



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY**

**STANDING COMMITTEE ON PLANNING, ENVIRONMENT  
AND TERRITORY AND MUNICIPAL SERVICES**

(Reference: [Annual and financial reports 2012-2013](#))

**Members:**

**MR M GENTLEMAN (Chair)**

**MR A COE (Deputy Chair)**

**MR A WALL**

**DR C BOURKE**

**TRANSCRIPT OF EVIDENCE**

**CANBERRA**

**WEDNESDAY, 4 DECEMBER 2013**

**Secretary to the committee:**

**Ms M Morrison (Ph: 620 50136)**

**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.

**WITNESSES**

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*Amended 20 May 2013*

## **The committee met at 2.01 pm.**

Appearances:

Office of the Commissioner for Sustainability and the Environment

Neil, Mr Robert, Commissioner

Fitzgerald, Mr Bruce, Acting Chief Finance Officer

**THE CHAIR:** Good afternoon, everybody. Welcome to this public hearing of the Standing Committee on Planning, Environment and Territory and Municipal Services inquiry into annual and financial reports for 2012-13. Today the committee will be examining the Office of the Commissioner for Sustainability and the Environment annual report. On behalf of the committee I would like to thank the commissioner and officials for attending today.

Can I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement that is before you on the table. Could you and Mr Fitzgerald please confirm for the record that you understand the privilege implications of the statement?

**Mr Neil:** Yes.

**THE CHAIR:** Thank you. Can I remind witnesses that the proceedings are being recorded by Hansard for transcription purposes and webstreamed and broadcast live. Before we go to questions, commissioner, would you like to make an opening statement?

**Mr Neil:** Certainly, thank you, chair. I would like to thank the committee for the opportunity to talk to them about what we have been doing in the last 12 months or the last financial year. I think it was a year in which we consolidated a lot of the work that we had been doing. We reviewed and then scoped the delivery of two particularly important reports. One is the implementation status report, which is reporting on action plan 2. That is due next year. Of course, the other is the state of the environment report, which is due in 2015.

We also did a bit of work on the practical implications of ecologically sustainable development. That was really about scoping a paper that we hope will provide some guidance to government around how their triple-bottom-line reporting system can be enhanced. As I said, we spent quite a bit of time finalising or reviewing the 2011 state of the environment report and, from that, we have now developed the framework for the 2015 state of the environment report and also data collection plans and all the things that you need to put in place so that you can have a reasonable amount of time to finish the report.

The implementation status report is not without its challenges. Some of the requirements are to try and compare Canberra or the ACT with other national or

international cities, and that is no easy feat, and also try to determine what “fit for purpose adaptation” means in the ACT context.

We have continued our advocacy role. With respect to the young people’s group, we no longer have that; instead it is through direct access to the universities and things like SEE-Change where we get to meet and talk about the environment and environmental sustainability with the younger generation. We also celebrated our 20 years. The celebration was on 1 July but there was quite a bit of work leading up to that. We were very fortunate to have an author and editor who used to work for the office and who obviously brought a substantial amount of expertise and insight. We had the celebration in the Assembly.

The government has released several key environment and sustainability policies over the 2012-13 financial year. It is critical that implementation, monitoring and reporting on these strategies and policies remain a strong focus for me and the office. Of course, we are not unique in facing challenges and in financially uncertain times I think it is essential that we continue to recognise that the environment underpins our social and economic wellbeing.

The reporting period saw two complaints taken up by the office and two complaints finalised, with recommendations to the appropriate government directorates. Apart from the ecological connectivity issues with one particular complaint, it is really about access to relevant recent data—the community working off one set of papers and the directorates working off a new set. It is preferable that the latest data is available for community groups.

We have also looked at trying to modernise the website. There are the accessibility requirements, and also the feedback we got, particularly during the state of the environment report review, is that it is a fairly static website. So we have done some work on how we can modernise it. It is still compliant, and preferably using the all-of-government framework.

With respect to the outlook for 2013-14, it is about writing the implementation status report for AP2, which I am hoping to have by mid next year. We have also commissioned Dr Ken Hodgkinson to do some work on the grasslands for the office, to see whether there is any change in conditions and whether the management actions have contributed to that change. That work, hopefully, will be finalised by the end of this financial year but it started in the last financial year. He is looking for autumn, spring and summer periods in which to monitor the ecological values.

Of course, we will continue to respond to complaints from the public and investigations as directed. I cannot imagine that I will generate one myself, certainly between now and next June, because that implementation status report is actually going to be quite time consuming.

**THE CHAIR:** Thank you, Mr Neil. You touched there on the 20-year anniversary of the office. There are some notes on page 5. Can you tell us how you think the commission has changed for the better in that 20-year period?

