

General Purpose Standing Committee No. 5

Wambelong fire inquiry evidence

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Terms of reference

1. That General Purpose Standing Committee No. 5 inquire into and report on aspects of the evidence given by the Office of Environment and Heritage to the committee's inquiry into the Wambelong fire.

The terms of reference were self-referred by the committee on 22 June 2016.¹

¹ *Minutes*, NSW Legislative Council, 22 June 2016, p 970.

Committee details

Committee members

The Hon Robert Brown MLC	Shooters, Fishers and Farmers Party	<i>Chair</i>
The Hon Mick Veitch MLC	Australian Labor Party	<i>Deputy Chair</i>
The Hon Rick Colless MLC	The Nationals	
Dr Mehreen Faruqi MLC*	The Greens	
Mr Scot MacDonald MLC	Liberal Party	
The Hon Greg Pearce MLC	Liberal Party	
The Hon Penny Sharpe MLC	Australian Labor Party	

* Dr Mehreen Faruqi substituted for Mr Jeremy Buckingham for the duration of the inquiry.

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Chair's foreword

This unusual inquiry has examined a single issue: whether the NSW Office of Environment and Heritage (OEH) gave false evidence to the committee's original inquiry, finalised in February 2015, into the massive and tragic Wambelong wildfire. This inquiry was established as a result of allegations made by a Coonabarabran property owner, Mr John Shobbrook, who, among a group of 56 landholders, lost property in that devastating fire.

Our committee has taken these allegations very seriously. At stake was nothing less than the integrity of the Upper House committee system, which relies on full and frank disclosure by witnesses both under oath at hearings and in answer to questions after a hearing. Parliamentary committees cannot tolerate anything less if they are to perform their scrutiny role effectively.

In this instance, while we were unable to determine that OEH purposefully misled the committee, the committee's examination of Mr Shobbrook's allegations indicates that OEH's approach to our original inquiry was insufficiently attentive. This lack of attentiveness manifested itself in the fact that OEH's answers to supplementary questions were inaccurate in several respects, and varied from evidence given in the concurrent Coroner's inquiry.

Having corrected the record and apologised to the committee in the course of this inquiry, it is now incumbent upon OEH, and indeed all government agencies, to learn from the lessons generated by this inquiry. Government agencies and their officers should be reminded of their obligation to provide truthful, accurate and complete information when participating in parliamentary inquiries.

A committee of the Parliament is, in effect, an extension of the Parliament, and therefore statements made before a committee should be treated just as seriously as if made on the floor of the House.

Accordingly, the committee recommends that the Premier's guidelines for public servants participating in parliamentary inquiries be updated, to emphasise their obligation to tell the truth under the *Parliamentary Evidence Act 1901*.

Finally, I would like to thank Mr Shobbrook and other Coonabarabran residents, for bringing this important matter to our attention, and providing photographs and statements, and to acknowledge the diligent contributions of my committee colleagues and the secretariat for their competent and sensitive handling of this inquiry.



The Hon Robert Brown MLC
Chair

Recommendations

Recommendation 1

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That Premier's Memorandum: M1998-09: *Guidelines for Public Sector Employees Dealing with the Legislative Council's General Purpose Standing Committees* be amended to ensure government agencies and their officers are aware of their obligation to provide accurate and complete information when participating in parliamentary inquiries.

Conduct of inquiry

The terms of reference for the inquiry were self-referred by the committee on 22 June 2016.

The committee received two confidential submissions from Mr John Shobbrook and the NSW Office of Environment and Heritage, and held one *in camera* hearing at Parliament House in Sydney.

The committee subsequently resolved to publish those parts of the submissions and hearing transcript, as well as correspondence, tabled documents and answers to questions on notice, relevant to the inquiry's terms of reference. These documents are available on the committee's website.

Chapter 1 The allegations

This inquiry arose from allegations that aspects of the evidence given by the NSW Office of Environment and Heritage to the committee's original inquiry into the Wambelong fire were false. This chapter examines these claims.

