

Standing Committee on State Development

Provisions of the Forestry Legislation Amendment Bill 2018

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Terms of reference

1. That the Standing Committee on State Development inquire into and report on the provisions of the Forestry Legislation Amendment Bill 2018.
2. That the committee report by 5 June 2018.

The terms of reference were referred to the committee by the Selection of Bills Committee on 22 May 2018.¹

¹ *Minutes*, NSW Legislative Council, 22 May 2018, p 2574.

Committee details

Committee members

The Hon Taylor Martin MLC	Liberal Party	<i>Chair</i>
The Hon Mick Veitch MLC	Australian Labor Party	<i>Deputy Chair</i>
The Hon Rick Colless MLC	The Nationals	
The Hon John Graham MLC	Australian Labor Party	
The Hon Paul Green MLC	Christian Democratic Party	
The Hon Natasha Maclaren-Jones MLC	Liberal Party	

Contact details

Website	www.parliament.nsw.gov.au/statedevelopment
Email	state.development@parliament.nsw.gov.au
Telephone	(02) 9230 3313

Chair's foreword

The Forestry Legislation Amendment Bill 2018 is the first bill to be referred from the Legislative Council's trial Selection of Bills Committee, and so commenced a new process for the Council's committee system.

The bill complements the NSW Government's regulatory reforms that aim to modernise native forestry regulation and support long-term ecological sustainability across the forestry sector.

During the two-week inquiry the committee considered a number of concerns that were raised by stakeholders, including the environmental impact of the bill, penalties and compliance, third party enforcement rights and authority to make private native forestry codes of practice.

The inquiry also highlighted the importance of commercial bee-keeping on the economy and the role it plays in supporting other industries. In particular, it demonstrated how much the bee-keeping industry depends on accessibility to native forests. The NSW Apiarists' Association expressed concerns about the removal of commercial bee-keeping from forestry operations, which the committee has recommended the government address during the second reading debate of the bill.

The committee has also recommended that the NSW Government discuss the committee comments and recommendations contained in this report in the second reading debate, to address the other concerns raised during the inquiry.

On behalf of the committee, I would like to thank all who participated in the inquiry, and who provided submissions and attended the public hearing at such short notice. I would also like to thank the secretariat for their assistance, including Teresa McMichael, Sarah Dunn and Helen Hong.

Finally, I commend the government on its ongoing commitment in delivering a sustainable and profitable forestry industry across New South Wales.



Hon Taylor Martin MLC
Committee Chair

Recommendations

Recommendation 1

16

That the NSW Government address the concerns of the NSW Apiarists' Association regarding the removal of commercial bee-keeping from forestry operations in the second reading debate of the Forestry Legislation Amendment Bill 2018.

Recommendation 2

16

That the Legislative Council proceed to debate the Forestry Legislation Amendment Bill 2018, and that the NSW Government address the committee comments and recommendations contained in this report during Legislative Council's second reading debate.

Conduct of inquiry

The terms of reference for the inquiry were referred to the committee by the Legislative Council on 22 May 2018.

The committee received 52 submissions and one supplementary submission.

The committee held one public hearing at Parliament House in Sydney.

Inquiry related documents are available on the committee's website, including submissions, hearing transcripts and tabled documents.

Chapter 1 Overview

This chapter provides an overview of the Forestry Legislation Amendment Bill 2018.

Reference

- 1.1 The Forestry Legislation Amendment Bill 2018 was introduced into the Legislative Assembly on 16 May 2018 by the Hon Paul Toole MP, Minister for Lands and Forestry.²
- 1.2 The Legislative Council Selection of Bills Committee recommended on 22 May 2018 that upon receipt of the message on the Forestry Legislation Amendment Bill 2018 from the Legislative Assembly, the provisions of the bill be referred to the Standing Committee on State Development for inquiry and report.³
- 1.3 On 22 May 2018, the Legislative Council referred the bill to the State Development committee on the motion of the Hon Natasha Maclaren-Jones MLC, Chair of the Selection of Bills Committee.⁴

Background to the bill

- 1.4 In 2016, the NSW Government released the NSW Forestry Industry Roadmap, which Minister Toole said ‘sets out an agenda for how we would drive a world-class sustainable and profitable forestry industry’.⁵ The roadmap outlined an approach to whole-of-government reform of the New South Wales forestry industry through four priority pillars:
 - regulatory modernisation and environmental sustainability
 - balancing supply and demand
 - community understanding and confidence
 - industry innovation and new markets.⁶
- 1.5 The Forestry Legislation Amendment Bill 2018 is considered part of the government’s commitment to supporting regulatory modernisation.⁷
- 1.6 Approximately, two-thirds of native forests in New South Wales are on private land.⁸ This land, commonly referred to as private native forestry (PNF) or farm forestry, is subject to provisions set out in Part 5C of the *Forestry Act 2012*.⁹ In accordance with the Act, PNF operations are

² Paul Toole, Second Reading Speech: Forestry Legislation Amendment Bill 2018, 16 May 2018.

³ Selection of Bills Committee, NSW Legislative Council, *Report No. 7 – 22 May 2018* (2018), p 2.

⁴ *Hansard*, NSW Legislative Council, 22 May 2018, p 7.

⁵ NSW Department of Primary Industries, *NSW Forestry Industry Road Map*, August 2016.

⁶ NSW Department of Primary Industries, *NSW Forestry Industry Road Map*, August 2016, p 8.

⁷ Paul Toole, Second Reading Speech: Forestry Legislation Amendment Bill 2018, 16 May 2018, p 1.

⁸ Paul Toole, Second Reading Speech: Forestry Legislation Amendment Bill 2018, 16 May 2018, p 2.

⁹ *Forestry Act 2012*, Part 5C.

carried out under four private native forestry codes of practice, and require approval of the regulatory authority.¹⁰

- 1.7** In 2017, the NSW Government announced that the responsibility for approving PNF plans would move from the NSW Environment Protection Authority (NSW EPA) to Local Land Services.¹¹ On 30 April 2018, Local Land Services assumed responsibility for licensing and extension services for PNF, with the NSW EPA maintaining responsibility for compliance and enforcement.¹²
- 1.8** Native forestry on public land is governed by Integrated Forestry Operations Approvals (IFOAs) licences issued to ForestCorp.¹³ IFOAs integrate the regulatory regimes for environmental planning and assessment, protection of the environment and threatened species conservation.¹⁴
- 1.9** The NSW Government is currently redrafting the Coastal IFOA, including the consolidation of the Eden, Southern, Upper and Lower North East coastal regions of New South Wales, into a single IFOA for the state's entire coast.¹⁵
- 1.10** As previously noted, the Forestry Legislation Amendment Bill 2018 represents a key component of the first priority pillar of regulatory modernisation, formalising the transition of responsibilities for PNF licensing and extension services from the NSW EPA to Local Land Services and preparing for the new Coastal IFOA.¹⁶

Purpose of the bill

- 1.11** Minister Toole noted in his second reading speech to the Legislative Assembly that the economy, the community and the environment can benefit from active forest management coupled with sustainable harvesting.¹⁷
- 1.12** The Forestry Legislation Amendment Bill 2018 seeks to update the native forestry sector's regulatory framework in a manner that Minister Toole said would ensure the industry can 'continue to be economically and environmentally sustainable, and continue to deliver jobs and economic growth to regional New South Wales'.¹⁸

¹⁰ *Forestry Act 2012*, Part 5C, s 69ZH. Also see, s 69ZB (3).

