



LEGISLATIVE COUNCIL

PORTFOLIO COMMITTEE NO. 7

## Local Land Services Amendment (Miscellaneous) Bill 2020

Report 6

April 2021

7





Portfolio Committee No. 7 - Planning and Environment

**Local Land Services  
Amendment  
(Miscellaneous) Bill 2020**

Ordered to be printed 8 April 2021 according to Standing  
Order 231

New South Wales Parliamentary Library cataloguing-in-publication data:

**New South Wales. Parliament. Legislative Council. Portfolio Committee No. 7 – Planning and Environment.**

Local Land Services Amendment (Miscellaneous) Bill 2020 / Portfolio Committee No. 7 – Planning and Environment [Sydney, N.S.W.] : the Committee, 2021. [vi,22] pages ; 30 cm. (Report no. 6 / Portfolio Committee No. 7 – Planning and Environment)

“April 2021”

Chair: Cate Faehrmann, MLC.

ISBN: 9781922543141

1. New South Wales. Parliament. Legislative Assembly — Local Land Services Amendment (Miscellaneous) Bill 2020
2. Ecosystem management – Law and legislation — New South Wales
3. Land use – New South Wales
- I. Faehrmann, Cate.
- II. Title.
- III. Series: New South Wales. Parliament. Legislative Council. Portfolio Committee No. 7 – Planning and Environment. Report ; no. 6

352.9522 (DDC22)

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## Terms of reference

1. That the Local Land Services Amendment (Miscellaneous) Bill 2020 be referred to Portfolio Committee No. 7 – Planning and Environment for inquiry and report

The terms of reference were referred to the committee by the Legislative Council on 19 November 2020.<sup>1</sup>

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<sup>1</sup> *Minutes*, NSW Legislative Council, 19 November 2020, pp 1742-1743.

## Committee details

### Committee members

<b>Ms Cate Faehrmann MLC</b>	The Greens	<i>Chair</i>
<b>The Hon Mark Pearson MLC</b>	Animal Justice Party	<i>Deputy Chair</i>
<b>The Hon Mark Buttigieg MLC</b>	Australian Labor Party	
<b>The Hon Catherine Cusack MLC</b>	Liberal Party	
<b>The Hon Sam Farraway MLC<sup>2</sup></b>	The Nationals	
<b>The Hon Shayne Mallard MLC</b>	Liberal Party	
<b>The Hon Penny Sharpe MLC</b>	Australian Labor Party	
<b>Mr Justin Field MLC<sup>3</sup></b>	Independent	

### Contact details

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<sup>2</sup> The Hon Sam Farraway MLC substituted for the Hon Ben Franklin MLC from 11 December 2020 for the duration of the inquiry.

<sup>3</sup> Mr Justin Field MLC was a participating member from 1 February 2021 for the duration of the inquiry.

## **Conduct of inquiry**

The terms of reference for the inquiry were referred to the committee by the Legislative Council on 19 November 2020.

The committee received 68 submissions, as well as 1,096 responses from individual participants to an online questionnaire.

Inquiry related documents are available on the committee's website.



## Chapter 1 Overview

**1.1** The Local Land Services Amendment (Miscellaneous) Bill 2020 was introduced in the Legislative Assembly on 14 October 2020 by The Hon Adam Marshall MP, Minister for Agriculture and Western New South Wales.<sup>4</sup>

**1.2** The bill was, in part, introduced to address concerns that the State Environmental Planning Policy (Koala Habitat Protection) 2019 had gone too far in its attempts to protect koalas and their habitat and was negatively impacting on private landholders and industry.

**1.3** In introducing the bill Minister Marshall stated:

The Koala SEPP, as it is commonly known, is an example of the identified problem of how practical application of one part of government regulation can clash with the practical application of another. The decoupling provisions in this bill address the problem caused by the interaction of the koala SEPP, environmental zones and the dual consent requirements currently attached to private native forestry with the Land Management Framework. The reforms come after a firm and frank discussion within our Government, and with people out in rural and regional New South Wales. The changes to the LLS Act in the bill are supported by the NSW Farmers Association and Timber NSW, as well as country MPs who recognise that this SEPP would have unintended operative impacts on agriculture and private native forestry.<sup>5</sup>

**1.4** The bill passed the Assembly on 21 October 2020<sup>6</sup> and was reported in the Legislative Council the same day before proceeding to be debated on 19 November 2020. Instead of passing the second reading of the bill, the Legislative Council voted to refer it to Portfolio Committee No. 7 – Planning and Environment for inquiry and report.<sup>7</sup>

**1.5** In moving an amendment to the bill to refer it to this committee, the Hon Catherine Cusack MLC said:

I will move an amendment to the bill in the earnest belief that a more transparent process will assist the bill, the government and the community to come together in the great cause of saving our koalas.<sup>8</sup>

**1.6** A majority of members in the Council expressed concern that the bill now was overreach and was to the benefit of private landholders and industry at the expense of koalas and their habitat. They argued that the implementation of the bill went against some of the recommendations of this committee's Inquiry into Koala Populations and their Habitat in NSW and in preventing the extinction of koalas in New South Wales before 2050.

<sup>4</sup> *Votes and Proceedings*, NSW Legislative Assembly, 14 October 2020, p 838.

<sup>5</sup> Hon Adam Marshall MP, Second reading speech: Local Land Services Amendment (Miscellaneous) Bill 2020, 14 October 2020.

<sup>6</sup> *Votes and Proceedings*, NSW Legislative Assembly, 21 October 2020, p 866.

<sup>7</sup> *Minutes*, NSW Legislative Council, 19 November 2020, p 1743.

<sup>8</sup> *Hansard*, NSW Legislative Council, Hon Catherine Cusack MLC, 19 November 2020, p 4498.

