



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

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

(Reference: [Inquiry into Annual and Financial Reports 2021-2022](#))

Members:

**DR M PATERSON (Chair)
MS J CLAY (Deputy Chair)
MR E COCKS**

TRANSCRIPT OF EVIDENCE

CANBERRA

THURSDAY, 10 NOVEMBER 2022

**Acting secretary to the committee:
Ms K Mickelson (Ph: 620 50199)**

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

APPEARANCES

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Amended 20 May 2013

The committee met at 4.00 pm.

Appearances:

Cheyne, Ms Tara, Assistant Minister for Economic Development, Minister for the Arts, Minister for Business and Better Regulation, Minister for Human Rights and Minister for Multicultural Affairs

Chief Minister, Treasury and Economic Development Directorate

Wild-River, Dr Su, Senior Director, Environment Protection Authority, Construction, Utilities and Environment Protection, Access Canberra, Chief Minister, Treasury and Economic Development Directorate

McKinnon, Ms Margaret, Acting Deputy Director-General, Access Canberra

THE CHAIR: Good afternoon and welcome to the public hearings for the Standing Committee on Environment, Climate Change and Biodiversity's inquiry into annual and financial reports 2021-22.

The proceedings today will examine the annual reports for the Chief Minister, Treasury and Economic Development Directorate.

Before we begin, on behalf of the committee I would like to acknowledge today that we meet on the lands of the Ngunnawal people. We respect their continuing culture and the contribution they make to the life of this city and this region.

Please be aware that proceedings today are being recorded and transcribed by Hansard and will be published. The proceedings are also being broadcast and web-streamed live. When taking a question on notice, please state clearly that this is a question on notice, to help with the transcription.

In this session we will hear from the Minister for Business and Better Regulation, Ms Tara Cheyne MLA. I welcome you today and officials.

I will also remind you of witness protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. When you first speak if you can confirm for the record that you understand the implications of the statement, that would be fantastic.

Minister, the updated Environment Protection Guidelines for Construction and Land Management in the ACT were released recently. What were the major changes in those guidelines?

Ms Cheyne: Thank you, Dr Paterson. I have read and understood the privilege statement.

So you are right. Together with Minister Vassarotti and Dr Su Wild-River, we released the updated environment and protection guidelines for construction and land development in the ACT in early October. This had been a joint effort between the Environment and Protection and Sustainable Development Directorate, as the policy lead, and the Environment Protection Authority, as the operational lead—particularly

because the EPA has the role of enforcing this work but EPSDD certainly sets the policy, but not without us.

So the major changes or the key updates, I think, particularly were regarding the increase to the sediment basin science or the requirements for that when developing controls for storm events. What that means in practical terms is, for example, that when there is an environmental authorisation, there has to be a sediment control plan that is prepared as part of that. The EPA must sign that off for a construction site of a certain size, and previously the requirements for the basin for the sediment run-off were much smaller. Recognising where we are at climate-wise and construction-wise, but particularly with rainfall and the impacts that that can have, the requirement was increased in those guidelines for that basin to be larger. Again, in practical terms what that means is for heavy rain, if there is sediment run-off, there is a bigger basin to catch it. So that is particularly important in your electorate with the Molonglo Valley and the developments there. Indeed, that is where we launched those guidelines.

In addition to that were updated basin sizing requirements recognising the different soil types where greater capacity again was required to minimise the risk of discharges directly into our natural river systems. We have highlighted the offence provisions that apply for the non-compliance through the document as specific reminders under each relevant section, so when people are engaging with the document, we understand people want to see everything about what they are trying to do in the one spot, including what the penalties may be for non-compliance, but there is also an appendix at the back where they are all together as well, and I think that is something that we can point to, to give the community confidence that there are consequences for non-compliance.

There is also a risk-based framework for erosion and sediment control. So that is about the management of projects with high risks and really being able to, I guess, explain to anyone who is engaging with these projects in a way that is clear and accessible through these guidelines. We also include examples of what we expect; there are a lot of pictures, diagrams, things like that, to make it as easy as possible for compliance.