**Mr Neil:** In the early period, particularly when you talk to the inaugural

commissioner, Dr Baker, they were very constrained in terms of their ability to do things because they were small and part time. Rosemary Purdie also said that that was a significant problem. Dr Cooper, I think, was fortunate enough to have sufficient funding to allow the office to operate more efficiently or to provide a more effective service in looking at the environment of the ACT.

With the state of the environment reports, interestingly, from one to the next and over a period of 20 years, the issues still remain relatively the same. Not surprisingly, they are around our biodiversity, our water and our air. There is probably scope moving forward to look at not just the strict environmental constraints but at things like liveability and wellbeing. When you talk about sustainability, those things are not explicitly written out in the triple bottom line, but I think they are a measure of how well the community is doing.

**THE CHAIR:** What do you think the positive impacts have been of the commission on the ACT community over that period?

**Mr Neil:** Certainly, it has given the community an independent voice. It has also provided an opportunity for the community to talk about the way government directorates manage the environment without fear of being dismissed. It is quite difficult at times to wade through the bureaucratic network to get to the right point and sometimes those complaints lead to bigger and better things. I think of Dr Cooper and her work on the urban trees. That stemmed originally from a single complaint over one tree. So there is a very significant opportunity, where there are systemic issues, for the commissioner to be heavily involved.

**THE CHAIR:** Questions, members?

**DR BOURKE:** Commissioner, can you tell me more about the complaints you received during the reporting period—I am referring to page 10—and how you go about addressing them? Perhaps start with the concerns about building heights in town centres and move on to the cycle paths in Bruce nature reserve. I am also interested in the resolution of the complaint from April last year about the Glenloch rural lease.

**Mr Neil:** Certainly. When someone complains, the first thing I would do is have a look to see what the complaint is actually about and whether it is a systemic issue or a more general issue. If they are one-off complaints about a single issue, normally you can refer them to the appropriate person in the appropriate directorate. In terms of the more systemic ones, for example, the height one is quite interesting. The person was not able to appeal because they were not in the town centre, so they were excluded. They were concerned there seemed to be no control on heights. Certainly as the commissioner, my view is that we need to densify the city, and that means we have to start to build up as well as maintaining a good urban form. But the reality is there is some confusion.

To someone like me, if I thought there was a 12-storey limit, then I would expect there to be a 12-storey limit. But, in fact, that is not necessarily the case. The planning authority, to their credit, allows for more innovative solutions. So someone may come up with something slightly higher, and provided they can demonstrate that it is consistent with the character of the village and the master plan, there is potential for

them to build a development which may be higher than what is generally accepted.

My quick reading of that is that there is a bit of confusion that it is not quite transparent that that is the case—that there is a height rule but you can do it based on certain criteria. I think that was probably the problem with that particular complaint. I have not finished that; we are still clearly looking at it.

The Bruce Ridge Nature Reserve was very separate. That was a complaint about the number of trails in the nature reserve and the potential for a loss of conservation values. TAMS, who manage it, to their credit, have a park care group which is predominantly mountain bike riders or people interested in mountain bike riding. With their assistance, they have managed to close some of the trails and to help maintain a more balanced approach to the use of the nature reserve for bike riding and the nature conservation values.

There is some difficulty. If we do not allow our nature reserves to cater for recreation of one form or another, there is a distinct possibility that people will do that illegally anyway. So it is better to identify the core ecological values in our reserve system and then build our recreation around those. In other words, you do not necessarily interfere with the core environmental values but there are parts of those reserves that I think would be quite amenable to recreation. I know the Parks and Conservation Service are looking at that particular issue now, and more recently they have put out a tracks and trails strategy. My preference would have been to have seen everything identified in the reserves before that tracks and trails strategy came out, but it is a start, and I know they are working on both.

The Glenloch interchange was an area that abutted a bushland and the Friends of Aranda Bushland were fairly upset because the land adjacent to the reserve was not well managed and weed incursions were affecting them. When I had a look at it, there are some issues around land management agreements and how they are actually managed and how they interact with the landowners. Also, the conservator's directions in that case, I do not think, were quite tight enough. So it was really around land management agreements, how they work and protecting the conservation values.

In this case the little purple pea was known to flower there. I can happily report that two were flowering again this year, and they have only ever had three there in the first place. Whether the third one flowers again next year I am not sure, but at least the critical plants were looked after.

**DR BOURKE:** I think you intrigued us, Mr Neil. Could you tell us a little bit more about the purple pea?

**Mr Neil:** Not being an ecologist, no. But the little purple pea is an endangered plant in the ACT. It is quite rare, and anything we can do to protect those particular plants would be a step forward. When you are lucky enough to identify them, it is critical to try and make sure you maintain them. I understand that they are actually getting seeds or growing seeds in the National Botanic Gardens and that they are transplanting them. But I do not know how successful that is.