Background

1.1 The Wambelong fire broke out in the Warrumbungle National Park on Saturday 12 January 2013 and burned out of control from around 1.00 pm the following day. It burned for 41 days across national park land, private property and other Crown land. By the time the fire was declared out, over 56,000 hectares had been burnt, including around 95 per cent of the national park. In addition, 56 homes were lost.

The committee's original inquiry into the Wambelong fire

1.2 The committee commenced its original inquiry into the Wambelong fire in November 2013, responding to concerns among members of the Coonabarabran and surrounding community that the fire could have been prevented, and that a more effective early response would have contained the fire and mitigated the devastation that followed.

1.3 During the course of the inquiry, numerous inquiry participants were critical of the way the National Parks and Wildlife Service (NPWS), part of the NSW Office of Environment and Heritage (OEH), exercised its duties in the Warrumbungle National Park in the week preceding the fire. One criticism related to the inadequacy of signage informing the public of the closure of the national park. Several residents of Coonabarabran, as well as the Coonabarabran Property Owners Alliance, told the inquiry that 'park closed' signage was either not present or not well visible at several key locations, including:

- at the park entry signs located at main eastern and western entrances to the national park on John Renshaw Parkway
- on the 'Tourist Drive' road sign located on the outskirts of Coonabarabran on John Renshaw Parkway.²

1.4 The committee asked OEH about the signage in two supplementary questions following the public hearings. OEH subsequently provided written answers to these supplementary questions on 8 October 2014, informing the committee that:

- On 7 January 2013, NPWS staff placed laminated A3 'park closed' signs (measuring 300 mm x 420 mm):
 - across the park entry signs located at the main eastern and western entrances to the national park (as well as at the Dooranbah Road entrance to Gunneemooroo Camp near Tooraweenah, the only other public entrance to the park)
 - onto vehicle barrier boards located across all park entry points off John Renshaw Parkway.

² General Purpose Standing Committee No. 5, NSW Legislative Council, *Wambelong fire* (2015), pp 76-77.

- On 11 January 2013, NPWS staff:
 - replaced the A3 signs at the eastern and western entrances to the national park with larger laminated ‘park closed’ signs measuring 1000 mm x 400 mm
 - replaced the A3 sign at Dooranbah Road with a larger ‘park closed’ sign measuring 980 mm x 530 mm
 - installed an additional laminated large format ‘park closed’ sign measuring 980 mm x 530 mm on the outskirts of Coonabarabran (that is, on the Tourist Drive road sign).³

1.5 In addition, OEH provided a map (Attachment C) showing the location and format of the park closed signage in place as at 11 January 2013:



Inquiry into the Wambelong fire, Answers to supplementary questions, 8 October 2014, Mr Terry Bailey, Chief Executive, NSW Office of Environment and Heritage, Attachment C.

³ Inquiry into the Wambelong fire, Answers to supplementary questions, 8 October 2014, Mr Terry Bailey, Chief Executive, NSW Office of Environment and Heritage, p 3.

1.6 OEH also provided the following two photographs (Attachments D and E), described as ‘photos of the signs’:



Inquiry into the Wambelong fire, Answers to supplementary questions, 8 October 2014, Mr Bailey, Attachment D.



Inquiry into the Wambelong fire, Answers to supplementary questions, 8 October 2014, Mr Bailey, Attachment E.

- 1.7 The answers were signed off by OEH Chief Executive, Mr Terry Bailey, and referred to in the committee's final report, which was published in February 2015.⁴
- 1.8 The report's recommendations focused on improving legislation, policy and fire operations, so as to ensure better prevention of and responses to bush fires in New South Wales. The committee did not make any findings or recommendations about the 'park closed' signage, but commented on the issue as follows:
- 6.51 In relation to NPWS activities in the national park in the lead up to the outbreak of the Wambelong fire, the committee recognises that the inability to physically close the national park – because of the public road going through it – rendered the park more vulnerable than it would otherwise have been and created particular challenges in keeping the park and its visitors safe from fire.
- 6.52 Within this context the 'park closed' signs were particularly important. The committee acknowledges the concerns of various local residents about the signs in and around the national park prior to the fire. At the same time, we take at face value NPWS' assurance and pictorial evidence that the signs were actually adequate.⁵