While I will not speak for the EPA, and Dr Su will be able to speak through that in a second, I think engagement with business and industry is the best way to prevent that non-compliance.

Dr Wild-River, is there anything you would like to add?

Dr Wild-River: That was an excellent summary.

I have read, I understand and I accept the privilege statement.

I confirm everything that Minister Cheyne has said. It was a really great summary of the major changes in the guideline.

You are interested in how we worked with industry to make sure that was going to work. There was a lot of industry consultation throughout the process of developing the guidelines, and all of the material that was provided by industry while we were doing that consultation made it into the guidelines in one form or another. We have indicated to industry that it applies right from the day that we published it. So any new

applications that come in since that day need to conform to the new guidelines. But the ones that were already in place before that are fine with their existing approvals.

THE CHAIR: So is this for a development application or is it for larger scale developments? Like for individual houses or—

Dr Wild-River: Yes.

THE CHAIR: All of the above?

Dr Wild-River: So the guidelines cover both instances—

THE CHAIR: Okay.

Dr Wild-River: There are different requirements for larger and smaller sites. So if you are doing a development of the scale of a house it will be under 0.3 hectares. In that case the general environmental duty, under the Environment Protection Act applies, and the guidelines explain how to prevent sedimentation from a small building site. The principles are the same, though the degree of control differs. For instance, you would not have a sediment-controlled pond on a house site, but you would need to manage so that sediment from the house was restricted from entering the waterways. There are offence provisions that apply just as much to a house size as to a large development.

When there is a development over 0.3 hectares, it requires that environmental agreement. As Minister Cheyne said, as part of that agreement the developers are obliged to make a sediment and control plan and have that approved by the Environment Protection Authority. I really want to emphasise that that is not just a license to pollute or a license to do whatever they want. It is a really interactive process, and it is a very thoughtful process. There is often to and fro and really detailed consideration, as well as site inspections by the EPA to make sure that the proposed ponds are adequate, that they meet the standards and that they are in the right place. All of that sits behind that approval. If, as they are going along through the project, there is a major change, then they will need to come back and actually renegotiate that sediment control plan with us as well.

We find they are very useful tools that are preventative—they stop problems from arising—and they are very well received and sort of embraced by the developers.

THE CHAIR: Thank you.

MS CLAY: Minister, we have had a bit of a chat about drones over the last couple of years.

Ms Cheyne: It is not in EPA.

MS CLAY: No?

Ms Cheyne: No.

MS CLAY: Access Canberra—

Ms Cheyne: You can talk about it in the next hearing.

MS CLAY: No, that is okay. I will move on to the next question.

Ms Cheyne: Formally, that responsibility has transferred to Minister Steel, as minister for transport, but I have agreed that I will take drone questions for annual report hearings.

MS CLAY: Thank you for that. So we have a lot of changes going on at the moment. I know you—

Ms Cheyne: Sorry, changes or challenges?

MS CLAY: Changes, challenges, changes—things—

Ms Cheyne: Yes.

MS CLAY: There is a lot going on at the moment—

Ms Cheyne: Yes.

MS CLAY: I know we have got right to a healthy environment, and there are things coming through on that. I have seen that the circular economy consultation paper is out. We have a lot of development and planning going on in Canberra, and a lot of these things will affect the EPA at the enforcement level. I am just wondering, is the EPA involved in any of the policy settings with any of those major pieces of work that you will end up having to have responsibility for enforcing?

Ms Cheyne: Yes, absolutely. You are right; there are a few challenges and changes going on all at once. Right to healthy environment is a part of that. As you are aware, the government response to your motion is due on the first day of the final sitting week. So look out for that.

I think probably the biggest body of work that the EPA is working on from a policy sense was indicated in the budget. And again, the joint initiative with myself and Minister Vassarotti, which is the funding for a policy officer, essentially, to do a review into the functions and the operation of the EPA.

The EPA, you might be aware, rolled into Access Canberra when Access Canberra was created in 2015. Its funding has certainly been stable over that time. But I think we can all appreciate, as you mentioned, that we are in a changing environment. Where the focus might necessarily be, I think, was jointly identified through Minister Vassarotti and me. But also with both the EPA and EPSDD. It was important for us to undertake a review, especially noting that environmental complaints in the last six years have increased by 33 per cent. Interestingly, though, that includes a 49 per cent increase in noise complaints. So I think we talked about this in previous hearings, when Mr Braddock was a member of this committee, about where the EPA's focus is necessarily.

