have to put in an application; you could use your own analysis as to what you wanted to do with the tree on your particular block.

To my knowledge the tree register has not been significantly populated, and to my knowledge the trees on the tree register are mainly heritage trees, not individual trees, and those heritage trees are already covered by the heritage legislation. This was my knowledge around about December, when I had another tree issue that we looked into, so I think there could be a bit further in terms of energy put into populating the tree register to try and achieve the strategic intent of that legislation.

MR SESELJA: And the strategic intent from your understanding is that we protect significant trees, trees that have a particular ecological value, heritage value or historical value but that we are then able to sort of manage other trees in a way that sort of fits with other needs?

Dr Cooper: Within, yes. That is my understanding.

MR SESELJA: That is one of the difficulties. We certainly get a lot of feedback from the community, from people who have difficulty removing trees that they see as either dangerous or for whatever reason they feel they need to remove them. Your analysis seems to be that if we were to take those steps in terms of the tree register we may avoid some of the haggling over some other individual trees?

Dr Cooper: That is what I think is the intent of the strategic approach, and also too I think we have got to realise that when any individual member decides to take out a tree, particularly a significant tree, they are actually also paying. It costs thousands of dollars or at least hundreds—

MR SESELJA: So people do not do it lightly.

Dr Cooper: No, you do not.

THE CHAIR: I am afraid that we have to finish at 3 o'clock because another annual report hearing is going on in another room. There are a number of questions I am sure that we still have, so we are hoping that we can send those questions through. I would ask members to get them to the secretariat within five days, and then out to you, with, hopefully, a turnaround of about two weeks, Dr Cooper.

Dr Cooper: No problem. Thank you very much.

THE CHAIR: Thank you very much for coming this afternoon.

The committee adjourned at 3.02 pm.