¹¹ Paul Toole, Second Reading Speech: Forestry Legislation Amendment Bill 2018, 16 May 2018, p 2.

¹² Paul Toole, Second Reading Speech: Forestry Legislation Amendment Bill 2018, 16 May 2018, p 2.

¹³ Paul Toole, Second Reading Speech: Forestry Legislation Amendment Bill 2018, 16 May 2018, p 3.

¹⁴ NSW EPA, *Remake of the Coastal Integrated Forestry Operations Approvals Discussion Paper*, February 2014, p 4.

¹⁵ NSW EPA, *Coastal Integrated Forestry Operations Approval – Consultation Draft Executive Summary*, May 2018, p 3.

¹⁶ Paul Toole, Second Reading Speech: Forestry Legislation Amendment Bill 2018, 16 May 2018, pp 1-2.

¹⁷ Paul Toole, Second Reading Speech: Forestry Legislation Amendment Bill 2018, 16 May 2018, pp 1-2.

¹⁸ Paul Toole, Second Reading Speech: Forestry Legislation Amendment Bill 2018, 16 May 2018, p 3.

1.13 The Minister stated:

The Forestry Legislation Amendment Bill 2018 will deliver a streamlined approach for native forestry legislation in New South Wales by consolidating five separate legislative frameworks into two. It balances economic benefits with community expectations. It also provides for increased regulatory certainty, enhanced transparency and greater enforceability.¹⁹

Overview of the bill's provisions

1.14 The objects of the bill, as set out in the explanatory note, are:

- a) to amend the *Local Land Services Act 2013* and other Acts to transfer responsibility for the regulation of private native forestry to Local Land Services, with the Environment Protection Authority maintaining its enforcement role,
- b) to amend the *Forestry Act 2012*, the *Biodiversity Conservation Act 2016* and other Acts to update the regulatory framework for public native forestry and the enforcement role of the Environment Protection Authority,
- c) to make minor, related and consequential amendments to the *Local Land Services Act 2013*, the *Forestry Act 2012* and other Acts and instruments.²⁰

1.15 Schedule 1 amends the *Local Land Services Act 2013*, including with the addition of Part 5B.²¹

1.16 This schedule also formalises the transfer of responsibility for PNF advice and approvals from the NSW EPA to Local Land Services²² and includes provisions to authorise the Minister for Lands and Forestry, with the concurrence of the Minister of the Environment and the Minister for Primary Industries, to make PNF codes of practice to regulate PNF operations.²³

1.17 In addition, Schedule 1 confers the role of monitoring and enforcing compliance of forestry operations to the NSW EPA.²⁴

1.18 Minister Toole said the amendment ‘updates the Local Land Services Act to increase the level of consistency across the regulatory framework for native vegetation’.²⁵

1.19 Schedule 2 amends the *Forestry Act 2012*.

1.20 Schedule 2 repeals provisions for PNF from the *Forestry Act 2012* in accordance with the amendments to the *Local Land Services Act 2013* contained within schedule one.²⁶

¹⁹ Paul Toole, Second Reading Speech: Forestry Legislation Amendment Bill 2018, 16 May 2018, p 2.

²⁰ Forestry Legislation Amendment Bill 2018, Explanatory Note, p 1.

²¹ Forestry Legislation Amendment Bill 2018, Explanatory Note, p 2.

²² Forestry Legislation Amendment Bill 2018, Explanatory Note, p 2.

²³ Forestry Legislation Amendment Bill 2018, Explanatory Note, p 2.

²⁴ Forestry Legislation Amendment Bill 2018, Explanatory Note, p 3.

²⁵ Paul Toole, Second Reading Speech: Forestry Legislation Amendment Bill 2018, 16 May 2018, p 2.

²⁶ Forestry Legislation Amendment Bill 2018, Explanatory Note, p 5.

- 1.21** Additional amendments arising from Schedule 2 include streamlining provisions related to IFOAs and preparing for the new Coastal IFOA.²⁷ Schedule 2 also establishes provisions that enable the NSW EPA to enforce all of its conditions.²⁸
- 1.22** Minister Toole said amendments the *Forestry Act 2012* ‘update and streamline provisions related to IFOAs, enhance the framework for regulating native forestry, and amend the arrangements for how ForestCorp may operate’.²⁹
- 1.23** Schedule 3 makes minor and consequential related amendments to other Acts and instruments, including the *Biodiversity Conservation Act 2016* and the *Fisheries Management Act 1994*.³⁰

²⁷ Paul Toole, Second Reading Speech: Forestry Legislation Amendment Bill 2018, 16 May 2018, p 2.

²⁸ Paul Toole, Second Reading Speech: Forestry Legislation Amendment Bill 2018, 16 May 2018, p 2.

²⁹ Paul Toole, Second Reading Speech: Forestry Legislation Amendment Bill 2018, 16 May 2018, p 3.

³⁰ Forestry Legislation Amendment Bill 2018, Explanatory Note, pp 5-6.

Chapter 2 Key issues

This chapter outlines the key issues raised by inquiry participants in relation to the Forestry Legislation Amendment Bill 2018, namely the environmental impact, penalties, compliance and third party enforcement rights, private native forestry codes of practice, public consultation and the impact of the bill on commercial bee-keeping.

Environmental impact

2.1 The committee received numerous submissions raising concerns about the impact of the bill on the environment. Concerns included:

- the increased opportunity for deforestation and a corresponding decrease in environmental protection³¹
- the loss of native habitat and wildlife and extinction of threatened species³²
- the work of volunteers in trying to protect and increase natural habitat through planting trees and rehabilitating orphaned wildlife being undermined.³³

2.2 In terms of getting the right balance in forests, Mr Dailan Pugh, President, North East Forest Alliance, expressed the view that ‘ecologically sustainable forest management, even though it is theoretically possible, it is not achievable in reality, and it is not achievable the way we are going’, stating that he is ‘disgusted’ with the current degradation of forests due to over logging, where forests have ‘lost their productivity in terms of both biodiversity and timber’. Mr Pugh argued that the new Integrated Forestry Operations Approvals (IFOAs) would ‘aggravate the situation and make it so much worse’ and emphasised that ‘we need to stop logging and start repairing’.³⁴

2.3 Similarly, Ms Alix Goodwin, Chief Executive Officer, National Parks Association of NSW, said that the environment would be ‘forsaken in the future’,³⁵ with the Association expressing concern about the proposed changes to private native forestry (PNF) and calling for an end to native forest logging on public land:

Our organisations’ position is that native forest logging on public land should end following the expiry of the Regional Forest Agreements (RFAs). We do not oppose Private Native Forestry (PNF), but we are concerned that proposed changes to PNF will abandon environmental protection in favour of wood supply ... PNF should be more effectively regulated, rather than deregulated, in order to protect the environment and future opportunities for landholders.³⁶

³¹ Submissions 6, 18, 26, 28, 31, 35, 36, 43 and 50.

³² Submission 2, 4, 6, 8, 9, 10, 11, 12, 14, 15, 17, 18, 20, 21, 22, 23, 25, 26, 28, 30, 31, 33, 35, 36, 37, 43, 44, 45, 46a, 48 and 49.

³³ Submission 2, 6, 14, 17, 19, 22 and 25.

³⁴ Evidence, Mr Dailan Pugh, President, North East Forest Alliance, 1 June 2018, uncorrected transcript, pp 19-21.

³⁵ Evidence, Ms Alix Goodwin, Chief Executive Officer, National Parks Association of NSW, 1 June 2018, uncorrected transcript, p 21.