So there is a senior policy officer who is working over 12 months developing a three-year action plan to achieve those reforms that are necessary for the EPA to be as effective as it can possibly be. But certainly, as part of that, we did welcome in the annual report the first of this, Dr Wild-River, just this year, and Dr Wild-River brings a wealth of experience and also an extraordinary level of proactivity, I would say. Often I think the EPA is seen as responding to when things go wrong, and we do not want anything to go wrong. We want things to be prevented and for industry to be engaged and working with us to achieve the best environmental outcomes from the beginning.

So that is a long way of answering that there is quite a lot going on that is dovetailing with each other. But there is a very serious piece of reform work being led by Minister Vassarotti, in consultation with me. We were briefed on that this week.

MS CLAY: And what do you see as the big challenges over the next 12 months to couple of years, given all of things that are happening with land use pressures, circular economy, looking for space, ongoing development in Canberra and the right to healthy environment probably coming in? What are your biggest challenges that you are looking at over the next couple of years?

Ms Cheyne: Dr Wild-River, you are very welcome.

Dr Wild-River: Thanks for that.

We have drawn a very broad spectrum of issues that we could use to answer your question. It is a great question.

So in that strategic work that we are undertaking under the initiative being run by Minister Vassarotti, it looks strategically at the way forward and some of those emerging things. So some of the matters that we are covering in that include, as emerging issues, things like incorporating cultural considerations into environmental protection considerations, and climate change prevention. So for the first time we have recently been presented with a big battery to do an environmental authorisation for. And even just considering whether that is actually defined in the legislation under an existing category is a challenge that EPAs are facing all around the country. Then there are the impacts of climate change on the environment. And we see that very much in the sedimentation matters, with the really peak rain events and the range of environmental issues that are caused by that or threatened by that.

Then there are things like how we ensure that the legislative framework, and our policy framework as well, is sufficient for emerging contaminants like PFAS, polyfluoroalkyl substances, and other emerging chemicals, and how we manage things like microplastics in the environment. I think all of those pack in on top of this existing flow of issues, which are just not going to get any easier.

So those are all of the issues associated with development, like the sedimentation that we have already talked about. We really also link the increase in noise complaints with the increasingly compact city. And we work very hard with all of our colleagues across government to try and make sure that as we deliver those environmental benefits we will see from a compact city and that we do it while still maintaining as much as we can of people's amenity in their houses, even though they will be more closely living

together.

MS CLAY: Thank you.

MR COCKS: I would like to come to, I guess, organisational capacity for the EPA. So perhaps, Dr Wild-River, I can come straight to you. Approximately how many FTE are there at the EPA? Of these, how many are dedicated to assessing environmental protection agreements and authorisations?

Ms Cheyne: I can start, Mr Cocks, and then we will go to Dr Wild-River.

As I flagged in the previous answer, the EPA has maintained its staffing level of 17 FTE, since the establishment of Access Canberra in 2015. However, in the most recent budget we also identified the need for that to grow while we are undertaking this broader strategic framework work. So we see that there is a need right now while that broader work is going on. So within the budget there is additional funding of \$534,000 over two years for two additional environmental protection officers. I understand the recruitment for that is in its final stages. Perhaps even—

Dr Wild-River: We have just finished.

Ms Cheyne: Yes. So as you can see, a lot of keenness to get those EPOs on board. But Dr Wild-River will be able to speak to the breakdown that you have requested.

Dr Wild-River: Yes. So can I just clarify it was FTE involved in assessing construction—

MR COCKS: Yes. So the question is: how many are dedicated to assessing environmental protection agreements and authorisations?

Dr Wild-River: So I will just flag it is a complicated issue to answer because there is really no-one on the team who is dedicated only to that. It is a much better way to manage the process if you have people who do not just sit at desks all day looking at desktop analysis but actually get out into the city and have a real look at what is really going on, and obviously the question covers both. We have recently estimated a similar answer, which was to do with how many are involved in things to do with construction, and we came up with about six. That is now out of a team that is now essentially 20, up from the 17 that we had been for the last seven years.