- 1.7 Following the inquiry reference from the House, the Premier and Deputy Premier issued a Media Statement saying that the ‘Government will revert to operations under the former SEPP 44 by the end of the month and in the new year ... will develop a policy to protect koalas and the interests of farmers’<sup>9</sup>. The committee recognised that even though the future of the bill was uncertain, it would be beneficial to have a broader discussion regarding ways to bring competing interests together and effectively protect koalas and their habitat as part of the inquiry.
- 1.8 The old Koala SEPP 44 was initially renamed the Koala SEPP 2019. Then, on 8 March 2021, the NSW Government announced that the Koala SEPP 2019 would be remade into a new 2021 SEPP. The NSW Government advised the following details:

To ensure that Koala habitat is protected, whilst limiting unnecessary regulation on rural land use, the following measures will be introduced:

- Koala SEPP 2019 will be remade across NSW as Koala SEPP 2021;
- The existing Koala SEPP 2020 will continue to apply in core rural zones (RU 1, 2 and 3), except in metropolitan Sydney, Blue Mountains and the Central Coast, where Koala SEPP 2021 will apply across all zones;
- Comprehensive Koala Plans of Management (KPOM) will be finalised to protect koala habitat in Tweed and Byron Shires.
- Private Native Forestry (PNF) and Local Land Services (LLS) codes will be revised to ensure robust protections for koalas in areas of high value koala habitat and certainty and consistency for primary producers;
- The Minister for Planning will issue a new section 9.1 direction to ensure that only the Minister, and not councils, will be empowered to rezone land used for primary production to an environmental zone, or to rezone land currently in rural zones 1, 2 and 3 to other rural zones;
- Once the codes are finalised and reflected in legislation (as required), the Koala SEPP 2020 will be repealed and the Koala SEPP 2021 will apply to the remaining land;
- At that time, dual consent provisions for PNF in local environmental plans will be removed through Koala SEPP 2021;
- Koala Plans of Management and guidelines under Koala SEPP 2021 will require the approval of the Secretary of DPIE and the concurrence of the Secretary of DRNSW.<sup>10</sup>

- 1.9 The State Environmental Planning Policy (Koala Habitat Protection) 2021 commenced on 17 March 2021.<sup>11</sup>

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<sup>9</sup> Media release, Hon Gladys Berejiklian MP, Premier and Hon John Barilaro MP, Deputy Premier, *Gladys Berejiklian John Barilaro media statement – Local Land Services*, 19 November 2020, <https://www.nsw.gov.au/media-releases/gladys-berejiklian-john-barilaro-media-statement-local-land-services>.

<sup>10</sup> Media release, Hon John Barilaro MP, Deputy Premier, Hon Rob Stokes MP, Minister for Planning and Public Spaces, Hon Matt Kean MP, Minister for Environment, *NSW Government delivers Koala SEPP 2021*, 8 March 2021, viewed at: <https://www.planning.nsw.gov.au/News/2021/NSW-Government-delivers-Koala-SEPP-2021>.

<sup>11</sup> NSW Department of Planning, Industry and Environment, *Koala Habitat Protection SEPP*, viewed at: <https://www.planning.nsw.gov.au/Policy-and-Legislation/Environment-and-Heritage/Koala-Habitat-Protection-SEPP>.

- 1.10** Following the commencement of the SEPP, the committee decided to curtail its inquiry by not proceeding with any hearings and to instead table this short report in the Legislative Council.
- 1.11** In coming to this decision, the committee considered that it was not practical to continue conducting an inquiry into a bill that was not going to pass the NSW Parliament as a new policy had been implemented in the bill's place.
- 1.12** The committee thanks the 68 submission authors and 1,096 survey respondents for participating in the inquiry and making a valuable contribution to this important issue.
- 1.13** While the committee is not conducting a full inquiry process for the bill, we reserve the right to potentially hold a future inquiry into the Koala SEPP 2021 to ensure the protection of koalas and their habitat throughout New South Wales.



## Appendix 1 Submissions

No.	Author
1	Coffs Harbour City Council
2	Mr Simon Dawson and Ms Janette van der Hoek
3	Dr Christine (Adams) Hosking
4	Environmental Defenders Office (EDO)
5	Bangalow Koalas
6	Port Stephens Greens
7	Ms Susie Hearder
8	Kalang River Forest Alliance Inc.
9	Team Koala Inc.
10	EcoNetwork - Port Stephens Inc.
11	Local Government NSW
12	Friends of the Koala Inc.
13	Bellingen Shire Council
14	Ecological Consultants Association of NSW Inc.
15	Animal Liberation
16	North Coast Environment Council Inc. (NCEC)
17	NSW Wildlife Information, Rescue and Education Service Inc. (WIRES)
18	Dr Stephen Phillips, Principal Research Associate, Biolink Ecological Consultants
19	Snowy Monaro Regional Council
20	WWF-Australia
21	Science for Wildlife
22	Wingecarribee Shire Council
23	Port Macquarie-Hastings Council
24	Bellingen Environment Centre Inc. (BEC)
25	Wollondilly Shire Council
26	Save Mt. Gilead Inc.
27	North East Forest Alliance Inc.
28	Byrrell Creek Landcare
29	Dr Roslyn Irwin
30	Nature Conservation Council of NSW
31	Save Sydney's Koalas (South West) Inc.