³⁶ Submission 34, National Parks Association of NSW and Nature Conservation Council of NSW, p 1.

- 2.4 However, Mr Michael Hood, Director, Forestry, NSW Environment Protection Authority (NSW EPA) refuted such concerns, asserting that the bill would not weaken but strengthen the environmental protections:

The changes that are made, particularly in relation to public land, will, in fact, increase the ability for the EPA to regulate in accordance with the rules and ensure that it has reduced complexity and ensure that instruments are much easier to be understood and therefore implemented. So I would say that it will increase the ability for the existing environmental standards to be delivered on the ground.³⁷

Penalties

- 2.5 The proposed section 60ZZA of the *Local Land Services Act 2013* and Schedule 2 [29] of the *Forestry Act 2012 No 96* stipulate that it is an offence to contravene a requirement imposed by a PNF plan or applicable PNF codes of practice and that the maximum penalties are:

(a) for an offence that was committed intentionally and that caused or was likely to cause significant harm to the environment—\$5 million in the case of a corporation or \$1 million in the case of an individual, or

(b) for any other offence—\$2 million in the case of a corporation or \$500,000 in the case of an individual.³⁸

- 2.6 Ms Goodwin supported the penalties, commenting that it brings ‘public native forestry penalties in alignment and reflects the seriousness with which infringements should be treated’. She added that it ‘is clearly a valuable change’ that will improve the range of penalty and infringement options available to the NSW EPA.³⁹

- 2.7 Mr Pugh also supported the penalties, expressing the view that ‘good penalties are essential’ and that we cannot ‘expect someone to do the right thing when there is no incentive to do so’. Mr Pugh claimed that even after taking into account fines, there was still greater financial incentive for people to cut down trees illegally than comply with the regulations.⁴⁰

- 2.8 Ms Bronwyn Petrie from the NSW Farmers Association, however, expressed the view that there is an ‘unfair discrepancy’ as the penalties that apply to farmers under the proposed amendments are significantly higher than those that apply to other parties under the *Biodiversity Conservation Act 2016*.⁴¹ Ms Petrie argued:

Farmers should not be subject to higher penalties than other developers who may commit a land-clearing offence; after all, we are not replacing one type of vegetation with concrete, we are replacing simply another type of vegetation. Similarly, breaches

³⁷ Evidence, Mr Michael Hood, Director, Forestry, New South Wales Environment Protection Authority, 1 June 2018, uncorrected transcript, p 30.

³⁸ Forestry Legislation Amendment Bill 2018, Schedule 1, s 60ZZA; Forestry Legislation Amendment Bill 2018, Schedule 2, Item 29.

³⁹ Evidence, Ms Goodwin, 1 June 2018, p 18.

⁴⁰ Evidence, Mr Pugh, 1 June 2018, p 18.

⁴¹ Evidence, Ms Bronwyn Petrie, NSW Farmers, 1 June 2018, uncorrected transcript, p 11.

of private native forestry codes should not attract these disproportionately high penalties.⁴²

2.9 Further, Ms Petrie cautioned that ‘if the penalties were to remain in that way, putting private native forestry on exactly the same footing as public land, we will lose some farmers from that’. She proposed that there be a tiered approach that differentiates minor breaches from land clearing activity, with ‘appropriate penalties for those who may knowingly or unknowingly breach the rules’.⁴³

2.10 Mr Nick Cameron, Representative of Institute of Foresters Australia and member of the NSW Forest Industries Taskforce, also raised concerns that the high penalties would deter stakeholders from participating in private native forestry:

The thing that concerns me most is having those penalties there will be a really strong deterrent for participation in private native forestry, both from a landowner perspective and also if you are a timber harvesting contractor, potentially part-time or whatever. The transfer of Forestry to Local Land Services is all about encouraging private native forestry and providing more supportive environment. Having a penalty regime as proposed, which is based on land clearing, is just going to stifle any attempts that Local Land Services might try to pursue to encourage the activity.⁴⁴

2.11 Similarly, Mr Peter Rutherford, Secretary, South East Timber Association (SETA), noted the ‘major increase in the financial penalties available to the regulating authority’, and asserted that an effective and fair overarching regulatory power needs to be in place for the high penalties to work:

The size of the fines would not be an issue for the SETA membership, many of whom will be affected by this bill, if they were confident that the regulating authority could deliver regulatory oversight in a fair and equitable manner. Given the current realities, rather than trying to rebuild the Titanic, the major focus of the SETA submission has been to question the need for such massive penalties, and highlight specific benchmarks that regulatory staff should meet before being entrusted with such wide-reaching and potentially financially damaging power.⁴⁵

2.12 In response to the concerns about penalties, Mr Hood from the NSW EPA advised that the bill ‘brings penalty amounts already available into line with those already available for private forestry and other regulated industries in New South Wales’. He further informed the committee that there were actually no changes to the current penalty system:

It remains the same as it does now. The penalties were changed as all penalties were changed across the land management and biodiversity framework back in August of last year with the commencement of that piece of legislation. The penalties will roll over under this new bill. There is no change from now going forward.⁴⁶

⁴² Evidence, Ms Petrie, 1 June 2018, p 11.

⁴³ Evidence, Ms Petrie, 1 June 2018, pp 11 and 13.

⁴⁴ Evidence, Mr Nick Cameron, Representative of Institute of Foresters Australia and member of the New South Wales Forest Industries Taskforce, 1 June 2018, uncorrected transcript, p 13.

⁴⁵ Evidence, Mr Peter Rutherford, Secretary, South East Timber Association, 1 June 2018, uncorrected transcript, p 10.

⁴⁶ Evidence, Mr Hood, 1 June 2018, pp 24 and 29.

Compliance

- 2.13** There was some discussion during the inquiry regarding the enforcement of compliance across the industry.
- 2.14** For example Mr Pugh, who has been auditing forestry operations since 2009, informed the committee that he regularly found breaches of the legal requirements and claimed that the ‘current approach of the NSW EPA is to issue official cautions and hope for compliance to occur’, which he said was not happening.⁴⁷
- 2.15** In addition, Mr Pugh contended that ‘under the new integrated forestry operations approvals it will become a lot more lax in terms of enforcement’, suggesting that the rules are being ‘watered down to make them more like guidelines’.⁴⁸
- 2.16** On the other hand, Ms Goodwin from the National Parks Association was of the view that the bill would improve the compliance monitoring and enforcement powers for the NSW EPA with respect to PNF logging.⁴⁹ However, the Association suggested ‘that in order to maximise the rigour of the compliance regime, the PNF plans should be on a public register’.⁵⁰
- 2.17** Ms Goodwin explained that such a register would create transparency around the process and prevent confusion amongst landholders:

Transparency around what is required, what is allowed and what is not allowed, but more importantly, whether a person has approval to conduct private native forestry on their land. Whilst I cannot speak to specific cases, we do hear that within the context of the recent land clearing law changes that there is conflict emerging on the ground where people see their neighbours cutting down forests or cutting down native vegetation and they are unclear whether they have a right to do that or not ...⁵¹

- 2.18** In response to the suggestion for a public register for PNF plans, Mr Kristian Holz, Group Director, Sustainable Land Management, Local Land Services, suggested that it may be an option for consideration as part of the upcoming PNF code review:

It presently is not provided for, although there is a different linkage now consistent with biodiversity reforms where private native forestry approvals would be published as sensitive areas on the regulatory map, which is public information. I think it is an interesting question that I suspect will be considered in detail through the review of the PNF code.⁵²

⁴⁷ Evidence, Mr Pugh, 1 June 2018, p 18.