So they include a contaminated land specialist, a waste specialist and then we have a bunch of people who—

MR COCKS: I guess, in the interest of time, I am most interested in sort of the number of FTE, so full time equivalent—

Dr Wild-River: Yes.

MR COCKS: I am happy if you wanted to take that on notice given, we have got relatively short time—

Ms Cheyne: I guess what Dr Wild-River is saying, is everyone kind of does everything.

MR COCKS: Yes.

Ms Cheyne: So in terms of breaking it down into the FTE for that particular function, it is not possible—

MR COCKS: Okay. Well perhaps then—

Dr Wild-River: Yes, that is fine.

MR COCKS: Can you elaborate on the age demographics of EPA employees?

Dr Wild-River: Can I? Look, it is a source of some amazement and pride, I think, that this is a team with an incredible depth of experience. So actually about a third of the staff have been there for more than 15 years, and quite a few have been there for 20 years or more. So some of us are in our 50s, possibly even older; I have not actually asked. We do have a bunch of newer younger people coming through as well, especially these new recruits that we have got. So we are really improving the age structure in terms of having a bit of cover if we do lose staff.

Look it is a worry that we have some of those really truly experienced staff approaching retirement. But it is also the case that there is a real dedication to this work. And that is why people stay. There is a real vision and a real passion for the work that we do protecting the environment.

And so the middle group, who have been there about 15 years, are a definite good understudy group. If what you are getting at is that maybe we have a risk associated with potentially losing older staff, that is true, but we are managing it, I think, and the new resources have really helped in that regard.

MR COCKS: And that is great. So do you have formal contingency plans in place to recruit and train additional staff to replace employees as they start to consider retirement or moving on?

Dr Wild-River: We have thought about and talked about that and tried to sort of see whether that is feasible. We always work to the ACT recruitment standards—

MR COCKS: Yes.

Dr Wild-River: And they do not exactly provide for that specifically, but there are pathways and opportunities you can use within that to do it.

I think the best answer I can give is that we are very keen to make sure that everybody is safe when they are doing their work. As part of that, we have a training regime that everybody must go on. So these new staff, that have just been hired, they will have six months of work where they are accompanying experienced staff the whole time, every time they go out on site.

And they will be at the same time doing a whole lot of certificate IV and certificate III

and asbestos awareness training and managing difficult people and all sorts of training to get their geared up and ready to go. That is the generic training set that they need to pass in order just to get into the field and operate on their own.

Then in terms of those really experienced roles, we have understudies in those areas where we can as well.

MR COCKS: Okay. That is helpful.

MS LAWDER: A supplementary?

THE CHAIR: A supplementary, yes.

MS LAWDER: Can you also elaborate on the gender balance in the team?

Dr Wild-River: Have not done that lately. I have it in my book—

Ms Cheyne: We can take that on notice.

Dr Wild-River: I think it is about two thirds male and one third female. I am a female, and I am the boss, which is quite good. But the three team leaders below me are all men. Then there is a reasonable balance of men and women in each of the teams. It is probably slightly skewed towards men.

MS LAWDER: And in your recent recruitment round, or I guess generally, what is the skillset that you are looking for? Are you looking for people who are experienced in investigations? Or what sorts of things are you looking for?

Dr Wild-River: So we hired two TO3s, which is a kind of mid-level technical officer. We did not require particular qualifications, even though a Certificate IV in Investigations is essential. So if we got somebody who was great for the job, other than they did not have that, we would actually provide the capacity for them to get that Certificate IV in-house.

We actually had a dedicated position; we had one of those positions that was targeting an Aboriginal and Torres Strait Islander person in line with the ACT governments reconciliation strategy. We are absolutely delighted that we have been able to appoint somebody in that role. His background is he has had about 20 years as a builder, and that is a very good skillset because if you have someone who knows their way around a building site, then they can immediately engage effectively with the builders and a lot of trades people that they come across in their role. So that is one pathway in.