Coronial inquiry

- 1.9 During the same period as the committee was conducting the inquiry into the Wambelong fire, an inquiry was also commenced by the NSW Coroner. The adequacy of the 'park closed' signage was canvassed by the Coroner during hearings in August 2014, as discussed further below. The Coroner's report, handed down in September 2015, did not make any findings or recommendations in this regard.⁶

The current parliamentary inquiry

- 1.10 This inquiry was prompted by information recently provided to the committee by Mr John Shobbrook, a Coonabarabran property owner whose home was destroyed in the Wambelong fire. Mr Shobbrook had made submissions to the committee's original inquiry (two in his own name⁷ and a further two as a member of the Coonabarabran Property Owners Alliance⁸), and was a witness at a public forum held at Coonabarabran in September 2014.⁹

⁴ General Purpose Standing Committee No. 5, *Wambelong fire*, pp 79-81

⁵ General Purpose Standing Committee No. 5, *Wambelong fire*, p 84.

⁶ NSW Coroner, *Inquiry into fire at Wambelong Camp Ground, Warrumbungle National Park, New South Wales January 2013*, 28 September 2015.

⁷ Inquiry into the Wambelong fire, Submission No. 33 and 33a, Mr John Shobbrook.

⁸ Inquiry into the Wambelong fire, Submission No. 11 and 11a, Coonabarabran Property Owners Alliance.

⁹ Inquiry into the Wambelong fire, Public forum, Mr Shobbrook, 3 September 2014, p 8.

- 1.11 On 8 March 2016, Mr Shobbrook wrote to the committee alleging that aspects of OEH's evidence to the original inquiry relating to the 'park closed' signage, as set out in its answers to supplementary questions, were false. Mr Shobbrook's correspondence comprised a 27-page document, along with several video files provided on a USB stick.¹⁰
- 1.12 Concerned to examine whether the integrity of its inquiry processes had been compromised, the committee wrote to Mr Shobbrook to inform him that the matters he had raised were under consideration.¹¹ The committee also wrote to Mr Bailey seeking clarification of the evidence given by OEH in relation to the 'park closed' signage.¹²
- 1.13 On 25 May 2016 the committee received a response from Mr Bailey.¹³ Further correspondence from Mr Shobbrook was received on 26 May 2016.¹⁴
- 1.14 Having self-referred the current inquiry on 22 June 2016, the committee subsequently wrote to Mr Shobbrook and Mr Bailey, providing them with each other's correspondence on a confidential basis and inviting them to make a submission to the inquiry. Both Mr Shobbrook and OEH provided a detailed written submission.¹⁵ A short *in camera* hearing was held on 22 August 2016.
- 1.15 While Mr Shobbrook made allegations about a wide range of issues concerning OEH's response to the Wambelong fire, this inquiry focused only on those allegations relating to the accuracy of OEH's evidence concerning the 'park closed' signage. The relevant allegations and OEH's response are examined below.

Photographs provided to the original inquiry

- 1.16 One of Mr Shobbrook's key allegations relates to the two photographs OEH provided to the original inquiry (Attachments D and E, included on page 3 of this report). As noted above, these were described by OEH as 'photos of the signs'.

Misdescribed photographs

- 1.17 In his correspondence to the committee dated 8 March 2016, Mr Shobbrook referred to evidence given by a (now former) NPWS ranger to the coronial inquiry in August 2014, at which the same two photographs were tendered. The ranger's evidence to the coronial inquiry was that the photographs were recently taken **reenactments** of the original signs. The ranger explained that this was done because some of the original signs were destroyed in the fire.¹⁶

¹⁰ Correspondence from Mr John Shobbrook to Chair, 8 March 2016.

¹¹ Correspondence from Chair to Mr John Shobbrook, 5 May 2016.

¹² Correspondence from Chair to Mr Terry Bailey, Chief Executive, NSW Office of Environment and Heritage, 5 May 2016.

¹³ Correspondence from Mr Terry Bailey, Chief Executive, NSW Office of Environment and Heritage, to Chair, 25 May 2016.