⁴⁸ Evidence, Mr Pugh, 1 June 2018, p 18.

⁴⁹ Evidence, Ms Goodwin, 1 June 2018, p 17.

⁵⁰ Submission 34, National Parks Association of NSW and Nature Conservation Council of NSW, p 6; Submission 38, Bellingen Environment Centre, p 7.

⁵¹ Evidence, Ms Goodwin, 1 June 2018, p 17.

⁵² Evidence, Mr Kristian Holz, Group Director, Sustainable Land Management, Local Land Services, 1 June 2018, uncorrected transcript, p 28.

Third party enforcement rights

- 2.19** Some inquiry participants expressed concern that the bill lacked provisions relating to third party enforcement rights. Ms Goodwin noted that it ‘contradicts virtually all other planning, environment, and local government laws’ that allow for this enforcement,⁵³ and argued that ‘the public should have a right to third party enforcement where it believes the Government is not taking action where it is required to protect biodiversity for future generations’.⁵⁴
- 2.20** Likewise, the Environmental Defenders Office NSW commented that ‘excluding the community from public forestry enforcement is unjust and retrograde’ and agreed that it ‘contrasts with long-established rights in many New South Wales laws’. The office recommended that open standing for the community to take forestry breaches to court be reinstated,⁵⁵ insisting that civil enforcement is essential to hold the industry to account:
- In the EDO’s view, open standing for civil enforcement is an essential accountability mechanism for a functioning regulatory scheme. It should be available to facilitate important proceedings in the public interest. This would bring forestry laws into line with equivalent existing best practice standards in NSW law.⁵⁶
- 2.21** The North East Forest Alliance and the Casino Environment Centre also called for the reinforcement of third party rights to enforce IFOAs.⁵⁷
- 2.22** When questioned on this issue, Mr Hood from the NSW EPA pointed out that the bill was retaining an existing policy which had been in place for nearly 20 years.⁵⁸
- 2.23** In addition, Mr Holz, highlighted that the transfer of the PNF code to the *Local Land Services Act* will enable third parties access to civil compliance mechanisms:

I might add that in relation to the PNF code, essentially by transferring the code framework into the Local Land Services Act, there is a relationship with the Biodiversity Conservation Act that does provide for standing for third parties in relation to civil compliance mechanisms. So this bill will facilitate third party standing in relation to the PNF code.⁵⁹

Authority to make PNF codes of practice

- 2.24** Under the proposed amendments, the Minister for Lands and Forestry, with the concurrence of the Minister for the Environment and the Minister for Primary Industries, will be authorised to make PNF codes of practice to regulate the carrying out of forestry operations.⁶⁰

⁵³ Evidence, Ms Goodwin, 1 June 2018, p 17.

⁵⁴ Evidence, Ms Goodwin, 1 June 2018, pp 20-21.

⁵⁵ Submission 40, Environmental Defenders Office NSW, p 4.

⁵⁶ Submission 40, Environmental Defenders Office NSW, pp 5-6.

⁵⁷ Submission 47, Casino Environment Centre, p 3.

⁵⁸ Evidence, Mr Hood, 1 June 2018, p 28.

⁵⁹ Evidence, Mr Holz, 1 June 2018, p 28.

⁶⁰ Forestry Legislation Amendment Bill 2018, Schedule 1, Item 8, Part 5b, s 60ZT.

2.25 A number of submission authors raised concerns about the role of the Minister for Lands and Forestry in authorising the codes.⁶¹ The North East Forest Alliance used the analogy of ‘putting the fox in charge of the hen-house’, on the basis that it is essentially ‘handing the rewriting over to an agency that has been specifically targeting private lands to make up for sawlog short-falls from public lands’.⁶²

2.26 Ms Goodwin was also concerned about a conflict of interest, commenting to the committee:

Clearly, the weighting is in the direction of industry and forestry and not the environment. What is wrong with the current regime where the Minister for the Environment, who has responsibility for compliance, monitoring and enforcement, has responsibility for development and consultation on the code?⁶³

2.27 The National Parks Association and the Nature Conservation Council both recommended that the PNF codes ‘be made by the Environment Minister, with the concurrence of the Minister for Lands and Forestry, and recommend the concurrence of the Primary Industries Minister be removed’.⁶⁴

2.28 Along similar lines, the Environmental Defenders Office commented that the bill ‘should not dilute the role of the Environment Minister, given that PNF codes provide an exemption from offences and other approvals’. It suggested:

Whoever makes the Code, Ministers and officials should be required to exercise powers and functions ‘in accordance with’, or ‘to achieve’, the objects of Part 5B. The proposed requirement to ‘have regard to’ the objects when making a PNF Code is not sufficient.⁶⁵

2.29 In response to these concerns, Mr Brendan Stone, Director, Strategy and Policy, Department of Primary Industries, informed the committee that the change will not dilute the authority of the Ministers but add an additional layer to the approval process:

The addition of the Primary Industries Minister is twofold in a sense. Formerly, it is because he is the Minister responsible for the Local Land Services Act. The same person is consulted as Minister responsible for the threatened species aspects of the Fisheries Management Act. So I would make the point that it does not dilute any approvals. It is concurrence, after all; it is not consensus by majority. It equates to an additional layer of approvals for the PNF codes.⁶⁶

⁶¹ Submission 39, North East Forest Alliance, p 3; Submission 31, Ms Natalie Meyer, p1; Submission 35, Dr Sarah Antill, p 1; Submission 38, Bellingen Environment Centre, p 2; Submission 43, Ms Megan James, p 1; Submission 46, Mr Peter and Mrs Meg Nielsen, p 1; Submission 49, Ms Susie Hearder, p 1; Submission 47, Casino Environment Centre, p 1.

⁶² Submission 39, North East Forest Alliance, p 3.

⁶³ Evidence, Ms Goodwin, 1 June 2018, p 20.

⁶⁴ Submission 34, National Parks Association of NSW and Nature Conservation Council of NSW, p 7.

⁶⁵ Submission 40, Environmental Defenders Office NSW, p 3.

⁶⁶ Evidence, Mr Brendan Stone, Director, Strategy and Policy, Department of Primary Industries, 1 June 2018, uncorrected transcript, p 28.

Public consultation

2.30 The following provisions of the bill relating to public consultation raised concerns for inquiry participants:

- Schedule 2 [8]–[16] – which provide that public consultation in relation to the making and amendment of forest agreements relating to public forestry and the periodic review of those agreements and IFOAs is undertaken by means of relevant government websites rather than through publication in newspapers
- 60ZU Public consultation on proposed codes – which provides that before a PNF code of practice is made, the proposed code is to be made publicly available for a period of at least 4 weeks.⁶⁷

2.31 In regard to the removal of the requirement to publish forest agreements in newspapers, the North East Forest Alliance expressed the view that this would ‘significantly reduce people’s ability to become aware of any such proposals.’⁶⁸ Similarly Mr Stephen Targett, Vice President, NSW Apiarists’ Association, stated:

The changes can happen by stealth, because without a media release to alert that there are changes up for public consultation, as an organisation we would have to be checking those websites once a week as a minimum to make sure, if there is any inquiry, we can get our front foot forward.⁶⁹

2.32 Mr Tim Burfitt, Executive Support to the NSW Apiarists’ Association, said that he understood why newspaper advertising is not recommended, due to costs and not always being as effective, and suggested that an ‘easy addition regarding access to websites may well be the development of a database of all stakeholders so an effective email tree alerts people to any upcoming changes that they may wish to be informed about and a link to the appropriate website’.⁷⁰

2.33 In response to this issue, Mr Stone from the Department of Primary Industries said that by changing the method of advertisement from newspapers to modern technology the government is simply expanding the options of communication for stakeholders:

Those requirements are really just removing a restriction around newspaper advertising and acknowledging that in the modern age increasingly there are other avenues of communication with stakeholders that are more effective in terms of reach. So it is designed to broaden, not restrict any publication.⁷¹

⁶⁷ Forestry Legislation Amendment Bill 2018, Schedule 2, Item 8-16; Forestry Legislation Amendment Bill 2018, s 60ZU(1).