<b>No.</b>	<b>Author</b>
32	NSW Farmers' Association (NSWFA)
33	Lismore City Council
34	Better Planning Network Inc. (BPN)
35	Mr Nick Gardiner
36	Mr Scott White
37	Mr John Klason
38	Ms Anita O'Connor
39	Name suppressed
40	Mr Philip Edmonds
41	Mr Alan Payne
42	Confidential
43	Mr David Dawson
44	J. Notaras & Sons Pty. Ltd.
45	Ms Donna Layton
46	Confidential
47	Name suppressed
48	Coffs Harbour Hardwoods
49	Wilton Logging Pty Ltd
50	Biomass Heating Australia
51	Jamax Forest Solutions
52	North Coast Forest Management
53	Rassel Logging Pty Ltd
54	Name suppressed
55	Mr Steve Dobbys
56	Confidential
57	Mr Andrew Mullins
58	Name suppressed
59	Weathertex Pty Ltd
60	Timber NSW
61	Confidential
62	Ballina Shire Council
63	South East Timber Association Inc. (SETA)
64	Ms Helen Murray
65	OST Farming

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<b>No.</b>	<b>Author</b>
66	Confidential
67	Name suppressed
68	Ms Victoria Quast

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## Appendix 2 Minutes

### Minutes no. 39

Friday 4 December 2020

Portfolio Committee No. 7 – Planning and Environment

Macquarie Room and via videoconference, 9.17 am

#### 1. Members present

Ms Faehrmann, *Chair*

Mr Pearson, *Deputy Chair*

Mr Buttigieg

Ms Cusack

Mr Khan (*substituting for Mr Franklin*)

Mr Mallard

Mr Primrose (*substituting for Mr Buttigieg from 1.30 pm*)

Ms Sharpe

#### 2. Previous minutes

Resolved on the motion of Ms Sharpe: That draft minutes no. 38 be confirmed.

#### 3. Correspondence

The committee noted the following items of correspondence:

##### *Received*

- 24 November 2020 – Email from Cr Mark Rodda to the secretariat in response to an invitation to appear at a public hearing, noting his work for the Department of Industry and Environment, Housing and Property (Crown Lands).
- 1 December 2020 – Email from Mr Declan Page, CSIRO, to the secretariat providing a recently published CSIRO study for the consideration of the committee prior to his appearance at a public hearing on 4 December 2020.

#### 4. Inquiry into the Local Land Services Amendment (Miscellaneous) Bill 2020

##### 4.1 Terms of reference

The committee noted the referral on 19 November 2020 of the following terms of reference:

1. That the Local Land Services Amendment (Miscellaneous) Bill 2020 be referred to the Portfolio Committee No. 7 – Planning and Environment for inquiry and report.

##### 4.2 Proposed timeline

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

- Friday 5 February 2021 – closing date for submissions
- Late March 2021 – one Sydney hearing
- Late March 2021 – one regional hearing/site visit (Clarence)

##### 4.3 Submissions, online questionnaire and proformas

Resolved on the motion of Ms Sharpe: That in relation to the Inquiry into the Local Land Services Amendment (Miscellaneous) Bill 2020:

- the committee accept submissions from nominated stakeholders and organisations/experts in the field who apply to make a submission
- the attached stakeholder list be agreed to, with members having 48 hours to comment or nominate additional stakeholders
- the committee not issue an open call for submissions through the website

- the committee not accept any proformas
- the committee conduct an online questionnaire open for the same period as submissions
- the wording for the website be as follows:  
Submissions
  - Individuals are invited to submit their comments on the bill here [hyperlink to online questionnaire]. This is a new way for individuals to participate in inquiries and it means we will no longer accept proformas.
  - If you are an organisation or have specialist knowledge in the field and you would like to make a more detailed submission, please contact the secretariat before [submission closing date].

Resolved on the motion of Mr Khan: That the following issues be forwarded to nominated stakeholders with the call for submissions:

- Current and potential incentives and challenges facing rural landholders who seek to protect koalas and their habitat on their land
- The mechanisms by which biodiversity values are assessed on private land
- The operation and effectiveness of the 1994, 2019 and new draft Koala SEPPs in protecting koalas and their habitat
- The impacts of current regulatory regimes on private landholders
- The impact on local government's ability to manage koala populations in their Local Government Area and on koala plans of management.

#### **4.4 Online questionnaire and summary report**

Resolved, on the motion of Mr Pearson: That the questions for the online questionnaire be based on the above list of issues being forwarded to nominated stakeholders and include a further standard question regarding support or opposition to the bill.

Resolved, on the motion of Mr Pearson: That the secretariat prepare a summary report of responses to the online questionnaire for publication on the website and use in the report, and that:

- the committee agree to publication of the report via email, unless a member raises any concerns
- individual responses be kept confidential on tabling.

## **5. Inquiry into the rationale for, and impacts of, new dams and other water infrastructure in NSW**

### **5.1 Answers to questions on notice**

The committee noted that the following responses have been received and will be published on the committee's website as per the resolution establishing the committee:

- Mr Raymond Woods received on 27 November 2020
- NSW Farmers' Association – Upper Lachlan Branch received on 28 November 2020
- Department of Planning, Industry and Environment and WaterNSW received on 30 November 2020
- Lachlan Valley Water received on 1 December 2020

### **5.2 Additional information from Ms Jane Paul, Daroo Landcare**

Resolved, on the motion of Mr Pearson: That the committee accept and publish the additional information provided by Ms Jane Paul, Daroo Landcare.

### **5.3 Public hearing**

Witnesses were admitted.

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

The following witnesses were sworn and examined:

- Mr Michael Drum, Executive Officer, Macquarie River Food and Fibre
- Mr Tony Quigley, Chairman, Macquarie River Food and Fibre
- Mr Rowan Cleaver, Member, Macquarie Effluent Creeks Association

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Phillip Spark, Individual

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Mark Rodda, Individual

Resolved, on the motion of Mr Khan: That the committee hear Mr Rodda's evidence *in camera*.

The committee resumed a public hearing at 10.35 am.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Dr Declan Page, Principal Research Scientist, CSIRO Land and Water
- Dr Graham Bonnett, Interim Leader Drought Resilience Mission, CSIRO Agriculture and Food

The evidence concluded and the witnesses withdrew.

Mr Mallard departed at 12.00 pm.

The following witnesses were sworn and examined:

- Mr John Webster, Owner, Webster Pastoral Co.
- Mrs Kerri Webster, Owner, Webster Pastoral Co.

The evidence concluded and the witnesses withdrew.