**DR BOURKE:** Is there a management plan for the purple pea?

**Mr Neil:** Yes.

**DR BOURKE:** Thank you.

**MR COE:** A couple of things. Firstly, did your office have any involvement with the changes at the Heritage Nursery in Yarralumla? Were you consulted?

**Mr Neil:** No.

**MR COE:** With regard to commissioner-initiated investigations, are there any on the horizon?

**Mr Neil:** No, there are not. As I said, Mr Coe, if I was to find something I needed to look at, it would be pretty difficult between now and the end of June next year because that implementation status report I expect will take quite a bit of our time and energy. But, no, none are planned.

**MR COE:** With regard to the cost of the state of the environment report, I see that \$150,000 was rolled over on top of the \$1.28 million dollar budget. What is the total cost likely to be of the report?

**Mr Neil:** The last report was around \$500,000. I can check that. Some of the work that goes into it is not necessarily attributed to the state of environment report; it is background information, other data and other interesting things that are part of the commentary rather than part of the report itself. When I look at the implementation status report for action plan 2, a lot of that is to do with climate change. I am hoping and expecting that we will be able to take most of that work and feed it straight into the climate part of the state of the environment report.

Every year, what we do not spend can be rolled over with the sole purpose of using on investigations, if we get them, and on the state of environment report, which we know occurs every fourth year.

**MR COE:** Just say it is going to cost \$500,000. If \$150,000 is rolled over, does that mean that, of the base budget of \$1.288 million, about \$350,000 of that is going to be spent on the report?

**Mr Neil:** I have no fixed idea of how much is going to be spent on the report. My preference is to make sure that I have got enough resources to actually do it. When the funds are not totally expended, some go back to the territory. So I aim to manage the budget over a four-year period.

**MR COE:** Sure. So of that \$1.288 million, do either of you know what portion of that is used for ongoing staff costs?

**Mr Neil:** It is roughly \$760,000.

**Mr Fitzgerald:** That is correct. On a continuing basis, it is around \$780,000 for operational staff.



**Mr Neil:** That includes effectively me and a staff of five.

**MR COE:** Yes.

**Mr Neil:** And it will vary. Some of the work is part time, which allows us to get consultants in.

**MR COE:** I saw the very succinct organisational structure on page 89. It makes a nice change to the landscape double spreads of some of the other agencies.

**MR WALL:** Mr Neil, I want to ask for your opinion. Table 10 has the updates on recommendations made in the state of the environment report for 2007-08. One of the recommendations you originally made was better building design, particularly for energy and water efficiency use. No update has been provided on whether there has been any progress in meeting those outcomes. The government has implemented quite considerable changes to the Planning and Development Act and the way homes are built, claiming it is to address these issues. Has your office had a look at whether these changes are having an effect on water and energy use?

**Mr Neil:** No. Can you just give me the page number, Mr Wall?

**MR WALL:** Page 50.

**Mr Neil:** Thank you. No, the response is purely out of the directorates. I would have asked them where they think they are up to and what they have implemented. I have not gone into it more thoroughly as we do with the audit ones earlier in the report. As part of AP2, there are energy efficiency measures. I know they are looking at reviewing the water sensitive urban design criteria. Energy efficient housing now is standard. I think they are moving in those directions. How successful they are, I am not sure because it has not been measured.

**MR WALL:** Is that an area that you would consider conducting an investigation into?

**Mr Neil:** As part of AP2, one of the actions is around energy efficiency. Certainly we would be asking a question about whether it is effective and how effective.

**MR WALL:** You mentioned you are currently in the process of reviewing the state of the environment report. Where is that up to?

**Mr Neil:** We have reviewed it. That was the 2011 one.

**MR WALL:** So this is the next one?

**Mr Neil:** The next one is due in 2015, and with the help of virtually a professional modeller we have now got a framework to which we are going to write the next state of environment report against. We are hoping to introduce markers. There is quite a consistency in state of environment reports in Australia, including for the Great Barrier Reef Marine Park, where they actually have markers including good, not so good, poor and very poor, and the confidence level. We are trying to link the current

state of the environment report to some of the actions that we use to improve it, or otherwise, to try and give a more complete picture.

It is always hard. No matter how you try to integrate land, water, air and human settlement, they still end up falling out in those types of headings. The approach I am taking is just to try and integrate that a little more. I would love to be able to do it in 30 pages. The Victorian Commissioner for Environmental Sustainability released her report on Thursday last week, and her aim was to have something of about 30 pages, but it was still that thick because there is so much information. Depending who you are, you want a level of detail. So to make it accessible to all, sometimes you just have to have layer upon layer upon layer of the data and how it is assessed.