⁶⁸ Submission 39, North East Forest Alliance, pp 12-13.

⁶⁹ Evidence, Mr Stephen Targett, Vice President, NSW Apiarists’ Association, 1 June 2018, uncorrected transcript, p 3.

⁷⁰ Evidence, Mr Tim Burfitt, Executive Support to the NSW Apiarists’ Association, 1 June 2018, uncorrected transcript, p 3.

⁷¹ Evidence, Mr Stone, 1 June 2018, p 29.

- 2.34** In terms of the proposed consultation period of a minimum of four weeks, several stakeholders expressed the view that this timeframe was too short.⁷²
- 2.35** Ms Goodwin insisted that the four weeks is ‘absolutely inadequate’ and that it ‘is simply not humanly possible’ given the documents can be quite lengthy. She provided the example of the Regional Forest Agreement document that ‘was in order of 400 pages long’.⁷³ Similarly, Mr Pugh stated that ‘these are major documents’ where you need a long time to understand the complexity of the information and so need ‘a long time to allow public consultation’.⁷⁴
- 2.36** Ms Petrie expressed the view that key stakeholders should be ‘at the table’ during the development of these documents, and that if they couldn’t be then ‘the four weeks is a bit short’. Nevertheless she told the committee that, particularly in relation to the codes, they have been waiting 10 years for them to get fixed so ‘will live with four weeks, providing that code is done properly’.⁷⁵
- 2.37** In terms of what could be an adequate timeframe, the National Parks Association, Nature Conservation Council, North East Forest Alliance and Bellingen Environment Centre all suggested that a public consultation period of eight weeks would be sufficient.⁷⁶
- 2.38** The Environmental Defenders Office recommended that it be even longer, expressing the opinion that – especially for the draft public native forestry codes – the public consultation period should be a minimum of three months.⁷⁷ The office explained why a longer consultation period was important to the public:

In our experience the standard ‘four to six weeks exhibition’ process is insufficient, particularly on long-term changes that raise complex scientific, legal and socio-economic issues. As noted, consultation periods (and methods) should be extended to give communities and stakeholders time to interrogate information, provide considered feedback, and see how their input is considered in the final product.⁷⁸

- 2.39** When questioned about the timeframes, Mr Hood from the NSW EPA pointed out that currently there are no requirements set for the timeframes around public consultation:

I would reflect that under the current legislative arrangements there are no requirements to consult on a new IFOA or to consult on a new PNF code. So these provisions are new provisions to open the opportunity for consultation on those actual instruments.

⁷² Evidence, Ms Goodwin, 1 June 2018, p 19; Mr Pugh, 1 June 2018, pp 18-19; Evidence, Mr Targett, 1 June 2018, p 4; Evidence, Mr Cameron, 1 June 2018, p 14; Evidence, Mr Rutherford, 1 June 2018, p 14; Evidence, Ms Petrie, 1 June 2018, pp 13-14; Submission 40, Environmental Defenders Office NSW, p 6; Submission 47, Casino Environment Centre, p 2.

⁷³ Evidence, Ms Goodwin, 1 June 2018, p 19.

⁷⁴ Evidence, Mr Pugh, 1 June 2018, p 19.

⁷⁵ Evidence, Ms Petrie, 1 June 2018, pp 13-14.

⁷⁶ Submission 34, National Parks Association of NSW and Nature Conservation Council of NSW, p 6; Submission 38, Bellingen Environment Centre, p 7; Submission 39, North East Forest Alliance, p 2.

⁷⁷ Submission 40, Environmental Defenders Office NSW, p 3.

⁷⁸ Submission 40, Environmental Defenders Office NSW, p 6.

We are currently out on exhibition with the IFOA at the moment. That is out for a six-week period of consultation.⁷⁹

Commercial bee-keeping

2.40 The Forestry Legislation Amendment Bill removes the inclusion of bee-keeping and grazing as part of forestry operations,⁸⁰ and enables the regulations to authorise and regulate bee-keeping and the grazing of cattle or other livestock in forestry areas.⁸¹

2.41 The NSW Apiarists' Association expressed concerns regarding the proposed amendments.

2.42 It informed the committee that New South Wales has approximately 6,887 registered beekeepers accounting for 282,375 registered hives and the industry contributes \$36 million annually to the New South Wales economy from the value of honey and associated bee products.⁸² The Association explained that it is essential for honeybees to have access to a diverse range of flora to be highly productive in terms of nectar and pollen resources, which enables the honeybees 'to develop strength, vigour and health before and after pollination events'.⁸³ It highlighted the importance of access to forests:

Access to NSW Forests for commercial apiarists is not predicated on a recreational need, it is based on a need to sustain healthy honeybee stocks. Bee-keeping has extensive benefits for all of the citizens of NSW and their communities, environment and economy. This requirement cannot be ignored or trivialised but needs to be supported and enhanced.⁸⁴

2.43 Mr Targett from the NSW Apiarists' Association expressed frustration at the difficulty beekeepers have in obtaining access to forests:

Bee-keepers have used forests in New South Wales for generations. We have had to argue and justify our access to the forests across these generations. This has been both time consuming and frustrating. It is hard to get any fruitful outcome.⁸⁵

2.44 Further, Mr Targett highlighted that 'even though we have [been] dealing with forestry for generations, they have never come up with a guideline for bee-keeping operations in state forest', adding that the NSW Apiarists' Association have been proactive and created their own guidelines for use by National Parks and Wildlife Service and Local Land Services.⁸⁶

2.45 The Association requested several amendments to the bill, including that:

- commercial apiarists be recognised within the bill as a co-dependent industry

⁷⁹ Evidence, Mr Hood, 1 June 2018, p 27.

⁸⁰ Forestry Legislation Amendment Bill 2018, Schedule 2 [17].

⁸¹ Forestry Legislation Amendment Bill 2018, Schedule 2 [34].

⁸² Submission 1, NSW Apiarists' Association, p 4.

⁸³ Submission 1, NSW Apiarists' Association, p 2.

⁸⁴ Submission 1, NSW Apiarists' Association, p 3.

⁸⁵ Evidence, Mr Targett, 1 June 2018, p 2.

⁸⁶ Evidence, Mr Targett, 1 June 2018, p 5.