The Hon Melinda Pavey MP, Minister for Water, Property and Housing was admitted.

The Chair noted that members of Parliament swear an oath to their office, and therefore do not need to be sworn prior to giving evidence before a committee. The Chair also reminded the following witnesses that they did not need to be sworn, as they had been sworn at another hearing for this inquiry:

- Mr Andrew George, A/Chief Executive Officer, WaterNSW
- Mr Jim Bentley, Chief Executive Officer (Deputy Secretary), Department of Planning Industry and Environment

The evidence concluded and the witnesses withdrew.

Mr Primrose departed at 3.35 pm.

The following witnesses were sworn and examined:

- Mr Derek Rutherford, Director, Water for the Environment, Department of Planning, Industry and Environment
- Ms Michelle Dumazel, Executive Director, Biodiversity & Conservation Environment, Energy and Science Group, Department of Planning, Industry and Environment

Ms Sharpe departed at 4.12 pm.

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 4.35 pm.

## 6. Adjournment

The committee adjourned at 4.40 pm *sine die*.

Madeleine Dowd  
Committee Clerk

**Draft Minutes no. 43**

Tuesday 2 March 2021

Portfolio Committee No. 7 - Planning and Environment

Jubilee Room, Parliament House, Sydney, at 9.15 am

**1. Members present**Ms Faehrmann, *Chair*Mr Pearson, *Deputy Chair*

Mr Buttigieg

Ms Cusack (until 12.11 pm)

Mr Franklin

Mr Mallard

Ms Sharpe (participating from 11.30 am until 12.40 pm)

Ms Boyd (participating from 11.53 am until 12.35 pm)

Mr Field (participating)

Mr Searle (participating) (substituting for Ms Sharpe from 11.30 am until 12.40 pm)

Mr Shoebridge (participating from 10.59 am until 11.42 am)

**2. Previous minutes**

Resolved, on the motion of Ms Cusack: That draft minutes no. 42 be confirmed.

**3. Correspondence**

The committee noted the following items of correspondence:

***Received***

- 29 January 2021 - Email from Hon Natasha Maclaren-Jones MLC, Government Whip to secretariat, advising of Government substitutions for Budget Estimates 2020-2021 initial meetings
- 12 February 2021 - Email from Ms Kaelee Aboud, Office of the Hon Natasha Maclaren-Jones MLC, Government Whip to secretariat, advising of Government substitutions for Budget Estimates 2020-2021 initial hearings
- 15 February 2021 - Email from Ms Abigail Boyd MLC to secretariat, advising of Greens Crossbench substitutions and participating members for Budget Estimates 2020-2021 initial hearings
- 17 February 2021 - Email from Mr Peter Poulos, Office of Minister Kean to secretariat, confirming witness attendance for the Energy and Environment hearing on 2 March 2021
- 17 February 2021 - Email from Ms Fiona Gibson, Office of Minister Stokes to secretariat, confirming witness attendance for the Planning and Public Spaces hearing on 9 March 2021
- 17 February 2021 – Letter from Minister Hancock to secretariat, confirming witness attendance for the Local Government hearing on 11 March 2021
- 19 February 2021 – Letter from the Hon Natasha Maclaren-Jones MLC, Government Whip to secretariat, advising of Government substitutions for PC7 Budget Estimates Local Government hearing on 11 March 2021
- 23 February 2021 - Email from Mr Peter Poulos, Office of Minister Kean to secretariat, confirming attendance of witnesses requested by committee and providing explanation for the non-attendance of certain witnesses for the Energy and Environment hearing on Tuesday 2 March 2021
- 23 February 2021 - Email from Ms Jane Boag, Office of Minister Hancock to secretariat, providing explanation for the non-attendance of certain witnesses for the Local Government hearing on Thursday 11 March 2021
- 26 February 2021 – Email from Ms Maree Mccaskill, General Manager, Timber NSW providing the Timber NSW submission to the inquiry into the Local Land Services Amendment (Miscellaneous) Bill 2020.
- 1 March 2021 – Email from Ms Kaelee Aboud, Office of the Hon Natasha Maclaren-Jones MLC, Government Whip to secretariat, advising Hon Ben Franklin MLC will attend the Energy and

Environment hearing on Tuesday 2 March 2021 and no longer requires a substitution by Hon Sam Farraway MLC

- 2 March 2021 - Email from Ms Cara Punch, Office of Hon Mark Buttigieg MLC, Opposition Whip to secretariat, advising the Hon Adam Searle MLC will be substituting for Hon Penny Sharpe MLC from 11.30 am to 12.45 pm, and Hon Penny Sharpe will be participating from 11.30 am – 12.45 pm but will return as a substantive member from 2.00 pm for the Energy and Environment hearing on 2 March 2021.

***Sent***

- 4 February 2021 - Letter from secretariat to Hon Matt Kean MP, Minister Energy and Environment, attaching witness invitation for Budget Estimates 2020 - 2021 initial hearings
- 4 February 2021 - Letter from secretariat to Hon Shelly Hancock MP, Minister Local Government, attaching witness invitation for Budget Estimates 2020 - 2021 initial hearings
- 4 February 2021 - Letter from secretariat to Hon Rob Stokes MP, Minister Planning and Public Spaces, attaching witness invitation for Budget Estimates 2020 - 2021 initial hearings
- 19 February 2021 – Email from secretariat to Mr Peter Poulos, Office of Minister Kean, requesting attendance of certain witnesses
- 19 February 2021 - Email from secretariat to Ms Jane Boag, Office of Minister Hancock, requesting attendance of certain witnesses.

**4. Inquiry into the Local Land Services Amendment (Miscellaneous) Bill 2020**

**4.1 Participating member**

Resolved, on the motion of Mr Pearson: That Mr Justin Field MLC who intends to participate for the duration of the inquiry into Local Land Services Amendment (Miscellaneous) Bill 2020:

- be provided with copies of all inquiry related documents, including meeting papers, unpublished submissions and the Chair's draft report
- has site visit/ regional hearing costs associated with his participation in the inquiry covered by the committee.