**THE CHAIR:** Mr Neil, could I bring you to page 12, where there is a chapter on climate change in your report. It says that human health, our natural environment and infrastructure are all potentially at risk from climate change. Can you tell us how the commission is working with the ACT to help combat the effects of climate change?

**Mr Neil:** There are a couple of parts to that, Mr Gentleman. One is that we have been fortunate enough to work with students at the Fenner School at the ANU on the 2020 vision, where they look at environmental sustainability. As part of that, there are the effects of climate change. So the younger generation, to me, seem fairly engaged. The implementation status report “Weathering the Change” will also have a look at how the government is responding to climate change.

From where I sit, it is very difficult to maintain the message that this really is a very significant issue. When you look at two degrees, on average, you and I probably will not notice it when we walk outside, but the community generally will be exposed to hotter days—anyway, more extreme days, so that means more extreme fire risks, and health risks for people, particularly the elderly and the very young. In Victoria last year their tram rails were buckling, so it affects the infrastructure. The cumulative effects of climate change are, in my view, quite extreme and anything we can do to at least reduce or slow that down is a good outcome. It seems that whilst nations commit to things, cities seem to commit quicker and take action more quickly.

**THE CHAIR:** You mentioned a bit of a generational challenge there. You say that younger people seem more committed and aware and older people do not. Why do you think that is? Have you looked at that?

**Mr Neil:** I have great hope, because the younger generation are really smart and switched on, and they accept that this sort of thing is not in their best interests. Julia from our office was saying, “We should be trying to think seven generations ahead.” Four generations ahead would be good. We tend not to have the long-term time frames in mind.

I look at my children. If they were ever to have children and grandchildren, would they look back and say, “You were sitting in the chair; what did you do about it”? If you can personalise it, I think it has a little more meaning. I think that future generations deserve the sort of opportunities we have had, and tackling climate change in one way or another is a way of allowing them to make the choices that we are trying to make now.

**THE CHAIR:** You often hear arguments that Australia only produces this amount of CO<sub>2</sub> emissions, that Canberra is a very small place and it produces only this amount of CO<sub>2</sub> emissions. So why do you think it is important that we take action?

**Mr Neil:** I take that argument, and I am not particularly persuaded by it. We all have a role to play. I think the ACT, as the nation's capital, can be a shining example of what action can be taken to help reduce it. As I said, it is cities that are taking action rather than countries. I would hope that the rest of Australia looks at the ACT and sees what they have done, how they have done it and hopefully at the outcomes. I have no particular concern about which government is in power. I just think that the ACT is a very progressive and switched-on community.

**THE CHAIR:** Questions, members?

**DR BOURKE:** Commissioner, if we go to page 54 of the updates on progress in implementing recommendations from your ACT state of the environment report, it says:

Managed land effectively by continuing to implement the Canberra Spatial Plan, particularly focussing on achieving higher densities and maintaining ecological corridors.

Can you tell me about the main elements of maintaining the ecological corridors, especially through Belconnen, which is in my electorate?

**Mr Neil:** One of the biggest problems we have in terms of our ecosystems is the disconnect, once we start to develop land. With a simple road, when you think about it, a bird could fly over it, so the connectivity there is not a massive problem, unless you happen to be, perhaps, a reptile, in which case you are cut off from the other side of the road. So it is about trying to maintain corridors that allow for animal movement within the ecosystem. The planning that is done generally caters for that. In fact there is a connectivity map which indicates the areas of connectivity and also, in new developments, the proposed areas of connectivity.

**DR BOURKE:** Specifically in Belconnen, what particular work have you done there?

**Mr Neil:** I have not done anything specifically. It is more of a general planning issue. As the territory is developed, we should allow for migration of our native animals, noting that there will always be some tension around the development which cuts through corridors or through land where the native animals are. Those divisions are normally things like roads, which are necessary for transport, and basically human habitation. So there will always be a tension.

**DR BOURKE:** You had some input into the design of the Majura parkway?

**Mr Neil:** No. As the commissioner, I do not get involved in things like the management of the Majura parkway. I may have a view about the work that is done before the development is approved. If I think it is significant then certainly I would make my views known. Like every other member of the public, I would just put in a

submission.

**THE CHAIR:** Mr Neil, the committee thinks you have done a very good job today, so we are going to give you an early mark for Christmas. Before I adjourn, can I remind members that the committee has resolved that supplementary questions are to be lodged with the committee office within three business days of this hearing. The committee has also resolved that all responses to questions taken on notice and supplementary questions related to the hearing should be provided to the secretary by Friday, 31 January 2014. The hearing for today is now adjourned.

**The committee adjourned at 2.40 pm.**