- bee-keeping be included as part of forestry operations that may be authorised and regulated by IFOAs
- NSW Apiarists' Association representatives be included in bodies responsible for consultation and policy development
- the Association be 'informed of what the regulations and authorisation will be for bee-keeping under Schedule 2 (34) and the resultant impacts on all previous agreements in respect to apiary sites in public forests'.⁸⁷

2.46 In regard to the request for bee-keeping to be legislatively recognised as a co-dependent industry, Mr Targett explained that it would:

- be 'a step forward in recognising our dependence on New South Wales State forests for viable bee-keeping businesses'
- recognise the many other industries that depend on bees and facilitate the co-existence with these industries and forestry⁸⁸
- assist the NSW Apiarists' Association in negotiations with State Forests⁸⁹
- ensure the Association would not have to spend 'time, energy and effort and being away from our business to justify our use in the forests'.⁹⁰

2.47 In addition, Mr Targett commented that the proposed removal of bee-keeping under Schedule 2 [17] could impact on bee-keeping exemptions, where currently bee-keepers are able to maintain a road in forestry management zone[s] 3A and 3B, and clear small trees and the forest floor to maintain the bee sites and adhere to occupational health and safety. Mr Targett went on to say that 'we are worried that we will have to go and fight for those exemptions again if we are removed from the legislation'.⁹¹

2.48 In regard to consultation with the NSW Apiarists' Association about the proposed amendments to the bill, Mr Targett told the committee that the Association had no input to any of the amendments and had been unsuccessful in its attempts to meet with the Minister for Lands and Forestry.⁹²

2.49 Mr Hood from the NSW EPA confirmed that there had been no specific engagement with the Apiarists on the development of the bill, however noted that the government published a discussion paper in early 2014 regarding changes to the IFOAs and sought submissions at that time. Mr Hood advised that the discussion paper 'made it clear that the intent of the changes were to allow bee-keeping activities to continue in State forests and removing it from the IFOA at the same time'.⁹³

⁸⁷ Submission 1, NSW Apiarists' Association, p 1.

⁸⁸ Evidence, Mr Targett, 1 June 2018, p 2.

⁸⁹ Evidence, Mr Targett, 1 June 2018, p 4.

⁹⁰ Evidence, Mr Targett, 1 June 2018, p 2.

⁹¹ Evidence, Mr Targett, 1 June 2018, p 2.

⁹² Evidence, Mr Targett, 1 June 2018, pp 3 and 5.

⁹³ Evidence, Mr Hood, 1 June 2018, pp 24-25.

2.50 In response to the NSW Apiarists' Associations concerns, Mr Stone from the Department of Primary Industries told the committee that the bill 'has no immediate impact on them in terms of curtailing any activities' and explained that while the bill removes the regulation of bee-keeping activities from the IFOAs to the regulations it does not change the current process for obtaining permits and exemptions.⁹⁴

Committee comment

2.51 The committee acknowledges the concerns regarding the environmental impact of the bill, but notes that the changes will increase regulatory certainty, enhanced transparency and greater enforceability of environmental standards.

2.52 We note the concerns raised about the bill's penalties, however note that the penalties are being rolled over from the last round of changes and that the penalty amounts are in line with those already available for private forestry and other regulated industries across the state.

2.53 In regard to compliance, the committee acknowledges the suggestion from the National Parks Association for a public register for PNF plans to enhance transparency and avoid confusion amongst landholders. We believe there is merit in this suggestion, and encourage the NSW Government to consider it as part of its Review of the PNF Codes of Practice.

2.54 In response to the concerns about inadequate third party enforcement rights, the committee notes that the transfer of the PNF Code to the *Local Land Services Act 2013* will enable third parties access to civil compliance mechanisms.

2.55 The committee notes the concerns about the Minister for Lands and Forestry being authorised to make PNF codes of practice, however we note that the Minister still requires the concurrence of the Minister for the Environment and the Minister for Primary Industries, which in fact adds an additional layer of approval that did not previously exist.

2.56 We also note that a number of stakeholders expressed concerns about the bill's public consultation provisions. The committee does not share the concern about removing the requirement to publish forest agreements in newspapers, as we consider online methods of advertisement to be more timely and wide reaching. The committee does, however, support the suggestion from the NSW Apiarists' Association to create a database of stakeholders to send email alerts to in order to advise of relevant changes to NSW Government policies and processes. We support this suggestions and encourage the government to consider it as part of the debate.

2.57 In regard to the consultation period for proposed PNF codes of practice, the committee acknowledges that there were concerns from environmental groups regarding the four week period. However, the committee notes that there are currently no set requirements for the timeframes around public consultation. The committee therefore considers that the proposed four week timeframe is an acceptable increase to what is currently in place.

2.58 The committee notes the concerns raised by the NSW Apiarists' Association regarding the bill. We acknowledge the importance of forestry operations on commercial bee-keeping. Nevertheless, we accept that the intent of removing bee-keeping from the IFOA is deregulatory,

⁹⁴ Evidence, Mr Stone, 1 June 2018, pp 25 and 29.

and as such recommend that the government address the concerns of the NSW Apiarists' Association regarding the removal of commercial bee-keeping from forestry operations in the second reading debate.

Recommendation 1

That the NSW Government address the concerns of the NSW Apiarists' Association regarding the removal of commercial bee-keeping from forestry operations in the second reading debate of the Forestry Legislation Amendment Bill 2018.

- 2.59** Finally, it is the view of the committee that the Forestry Legislation Amendment Bill will create a more robust framework for regulating the native forestry industry on both public and private land in New South Wales. We therefore recommend that the bill proceed to debate in the Legislative Council, and that the government address the committee comments and recommendations during the second reading debate.

Recommendation 2

That the Legislative Council proceed to debate the Forestry Legislation Amendment Bill 2018, and that the NSW Government address the committee comments and recommendations contained in this report during Legislative Council's second reading debate.

Appendix 1 Submissions

No	Author
1	NSW Apiarists' Association
2	Dr Renata Phelps
3	Mr Paul O'Connor
4	Mrs Myrelle Hurst
5	Mr Martin Fitzgerald
6	Mrs Susanne Ulyatt
7	Mr Don Metcalfe
8	Mr David Spence
9	Mrs Leoni Byron-Jackson
10	Ms Carol Dillon
11	Wires Northern Rivers
12	Mr Philip Reynolds
13	Ms Fleur Letitia
14	Ms Anne Crowley
15	Mrs Emilie Xhenseval
16	Ms Tristan Lavery
17	Ms Heather Payne
18	Mr Jens Krause
19	Mrs Barbara Wilkins
20	Soledad Herrera
21	Ms Julie Marsh
22	Ms Amanda Pawski
23	Ms Nina Cannell
24	Mr Greg Spencer
25	Mr Josef Kohlmetz
26	Ms Alison Taylor
27	Dr Beverley Aspbury
28	Ms Melanie Barsony
29	Mrs Megan Huett
30	Mrs Sandra Shergill
31	Ms Natalie Meyer
32	Mr Craig McHale

No	Author
33	Dr Iris Bergmann
34	National Parks Association of NSW and Nature Conservation Council NSW
35	Dr Sarah Antill
36	Mrs Robyn Dyball
37	Mrs Karen Spence
38	Bellingen Environment Centre
39	North East Forest Alliance
40	Environmental Defenders Office NSW
41	South East Timber Association
42	Joint Industry Group
43	Ms Megan James
44	Mrs Cecile Charrue
45	Ms Lyndal Breen
46	Mr Peter and Mrs Meg Nielsen
46a	Mr Peter and Mrs Meg Nielsen
47	Casino Environment Centre
48	Chipstop Campaign against Woodchipping
49	Ms Susie Header
50	Northern Rivers Guardians
51	NSW Farmers
52	Ms Catherine Eaglesham