**4.2 Timber NSW correspondence and timber industry submissions**

Resolved, on the motion of Mr Pearson: That

- the committee reiterate its resolution to not accept pro formas
- an appendix to the online survey report be prepared by the secretariat which reports on the numbers and views of individual timber participants who submitted pro formas to the inquiry
- the Chair write to Timber NSW noting that it values the views of all stakeholders, that submissions from Timber NSW and other timber stakeholders have been accepted and noting the above resolutions concerning pro formas.

**5. Inquiry into Budget Estimates 2020-2021 – initial hearings**

**5.1 Order for examination of portfolios**

The committee noted that it had previously resolved that the portfolios of Energy and Environment be examined concurrently by Opposition and Crossbench members only, from 9.30 am to 12.30 pm, and from 2.00 pm to 5.00 pm, with an additional 15 minutes reserved for Government questions for each of the morning and afternoon sessions.

Resolved, on the motion of Mr Pearson: That the hearing adjourn for 10 minutes at 11.00 am and 3.30 pm and that as a consequence, the morning session allocated for questions by Opposition and Crossbench members conclude at 12.40 pm and the afternoon session conclude at 5.10 pm.

## 5.2 Public hearing: Energy and Environment

Minister, departmental witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters. The Chair noted that members of Parliament swear an oath to their office, and therefore do not need to be sworn prior to giving evidence before a committee.

The Hon Matt Kean MP, Minister for Energy and Environment, was admitted.

The following witnesses were sworn:

- Mr Jim Betts, Secretary, Department of Planning, Industry and Environment
- Ms Tracy Mackey, Chief Executive Officer, NSW Environment Protection Authority
- Mr James Hay, Deputy Secretary, Energy, Climate Change and Sustainability, Department of Planning, Industry and Environment
- Ms Sharon Molloy, Acting Deputy Secretary, Biodiversity, Conservation and Science, Department of Planning, Industry and Environment
- Mr Andrew Lewis, Executive Director, Energy, Department of Planning, Industry and Environment
- Dr Paul Grimes, Coordinator-General, Environment, Energy and Science, Department of Planning, Industry and Environment
- Dr Atticus Fleming, Deputy Secretary, National Parks and Wildlife Service, Department of Planning, Industry and Environment
- Mr John Cleland, Chief Executive Officer, Essential Energy
- Dr Kate Wilson, Executive Director, Climate Change and Sustainability, Department of Planning, Industry and Environment
- Mr Paul Elton, Chief Executive Officer, Biodiversity Conservation Trust, Department of Planning, Industry and Environment
- Ms Michelle Dumazel, Executive Director, Biodiversity and Conservation Division, Department of Planning, Industry and Environment
- Ms Naomi Stephens, A/Executive Director, Park Operations, National Parks and Wildlife Service, Department of Planning, Industry and Environment
- Mr Robert Quirk, Executive Director, Park Programs, National Parks and Wildlife Service, Department of Planning, Industry and Environment
- Mr Stephen Beaman, Executive Director, Regulatory Operations Metro, NSW Environment Protection Authority
- Ms Carmen Dwyer, Executive Director, Regulatory Operations Regional, NSW Environment Protection Authority
- Dr Georgina Kelly, Executive Director, Science, Economics and Insights, Department of Planning, Industry and Environment.

The Chair declared the proposed expenditure for the portfolios of Energy and Environment open for examination.

The Minister and departmental witnesses were examined by the committee.

Mr Pearson tendered the following document:

- Open letter to world leaders from various world scientists regarding use of forests for bio energy, dated 11 February 2021.

The Minister withdrew at 12.40 pm.

The public hearing continued.

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 5.08 pm.

The public and media withdrew.

**6. Adjournment**

The committee adjourned at 5.10 pm, until 9.15 am, Tuesday 9 March 2021, Jubilee Room, Budget Estimates hearing — Planning and Public Spaces.

Beverly Duffy and Stewart Smith  
**Committee Clerks**

**Draft Minutes no. 44**

Tuesday 9 March 2021

Portfolio Committee No. 7 - Planning and Environment

Jubilee Room, Parliament House, Sydney, at 9.15 am

**1. Members present**

Ms Faehrmann, *Chair*

Mr Pearson, *Deputy Chair*

Ms Cusack (until 4.08 pm)

Mr Franklin

Mr Mallard (from 2.58 pm)

Mr Searle (substituting for Mr Buttigieg)

Ms Sharpe

Mr Field (participating until 4.05 pm)

Mr Shoebridge (participating from 11.14 am until 11.50 am)

Mr Daniel Mookhey (participating from 10.35 am until 11.32 am, and from 3.17 pm until 4.15pm)

**2. Correspondence**

The committee noted the following items of correspondence:

***Received***

- 25 February 2021 - Email from Mr Ben Cronly, Office of Ms Cate Faehrmann MLC, to secretariat, advising that Mr Shoebridge MLC will be a participating member for the Planning and Public Spaces hearing on 9 March 2021
- 8 March 2021 - Email from Ms Cara Punch, Office of the Hon Mark Buttigieg MLC, Opposition Whip to secretariat, advising that the Hon Daniel Mookhey MLC will be a participating member for the Planning and Public Spaces hearing on 9 March 2021.

**3. Inquiry into the Local Land Services Amendment (Miscellaneous) Bill 2020****3.1 Reimbursement of members' inquiry related expenses**

The committee noted that some members will not be flying with the committee for the hearing in Coffs Harbour on 31 March 2021. The committee considered whether to reimburse these members for fuel expenses incurred for the sole purpose of travelling to Coffs Harbour for the hearing.