The other person that we hired is a young woman who has more of an enforcement and investigation background. She has actually been acting in a role in the team, and she has been extremely successful in doing the sort of infringement notices that there has been a lot of interest in the EPA. And it is great to get that diversity, you know, to have a few people who are those real builder types and some who have got the government skills. And, you know, we have really increased the diversity in this round as well.

MS LAWDER: Are your staff involved in the environmental assessment part of

development applications? Does that come to the EPA?

Dr Wild-River: Yes, we do that.

MS LAWDER: How many a year do you assess?

Dr Wild-River: That is in the annual report, so I can just—

Ms Cheyne: While Ms Wild-River looks for that, we can give you the exact breakdown in the EPA of the—

THE CHAIR: Yes.

Ms McKinnon: There is 23 per cent female and 76 per cent male, and in terms of the broader question about the workforce, we have a workforce strategy in Access Canberra, because if you think about building, if you think about fair trading investigations, if you think about the EBA, there are a range of skill sets which we are conscious we need to actively recruit and train.

MS LAWDER: I guess I am interested in how many DAs come to you, how many do you assess within the statutory timeframe, if that is the right term, and how many may be deemed to be approved because they are not assessed within that statutory timeframe? Do you understand what I mean?

Dr Wild-River: Yes, I do. So going back to the previous question, last year we had 30 land development and construction agreements that were issued and we endorsed 79 erosion and sediment control plans, so I think that answers that earlier question.

MS LAWDER: Does that actually endorse them, or were they deemed endorsed because the time had elapsed?

Dr Wild-River: It is slightly different. Those are the approved developments which have the planning approval in place. We are sort of doing a bit of time travel here. Once something has its plan approval, then it needs to get its environmental agreement to do that development. As part of that agreement it needs to get its erosion and sediment control plan finished and endorsed by the EPA. Prior to any of that, there will be a development application lodged into the planning system.

Ms Cheyne: Those figures are here. They are on page 354 and in the previous financial year, the EPA reviewed 410 development applications referred from the Planning and Land Authority, 336 from the NCA as well as 723 other planning documents. So, in short, a lot. Was your question about the assessment time for development applications? Is it more like is EPA contributing to the time that they are taking? I am just curious about where we are heading:

MS LAWDER: Does the EPA have a certain amount of time that they have to respond within?

Dr Wild-River: Yes. We are a mandatory referral agency from the planners, so we receive all of the relevant DAs that have environmental elements to them. We would

not receive all of them for a single house, but we receive all of the ones with an environmental risk associated with them, and we take a risk-based approach with that, as with all of the work that we do. So some of them are quickly assessed as not being of environmental concern, and those ones we would try to—

MS LAWDER: How long do you have to assess it?

Dr Wild-River: I think it is usually 14 days.

MS LAWDER: I assume you have a bit of a breakdown of how many do get assessed, or if you do not get assessed, is it deemed to be assessed?

Dr Wild-River: Yes, except that if—

MS LAWDER: You can take that on notice.

Dr Wild-River: No. I do not think I can do any better on that. So the answer is we assess all of them. Some of them we assess as very low risk and we may not reply to those ones, because we would not have anything to say anyway. For most of them we do have something to say. The most frequent things that we say are about noise in relation to both construction and also the actual operation of the final proposal. Contaminated site and site risk for contamination are another big area that we make comments on, and also the land development work. So we will tell them that they have to comply with those land development guidelines. All of those will mean that they come back to us at a later stage, so that we will see those things as they are put in place. So, depending on the risk, we might have three separate things or five separate things to say about them and that is an ongoing discussion. If there are high-risk ones that we cannot make the deadline on, we write to the planners and request an extension, and I have never known that to be rejected. So it is a pretty good collaborative process across government.

THE CHAIR: Thank you very much for attending the hearing today. The hearing is now adjourned. On behalf of the committee, I would like to thank the minister and officials for your appearance today.

If you have taken questions on notice, please respond to the committee secretary within five working days.

If members would like to lodge questions on notice, again, you have five working days to lodge your questions. Thank you very much.

The committee adjourned at 4.30 pm.