Appendix 2 Witnesses at hearing

Date	Name	Position and Organisation
1 June 2018 Macquarie Room, Parliament House	Mr Stephen Targett	Vice President, NSW Apiarists' Association
	Mr Tim Burfitt	Executive Support to the NSW Apiarists' Association
	Mr Peter Rutherford	Secretary, South East Timber Association
	Ms Maree McCaskill	General Manager, Timber NSW and Member of the NSW Forest Taskforce
	Mr Nick Cameron	Institute of Foresters Australia and Member of the NSW Forest Industry Taskforce
	Ms Bronwyn Petrie	NSW Farmers
	Ms Alix Goodwin	Chief Executive Officer, National Parks Association of NSW
	Mr Dailan Pugh	President, North East Forest Alliance
	Mr Brendan Stone	Director, Strategy and Policy, NSW Department of Primary Industries
	Mr Michael Hood	Director Forestry, NSW Environment Protection Authority
Mr Kristian Holz	Group Director Sustainable Land Management, Local Land Services NSW	

Appendix 3 Minutes

Minutes no. 39

Tuesday 22 May 2018

Standing Committee on State Development

Room 1043, Parliament House, 6.46 pm

1. Members present

Mr Martin, *Chair*

Mr Veitch, *Deputy Chair*

Mr Colless

Mr Graham

Mrs Maclaren-Jones

2. Previous minutes

Resolved, on the motion of Mrs Maclaren-Jones: That draft minutes no. 38 be confirmed.

3. Inquiry into the Provisions of the Forestry Legislation Amendment Bill 2018

3.1 Terms of reference

Resolved, on the motion of Mr Veitch: That the committee note the following terms of reference referred by the House on 22 May 2018:

1. That the Standing Committee on State Development inquire into and report on the provisions of the Forestry Legislation Amendment Bill 2018.
2. That the committee report by 5 June 2018.

3.2 Proposed timeline

Resolved, on the motion of Mr Veitch: That the committee adopt the following timeline for the administration of the inquiry:

- Friday 1 June 2018 (morning) – half day public hearing
- Monday 4 June 2018 – Chair's report circulated to committee
- Tuesday 5 June 2018 at 12 pm – report deliberative
- Tuesday 5 June 2018 (afternoon) – table report.

3.3 Closing date for submissions

Resolved, on the motion of Mr Veitch: That the closing date for submissions be 30 May 2018.

3.4 Stakeholder list

Resolved, on the motion of Mr Graham: That the secretariat email members with a list of stakeholders to be invited to make written submission, and that members have one day from the email being circulated to nominate additional stakeholders.

3.5 Advertising

The committee noted that all inquiries are advertised via twitter, stakeholder letters and a media release distributed to all media outlets in New South Wales.

3.6 Conduct of inquiry

Resolved, on the motion of the Mrs Maclaren-Jones: That there be no questions on notice taken at the public hearing to be held on 1 June 2018.

The committee noted that due to the short time frame of the inquiry, it is proposed that the report consist of a couple of pages of analysis and comment, and include the transcript as an appendix.

4. Adjournment

The committee adjourned at 6.55 pm, until Friday 1 June 2018.

Alex Stedman
Committee Clerk

Minutes no. 41

Friday 1 June 2018

Standing Committee on State Development

Macquarie Room, Parliament House, Sydney, 12.06 pm

1. Members present

Mr Martin, *Chair*

Mr Veitch, *Deputy Chair*

Mr Colless

Mr Graham

Mr Green

Mrs Maclaren-Jones

Ms Walker (participating)

2. Correspondence

The committee noted the following items of correspondence:

Received:

- 23 May 2018 – Email from the office of Ms Dawn Walker MLC, to secretariat, advising that Ms Walker wishes to be a participating member of the inquiry into the Provisions of the Forestry Legislation Amendment Bill 2018
- 29 May 2018 – Email from Ms Kate Smolski, Chief Executive Officer, Nature Conservation Council of NSW, to secretariat, declining the invitation to attend the public hearing
- 30 May 2018 – Email from Mr Rahmat Khaiami, Executive Officer, Forestry Corporation of NSW, to secretariat, declining the invitation to attend the public hearing
- 31 May 2018 – Email from Ms Kate Minter, Research Director, Unions NSW, to secretariat, declining the invitation to attend the public hearing
- 31 May 2018 – Email from Ms Penelope Parker, Industrial Officer, The Australian Workers' Union NSW Branch, to secretariat, declining the invitation to attend the public hearing.

3. Inquiry into the Provisions of the Forestry Legislation Amendment Bill 2018

3.1 Public submissions

The committee noted that submission nos. 1, 2, 4-8, 11-14, 18, 20, 22, 24, 26, 28-35, 37, 38, 40-49 and 51 were published by the committee clerk under the resolution appointing the committee.

3.2 Partially confidential submissions

Resolved, on the motion of Mr Veitch: That the committee keep the following information confidential, as per the request of the authors: names of the authors and third party details in submission nos. 3, 9, 10, 15, 16, 17, 19, 21, 23, 25, 27, 36, 39 and 50.

3.3 Public hearing

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witnesses were sworn and examined:

- Mr Stephen Targett, Vice President, NSW Apiarists' Association

- Mr Tim Burfitt, Executive Support to the NSW Apiarists' Association

Mr Targett tendered the following documents:

- Brochure – New South Wales Apiarists' Association
- Guidelines – National Best Management Practice for Beekeeping in the Australian Environment, by the Australian Honey Bee Industry Council
- Apiary sites on public lands – a New South Wales Apiarists' Association Position Paper
- Regional Economic Multiplier Impacts, Potential Pollinator Deficits across Crops – Rural Industries, Research and Development Corporation.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Peter Rutherford, Secretary, South East Timber Association – *via teleconference*
- Ms Maree McCaskill, General Manager, Timber NSW and Member of the NSW Forest Taskforce
- Mr Nick Cameron, Institute of Foresters Australia and Member of the NSW Forest Industry Taskforce – *via teleconference*
- Ms Bronwyn Petrie, NSW Farmers.

Ms McCaskill tendered the following documents:

- Brochure - Timber Design Awards 2017
- Information pack - Jobs, Industry, Communities, Timber, Timber NSW.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Alix Goodwin, Chief Executive Officer, National Parks Association of NSW
- Mr Dailan Pugh, President, North East Forest Alliance – *via teleconference*.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Brendan Stone, Director, Strategy and Policy, NSW Department of Primary Industries
- Mr Michael Hood, Director, Forestry, NSW Environment Protection Authority
- Mr Kristian Holz, Group Director, Sustainable Land Management, Local Land Services NSW.

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 2.59 pm.

3.4 Tendered documents

Resolved, on the motion of Mr Veitch: That the committee accept and publish the following documents tendered during the public hearing:

- Brochure – New South Wales Apiarists' Association, tendered by Mr Targett
- Guidelines – National Best Management Practice for Beekeeping in the Australian Environment, by the Australian Honey Bee Industry Council, tendered by Mr Targett
- Apiary sites on public lands – a New South Wales Apiarists' Association Position Paper, tendered by Mr Targett
- Regional Economic Multiplier Impacts, Potential Pollinator Deficits across Crops – Rural Industries, Research and Development Corporation, tendered by Mr Targett
- Brochure - Timber Design Awards 2017, tendered by Ms McCaskill
- Information pack - Jobs, Industry, Communities, Timber, Timber NSW, tendered by Ms McCaskill.

4. Adjournment

The committee adjourned at 3.10 pm.