Resolved, on the motion of Mr Searle: That:

- if requested, committee members, including participating members, be reimbursed for fuel expenses incurred as a result of attending the hearing in Coffs Harbour on 31 March 2021 for the inquiry into the Local Land Services Amendment (Miscellaneous) Bill 2020, and
- the total amount reimbursed should not exceed the cost of the commercial flights, which is \$323.08 per person, which would otherwise be incurred had the members travelled with the committee.

#### 4. Inquiry into Budget Estimates 2020-2021 – initial hearings

##### 4.1 Order for examination of portfolios

The committee noted that it had previously resolved that the portfolios of Planning and Public Spaces be examined concurrently by Opposition and Crossbench members only, from 9.30 am to 12.30 pm, and from 2.00 pm to 8.00 pm.

Resolved, on the motion of Mr Searle: That, with no government questions being asked, the Planning and Public Spaces portfolios be examined concurrently by Opposition and Cross Bench members only, from 9.30 am to 12.30 pm, and from 2.00 pm to 5.00 pm, with an additional 15 minutes reserved for Government questions for each of the morning and afternoon sessions.

##### 4.2 Public hearing: Planning and Public Spaces

Minister, departmental witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters. The Chair noted that members of Parliament swear an oath to their office, and therefore do not need to be sworn prior to giving evidence before a committee.

The Hon Rob Stokes MP, Minister for Planning and Public Spaces, was admitted.

The Chair also reminded Mr Jim Betts, Secretary, Department of Planning, Industry and Environment that he did not need to be sworn, as he had been sworn at another Budget Estimates hearing for the same committee.

The following witnesses were sworn:

- Mr Marcus Ray, Group Deputy Secretary, Planning and Assessment, Department of Planning, Industry and Environment
- Ms Alex O'Mara, Group Deputy Secretary, Place, Design and Public Spaces., Department of Planning, Industry and Environment
- Mr Brett Whitworth, Deputy Secretary, Greater Sydney, Place and Infrastructure, Department of Planning, Industry and Environment
- Mr Shaun Smith, Chief Financial Officer, Department of Planning, Industry and Environment
- Professor Mary O'Kane, Chair, Independent Planning Commissioner
- Mr John Brogden, Chief Executive Officer, Landcom.

The Chair declared the proposed expenditure for the portfolios of Planning and Public Spaces open for examination.

The Minister and departmental witnesses were examined by the committee.

Ms Faehrmann tendered the following document:

- Email trail titled Department of Planning responses to Questions – SEPP, dated 16 September 2020.

Mr Mookhey tendered the following documents:

- Email trail ending with an email from Rick Graf, Billbergia Group, dated 2 May 2019, concerning the Rhodes Revised Draft Precinct Plan  
Letter from Mr John Kinsella, Managing Director, Billbergia Group, and Mr Joseph Jacob, Managing Director, Prolet, to the Minister for Planning and Public Spaces, copied to the Hon John Sidoti MP, dated 1 May 2019, concerning the Rhodes revised draft precinct plan, and attaching various articles appearing in the Telegraph.

Mr Field tendered the following document:

- Document titled NSW Government Holding Lines regarding the Warragamba Dam wall, undated.

Ms Faehrmann tendered the following document:

- Email from Minister Stokes' Office to the Deputy Premier's Office, dated 20 August 2020, attaching a letter from the Hon Rob Stokes MP, Minister for Planning and Public Spaces, to the Hon John Barilaro



MP, Deputy Premier, undated, regarding finalisation of the new Koala Habitat Protection SEPP and Koala Habitat Protection Guideline.

The Minister withdrew at 12.40 pm.

The public hearing continued.

Ms Faehrmann tendered the following document:

- Email trail ending with an email from Ms Kate Wilson, Office of the Minister for Minister for Planning and Public Spaces, dated 28 September 2020, concerning koala habitat categories and associated land management actions.

Mr Mookhey tendered the following documents:

- Department of Planning and Environment, Business Contact Form, dated 3 September 2018.
- Department of Planning and Environment, Business Contact Form, dated 9 October 2018.
- Email trail ending with an email from Mr Simon Babbage, Chief of Staff to the Minister for Planning and Public Spaces, dated 10 October 2018, concerning Rhodes East school.
- Email trail ending with an email from Rick Graf, Billbergia Group, dated 2 May 2019, concerning the Rhodes revised draft precinct plan.
- Letter from Mr John Kinsella, Managing Director, Billbergia Group, and Mr Joseph Jacob, Managing Director, Prolet, to the Minister for Planning and Public Spaces, copied to the Hon John Sidoti MP, dated 1 May 2019, concerning the Rhodes revised draft precinct plan, and attaching various articles appearing in the Telegraph.
- Minutes of meeting at the DPE Office, 320 Pitt St, Sydney, concerning the Rhodes East Billbergia and Prolet Proposed Development and Public Benefit Offer, dated 6 July 2018.

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 5.09 pm.

The public and media withdrew.

#### 4.3 Tendered documents

Resolved, on the motion of Mr Pearson: That the committee accept and publish the following documents tendered during the Planning and Public Spaces hearing held on Tuesday 9 March 2021:

- Email trail titled Department of Planning responses to Questions – SEPP, dated 16 September 2020, tendered by Ms Cate Faehrmann MLC
- Email trail ending with an email from Rick Graf, Billbergia Group, dated 2 May 2019, concerning the Rhodes Revised Draft Precinct Plan, tendered by Mr Daniel Mookhey MLC
- Letter from Mr John Kinsella, Managing Director, Billbergia Group, and Mr Joseph Jacob, Managing Director, Prolet, to the Minister for Planning and Public Spaces, copied to the Hon John Sidoti MP, dated 1 May 2019, concerning the Rhodes revised draft precinct plan, and attaching various articles appearing in the Telegraph, tendered by Mr Daniel Mookhey MLC
- Document titled NSW Government Holding Lines regarding the Warragamba Dam wall, undated, tendered by Mr Justin Field MLC
- Email from Minister Stokes' Office to the Deputy Premier's Office, dated 20 August 2020, attaching a letter from the Hon Rob Stokes MP, Minister for Planning and Public Spaces, to the Hon John Barilaro MP, Deputy Premier, undated, regarding finalisation of the new Koala Habitat Protection SEPP and Koala Habitat Protection Guideline, tendered by Ms Cate Faehrmann MLC
- Email trail ending with an email from Ms Kate Wilson, Office of the Minister for Minister for Planning and Public Spaces, dated 28 September 2020, concerning koala habitat categories and associated land management actions, tendered by Ms Cate Faehrmann MLC
- Department of Planning and Environment, Business Contact Form, dated 3 September 2018, tendered by Mr Daniel Mookhey MLC

- Department of Planning and Environment, Business Contact Form, dated 9 October 2018, tendered by Mr Daniel Mookhey MLC
- Email trail ending with an email from Mr Simon Babbage, Chief of Staff to the Minister for Planning and Public Spaces, dated 10 October 2018, concerning Rhodes East school, tendered by Mr Daniel Mookhey MLC
- Minutes of meeting at the DPE Office, 320 Pitt St, Sydney, concerning the Rhodes East Billbergia and Prolet Proposed Development and Public Benefit Offer, dated 6 July 2018, tendered by Mr Daniel Mookhey MLC.

## 5. Inquiry into the Local Land Services Amendment (Miscellaneous) Bill 2020

### 5.1 Conduct of the inquiry

The committee discussed the further conduct of the inquiry into the Local Land Services Amendment (Miscellaneous) Bill 2020 following the release by the Minister for Planning and Public Spaces, the Hon Rob Stokes MP, of a media release entitled 'NSW Government delivers Koala SEPP 2021', dated 8 March 2021, which indicated that Koala SEPP 2019 will be remade across NSW as Koala SEPP 2021.

The committee agreed to discuss the implication of the new Koala SEPP for the inquiry further.

## 6. Adjournment

The committee adjourned at 5.17 pm, until 9.15 am, Thursday 11 March 2021, in the Macquarie Room, for the Budget Estimates hearing into Local Government.

Merrin Thompson and Stephen Frappell

**Committee Clerks**

### Draft Minutes no. 45

Thursday 11 March 2021

Portfolio Committee No. 7 - Planning and Environment

Macquarie Room, Parliament House, Sydney, at 9.15 am

## 1. Members present

Ms Faehrmann, *Chair* (until 9.35 am)

Mr Pearson, *Deputy Chair* (from 9.30 am)

Mr Buttigieg (until 3.11 pm, and from 3.26 pm until 4.45 pm)

Ms Cusack (until 3.02 pm)

Mr Graham (substituting for Ms Sharpe)

Mr Khan (substituting for Mr Franklin, from 2.00 pm until 2.35 pm, and from 3.08 pm to 4.45 pm)

Mr Mallard (from 9.35 am)

Ms Boyd (participating from 10.55 am until 11.50 am)

Mr Moselmane (substituting for Mr Buttigieg from 3.11 pm to 3.26 pm)

Mr Shoebridge (participating from 9.30 am until 10.15 am, and from 10.35 am)

## 2. Correspondence

The committee noted the following items of correspondence:

### *Received*

- 5 March 2021 – Letter from Minister Hancock to secretariat, advising of additional nominated witnesses to attend the afternoon session only of the Local Government hearing on Thursday 11 March 2021
- 10 March 2021 – Email from Ms Cara Punch, Office Hon Mark Buttigieg MLC, to secretariat, advising that Hon John Graham MLC will be substituting for Hon Penny Sharpe MLC at the Local Government hearing on 11 March 2021

- 11 March 2021 - Email from Ms Cara Punch, Office of Hon Mark Buttigieg MLC, Opposition Whip to secretariat, advising that Hon Shaoquett Moselmane MLC will be substituting for the Hon Mark Buttigieg MLC for part of the PC7 Local Government hearing held on 11 March 2021.

### 3. Inquiry into the Local Land Services Amendment (Miscellaneous) Bill 2020

#### 3.1 Scheduled hearings and conduct of inquiry

The committee noted the media release by the Deputy Premier entitled “NSW Government delivers Koala SEPP 2021”.

Resolved, on the motion of Mr Buttigieg: That:

- the committee discontinue its scheduled hearings on 26 and 31 March 2021
- the secretariat update the website with this information
- the Chair, on behalf of the committee, write to stakeholders informing that the hearings will not be taking place and that further consideration will be given into the conduct of the inquiry.

### 4. Inquiry into Budget Estimates 2020-2021 – initial hearings

#### 4.1 Order for examination of portfolios

The committee noted that it had previously resolved that the portfolio of Local Government be examined concurrently by Opposition and Crossbench members only, from 9.30 am to 12.30 pm, and from 2.00 pm to 5.00 pm, with an additional 15 minutes reserved for Government questions for each of the morning and afternoon sessions.

#### 4.2 Election of Acting Deputy Chair

Resolved, on the motion of Mr Khan: That, in the absence of the Chair, Mr Buttigieg be elected as Acting Deputy Chair for the duration of the hearing on 11 March 2021, at any time when the Chair is not present.

#### 4.3 Public hearing: Local Government

Minister, departmental witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters. The Chair noted that members of Parliament swear an oath to their office, and therefore do not need to be sworn prior to giving evidence before a committee.

The Hon Shelley Hancock MP, Minister for Local Government, was admitted.

The Chair also reminded the following witness that she did not need to be sworn, as she had been sworn at another Budget Estimates hearing for the same committee:

- Ms Sharon Molloy, Acting Deputy Secretary Biodiversity and Conservation Directorate, Department of Planning, Industry and Environment.

The following witness was sworn:

- Mr Tim Hurst, Deputy Secretary Local Government Planning and Policy, Department of Planning, Industry and Environment.