Sarah Dunn
Clerk to the Committee

Draft minutes no. 42

Tuesday 5 June 2018

Standing Committee on State Development

McKell Room, Parliament House, Sydney, 12.03 pm

1. Members present

Mr Martin, *Chair*

Mr Veitch, *Deputy Chair*

Mr Colless

Mr Graham

Mrs Maclaren-Jones

Ms Walker (participating) (from 12.24 pm)

2. Apologies

Mr Green

3. Previous minutes

Resolved, on the motion of Mrs Maclaren-Jones: That draft minutes nos. 40 and 41 be confirmed.

4. Correspondence

The committee noted the following items of correspondence:

Received:

- 1 June 2018 – Email from Mr Brendan Stone, Director, Strategy & Policy, NSW Department of Primary Industries, to secretariat, providing additional information to the committee
- 1 June 2018 – Letter from Mr Daniel Walton, National and NSW Branch Secretary, The Australian Workers' Union, to secretariat, advising that given the short timeframe they are unable to provide a submission.
- 4 June 2018 - Mr Steve Orr, Executive Director, Regional Coordination, Regional NSW, Department of Premier and Cabinet to committee, providing information of the recent restructure of the department's regional teams.

5. Inquiry into the Provisions of the Forestry Legislation Amendment Bill 2018

5.1 Public submission

The committee noted that submission no. 52 was published by the committee clerk under the resolution appointing the committee.

5.2 Consideration of Chair's draft report

The Chair submitted his draft report entitled *Inquiry into the Provisions of the Forestry Legislation Amendment Bill 2018*, which, having been previously circulated, was taken as being read.

Mr Graham moved: That paragraph 2.57 be amended by omitting 'However, the committee notes that there are currently no set requirements for the timeframes around public consultation. The committee therefore considers that the proposed four week timeframe is an acceptable increase to what is currently in place' and inserting instead 'The committee therefore recommends a public consultation period of 42 days'.

Question put.

The committee divided.

Ayes: Mr Graham, Mr Veitch.

Noes: Mr Martin, Mr Colless, Mrs Maclaren-Jones.

Question resolved in the negative.

Mr Veitch moved: That the following new recommendation be inserted after paragraph 2.57:

'Recommendation X

That the bill be amended to increase the public consultation period from 4 weeks to 42 days.'

Question put.

The committee divided.

Ayes: Mr Graham, Mr Veitch.

Noes: Mr Martin, Mr Colless, Mrs Maclaren-Jones.

Question resolved in the negative.

Mr Graham moved: That paragraph 2.58 be amended by omitting 'Nevertheless, we accept that the intent of removing bee-keeping from the IFOA is deregulatory, and as such recommend that the government address the concerns of bee-keepers in the second reading debate' and inserting instead 'The committee recommends that bee-keeping be included in the bill as a co-dependent industry and part of forestry operations that may be authorised and regulated by IFOA'.

Question put.

The committee divided.

Ayes: Mr Graham, Mr Veitch.

Noes: Mr Martin, Mr Colless, Mrs Maclaren-Jones.

Question resolved in the negative.

Mr Veitch moved: That recommendation 1 be omitted: 'That the NSW Government address the concerns of bee-keepers in the second reading debate of the Forestry Legislation Amendment Bill 2018', and the following new recommendation be inserted instead:

'That the NSW Government address the concerns of commercial bee-keepers in the Forestry Legislation Amendment Bill 2018 by recognising commercial apiary be recognised within the Bill as a co-dependent industry and be included as part of forestry operations that may be authorised and regulated by IFOA's'.

Question put.

The committee divided.

Ayes: Mr Graham, Mr Veitch.

Noes: Mr Martin, Mr Colless, Mrs Maclaren-Jones.

Question resolved in the negative.

Resolved, on the motion of Mrs Maclaren-Jones: That recommendation 1 be amended by omitting 'concerns of commercial bee-keepers in the' and inserting instead 'concerns of the NSW Apiarists' Association regarding the removal of commercial bee-keeping from forestry operations in the'.

Resolved, on the motion of Mr Graham: That recommendation 2 be omitted: 'That the Legislative Council pass the Forestry Legislation Amendment Bill 2018', and the following new recommendation be inserted instead:

'That the Legislative Council proceed to debate the Forestry Legislation Amendment Bill 2018, and that the NSW Government address the committee comments and recommendations contained in this report during the Legislative Council's second reading debate'.

Resolved, on the motion of Mrs Maclaren-Jones: That:

The draft report [as amended] be the report of the committee and that the committee present the report to the House;

The transcripts of evidence, submissions, tabled documents, and correspondence relating to the inquiry be tabled in the House with the report;

Upon tabling, all unpublished attachments to submissions be kept confidential by the committee;

Upon tabling, all unpublished transcripts of evidence, submissions, tabled documents, and correspondence relating to the inquiry, be published by the committee, except for those documents kept confidential by resolution of the committee;

Dissenting statements be provided to the secretariat by 4pm today;

The committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;

The committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations or new recommendations resolved by the committee;

That the report be tabled today (Tuesday 5 June 2018).

5.3 Dissenting statement

Resolved, on the motion of Mr Graham: That if possible the committee would like the option of titling a statement of dissent as 'additional member comments'.

5.4 Government response

Resolved, on the motion of Mr Colless: That the government not provide a response to the committee's report entitled *Inquiry into the Provisions of the Forestry Legislation Amendment Bill 2018*.

6. Adjournment

The committee adjourned at 12.36 pm *sine die*.

Sarah Dunn

Clerk to the Committee

Appendix 4 Dissenting statement

From the Hon Mick Veitch MLC and the Hon John Graham MLC, Australian Labor Party

We welcome the opportunity to provide scrutiny for this Bill. We note it is the first piece of legislation that has proceeded through this new Legislative Council process for the examination of bills.

The additional opportunity to examine the details of this Bill has brought some issues to light. These are canvassed below. The process has also provided some reassurance. Some of the issues that had been raised by stakeholders in the short review period were addressed and clarified. As a result they will be matters on which there is broad parliamentary agreement.

We commend this process to the House.

When it comes to the detail of the Bill, we make the following observations.

Firstly, the evidence from the NSW Apiarists' Association was compelling. They put a strong case for the importance of pollination services as underpinning a much bigger set of industries worth in the order of \$5billion. They have struggled to have their views acknowledged by ForestCorp and the relevant Government agencies.

The evidence from the agencies was equally compelling. They revealed that they had not met with the NSW Apiarists' Association in the four years that the Coastal Integrated Forestry Operations Approvals process has been unfolding. This lack of engagement was of surprise to the Committee, and in our view gives more weight to the case against removing references to the apiary industry from this Bill.

Accordingly, we recommend that commercial apiary be recognised within the Bill as a co-dependent industry. In addition we oppose the removal of beekeeping under schedule 2[17] of the Bill, and recommend that beekeeping be included as part of forestry operations that may be authorised and regulated by Integrated Forestry Operations Approvals.

Secondly, we support the creation of a public registerer for Private Native Forestry plans. We note the committee is supportive of this approach in its comments.

Thirdly, we do support an increase in public consultation from 28 days to 42 days. This would be in line with the consultation periods in the Crown Lands' community engagement process. In our view four weeks is too short a period for such important consultation to take place.

Finally, we welcome the Committee recommendation that this Bill proceed to debate. We particularly welcome the recommendations that suggest the Government address the issues raised in the second reading debate. The form of these recommendations gives the House in future additional tools by which to shape legislation before it.

Consistent with that approach we note this Committee's resolution that in future an option for members would be to submit 'Additional Comments' rather than a dissenting statement. We believe this Committee recommendation would benefit from further consideration.

In our view this short process has strengthened the ability of the House to fulfil its obligations as a place of review.