The Chair declared the proposed expenditure for the portfolio of Local Government open for examination.

The Minister and departmental witnesses were examined by the committee.

The Minister withdrew at 12.40 pm.

The public hearing continued.

The following witnesses were sworn and examined:

- Mr Derek Rutherford, Acting Executive Director, Biodiversity and Conservation Division, EES, Department of Planning, Industry and Environment
- Ms Gabrielle Pietrini, Director Marine Coastal Estuary and Flood Branch, EES, Department of Planning, Industry and Environment

- Mr James Hebron, Group Deputy Secretary Governance and Legal, Department of Planning, Industry and Environment
- Mr Luke Walton, Executive Director Local Government and Economic Policy, Department of Planning, Industry and Environment

Mr Graham tendered the following document:

- NSW Council grants program funding allocation table

Mr Hurst tendered the following document:

- Letter from Mr Tim Hurst, Deputy Secretary Local Government to Legislative Council dated 19 October 2020 regarding Office of Local Government's process for the approval of grants from the Stronger Communities Fund – tied grants round.

Mr Shoebridge tendered the following documents:

- Response letter from Mr Chris Allen, Director Sector Performance and Innovation OLG, to Ms Gail Connolly, General Manager, Georges River Council, regarding Council's request for OLG and ICAC to undertake an investigation regarding breach of legislation dated 20 June 2019
- Media article from 'The Sydney Morning Herald' 'Sydney councillors unaware of alleged referral to corruption watchdog over China trip' by Angus Thompson dated 2 April 2019.

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 4.45 pm.

The public and media withdrew.

#### **4.4 Tendered documents**

Resolved, on the motion of Mr Graham that the committee accept the following documents tendered during the Local Government hearing held on Thursday 11 March 2021:

- NSW Council grants program funding allocation table, tendered by Mr John Graham MLC
- Letter from Mr Tim Hurst, Deputy Secretary Local Government to Legislative Council dated 19 October 2020 regarding Office of Local Government's process for the approval of grants from the Stronger Communities Fund – tied grants round, tendered by Mr Tim Hurst, Deputy Secretary Local Government Planning and Policy, Department of Planning, Industry and Environment
- Response letter from Mr Chris Allen, Director Sector Performance and Innovation OLG, to Ms Gail Connolly, General Manager, Georges River Council, regarding Council's request for OLG and ICAC to undertake an investigation regarding breach of legislation dated 20 June 2019, tendered by Mr David Shoebridge MLC
- Media article from 'The Sydney Morning Herald' 'Sydney councillors unaware of alleged referral to corruption watchdog over China trip' by Angus Thompson dated 2 April 2019, tendered by Mr David Shoebridge MLC

#### **5. Adjournment**

The committee adjourned at 4.46 pm, *Sine die*.

Sam Griffith and Stewart Smith

**Committee Clerks**

**Draft Minutes no. 48**

Wednesday 31 March 2021

Portfolio Committee No. 7 – Planning and Environment

Room 1043, Parliament House, Sydney and via WebEx, at 9.31 am

**1. Members present**

Ms Faehrmann, *Chair, via WebEx*

Mr Pearson, *Deputy Chair, via WebEx* (from 9.34 am)

Mr Buttigieg

Ms Cusack, *via WebEx* (from 9.35 am)

Mr Farraway, *via WebEx* (from 9.37 am)

Mr Mallard, *via WebEx*

Mr Veitch (*substituting for Ms Sharpe*) *via WebEx*

**2. Apologies**

Mr Field

**3. Inquiry into the Local Land Services Amendment (Miscellaneous) Bill 2020****3.1 Correspondence**

The committee noted the following items of correspondence:

***Sent***

- 2 March 2021 – Letter from Ms Cate Faehrmann MLC, Committee Chair, to Ms Maree McCaskill, General Manager, Timber NSW, informing that the committee reiterates its resolution to not accept pro forma submissions and that an appendix to the online survey report will be prepared which reports on the views of timber participants who submitted pro formas to the inquiry
- 15 March 2021 – Email from Ms Cate Faehrmann MLC, Committee Chair, to stakeholders, informing that due to recent developments announced by the NSW Government concerning a new Koala SEPP, the committee has decided to cancel its scheduled hearings on 26 and 31 March 2021.

**3.2 Online survey**

Resolved, on the motion of Mr Buttigieg: That the committee publish the report summarising the responses to the online survey.

**3.3 Public submission**

The committee noted that the following submission was published by the committee clerk under the authorisation of the resolution appointing the committee: submission no. 68.

**3.4 Partially confidential submission: Name suppressed**

Resolved, on the motion of Mr Veitch: That the committee authorise the publication of submission no. 67 with the exception of the author's name, which is to remain confidential, as per the request of the author.

**3.5 Confidential submissions**

Resolved, on the motion of Mr Buttigieg: That the committee keep submissions nos 42, 46, 56, 61 and 66 confidential, as per the request of the author.

**3.6 Consideration of the Chair's draft report**

The Chair submitted her draft report entitled *Local Land Services Amendment (Miscellaneous) Bill 2020* which, having been previously circulated, was taken as being read.

Resolved, on the motion of Mr Pearson: That:

- the draft report be the report of the committee and that the committee present the report to the House;
- the submissions, report on the online survey and correspondence relating to the inquiry be tabled in the House with the report;
- upon tabling, all unpublished submissions and correspondence relating to the inquiry, be published by the committee, except for those documents kept confidential by resolution of the committee;

- the committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;
- that the report be tabled on Thursday 8 April 2021.

Resolved, on the motion of Mr Pearson: That the Chair, on behalf of the committee, write to inquiry stakeholders informing them that the committee will not be continuing its inquiry and will be tabling a short report on Thursday 8 April 2021.

**4. Adjournment**

The committee adjourned at 9.39 am, *sine die*.

Sam Griffith

**Committee Clerk**