¹⁴ Correspondence from Mr John Shobbrook to Chair, 26 May 2016.

¹⁵ Submission 1, Mr John Shobbrook and Submission 2, NSW Office of Environment and Heritage.

¹⁶ Correspondence from Mr Shobbrook to Chair, 8 March 2016, p 6-7.

1.18 In his correspondence, Mr Shobbrook noted the discrepancy between the evidence given to the coronial inquiry in August 2014 and that given to the committee only a short time later. He alleged that OEHL had effectively misled the committee into accepting the photographs as ‘pictorial evidence’ of the adequacy of the signage:

[O]nly six weeks later when Mr Bailey submitted these same photographs to the Parliamentary Inquiry into the fire on the 8th of October, 2014, they were tended [sic] into evidence by Mr Bailey as photographs ‘of the signs’ – not reproductions.

No mention was made in the Parliamentary Inquiry Final Report that these were merely ‘reproductions’ of the original signs and that no photographs of [the NPWS ranger’s] original signs existed. The NSW Parliamentary Inquiry therefore apparently unknowingly accepted from the Chief Executive of the Office of Environment and Heritage, facsimiles of photographs, produced after the fact, as direct ‘evidence’ that the Park Closed signs existed, and that these signs were adequate in size.

These reproductions, produced after the fire, which should not have received the same evidentiary value as original photographs, caused the members of the Parliamentary Inquiry to state in their Final Report: ‘... we take at face value NPWS’ assurance and pictorial evidence that the signs were actually adequate’.¹⁷

1.19 The committee subsequently put this claim to Mr Bailey.¹⁸ In his response Mr Bailey acknowledged that the photographs were indeed reenactments of the signs that were in place during the fire, taken after the event. He informed the committee that:

- Attachment D was a reenactment of the ‘park closed’ signage affixed across the park entry signs located at the main eastern and western entrances to the national park on 11 January 2013
- Attachment E was a reenactment of larger ‘park closed’ signs that were installed at some time **after** 11 January 2013 following receipt from a local sign manufacturer.¹⁹

1.20 Mr Bailey noted that OEHL’s evidence to the original inquiry was compiled a considerable time after the fire was extinguished and indeed after the park was reopened, adding:

They were included to provide pictorial imagery to illustrate the characteristics of the signs that were displayed by NPWS staff at the time They were provided to the committee to be informative and certainly were not intended to be in any way misleading.²⁰

1.21 Asked when and how the reenacted photographs came to be taken, OEHL informed the committee that, to the best of its knowledge, the reenactments were taken by the ranger for the purposes of the coronial inquiry following a conference with legal representatives of the Crown and OEHL.²¹ A screenshot of the metadata of the two photographs indicates they were

¹⁷ Correspondence from Mr Shobbrook to Chair, 8 March 2016, p 7.

¹⁸ Correspondence from Chair to Mr Bailey, 5 May 2016, p 2.

¹⁹ Correspondence from Mr Bailey to Chair, 25 May 2016, p 1.

²⁰ Correspondence from Mr Bailey to Chair, 25 May 2016, p 1.

²¹ Answers to questions on notice, NSW Office of Environment and Heritage, 8 September 2016, pp 2-3.

taken on 21 August 2014, around five days prior to the ranger's evidence to the coronial inquiry.²²

- 1.22** In its submission to our inquiry, OEH apologised for any confusion its original misdescription of the photographs may have caused, and accepted that it would have been preferable for OEH to have made clear that the photographs were reenactments.²³ This apology was reiterated at the *in camera* hearing, with Mr Bailey stating: 'I apologise, unreservedly ... Clearly that is something that should not happen again systems-wise'.²⁴ He also observed that it would not have made sense for OEH to have tried to mislead the committee, given that the NPWS ranger had given the same evidence to the coronial inquiry only weeks earlier.²⁵

Record not subsequently corrected

- 1.23** Mr Shobbrook also criticised the fact that OEH did nothing to correct the record after the committee's report had been tabled. As he put it at the committee's *in camera* hearing:

I am sure OEH read the Committee's findings. No-one said, 'Oh my goodness, the Committee has misinterpreted me. I meant to say that the photos were not genuine exhibits.' OEH, it seems to me, were happy to sit back and say, 'We got away with that one.' Why did they? These are serious issues. This is a serious matter. Someone so senior as Mr Bailey should not allow the Committee to be under a false impression.²⁶

- 1.24** When asked why OEH did not correct the misdescription of the photographs upon reading the report, Mr Bailey contended that the issue only came to OEH's attention upon receipt of the committee's letter of 5 May 2016.²⁷ Mr Bailey explained that the organisation's focus in reading the committee's final report was on the recommendations, and on systemic changes in the way OEH manages fires:

[T]he report was examined by a number of people to ensure we create systemic change in the organisation in terms the findings. That is done centrally through our Fire and Incident Management section, which prepares our fire management manual on a yearly basis for application by staff out in the field.²⁸

- 1.25** Mr Bailey acknowledged that, as the issue was not canvassed by members during the hearing, but rather, in supplementary questions forwarded in writing afterwards, this part of the report was 'probably therefore ... not read as a major focus'.²⁹ He also pointed out that the particular

²² Answers to questions on notice, NSW Office of Environment and Heritage, 8 September 2016, Attachment 1.

²³ Submission 2, NSW Office of Environment and Heritage, p 1.

²⁴ *In camera* evidence, Mr Terry Bailey, Chief Executive, NSW Office of Environment and Heritage, 22 August 2016, p 20, published by resolution of the committee.

²⁵ *In camera* evidence, Mr Bailey, 22 August 2016, p 17, published by resolution of the committee.

²⁶ *In camera* evidence, Mr John Shobbrook, 22 August 2016, p 8, published by resolution of the committee.

²⁷ *In camera* evidence, Mr Bailey, 22 August 2016, p 17, published by resolution of the committee.

²⁸ *In camera* evidence, Mr Bailey, 22 August 2016, p 17, published by resolution of the committee.

²⁹ *In camera* evidence, Mr Bailey, 22 August 2016, p 17, published by resolution of the committee.

ranger responsible for the photographic reenactments ‘may not have looked at the report in that detail’.³⁰

Committee comment

- 1.26** It is quite clear – as OEH itself has acknowledged – that the two photographs ‘of the signs’ it provided to the original inquiry were not accurately described as reenactments of the original signs. The committee’s reference in the final report to ‘pictorial evidence’ of the adequacy of the signage was based on that misdescription.
- 1.27** The committee accepts OEH’s explanation that the photographs were provided to the original inquiry to illustrate the characteristics of the signs that were displayed by NPWS staff at the time of the fire. The committee agrees that it would not make sense for OEH to deliberately mislead the parliamentary committee about this matter, when accurate evidence had just been given to the coronial inquiry. It was nevertheless an unfortunate oversight for which OEH has apologised, as is appropriate.
- 1.28** The committee accepts that the misdescription of the photographs first came to OEH’s attention on receipt of the committee’s letter dated 5 May 2016, and that at the time of the report’s release it was primarily focused on the committee’s recommendations and relevant systemic issues. While this might explain why OEH did not seek to correct the record when the committee’s report was published, it is nonetheless regrettable that it failed to pick up an error of its own making which was subsequently reproduced in the committee’s report.

‘Park closed’ signage

- 1.29** Mr Shobbrook’s other key allegations relate to the evidence provided by OEH in its answers to supplementary questions regarding the ‘park closed’ signage affixed by NPWS officers in and around Warrumbungle National Park.

Signage affixed on 7 January 2013

- 1.30** As noted above, OEH told the original parliamentary inquiry that on 7 January 2013, NPWS staff placed laminated A3 ‘park closed’ signs at certain locations, including:
- across the park entry signs located at the main eastern and western entrances to the national park
 - onto vehicle barrier boards located across all park entry points off John Renshaw Parkway.³¹

³⁰ *In camera* evidence, Mr Bailey, 22 August 2016, p 17, published by resolution of the committee.

³¹ Inquiry into the Wambelong fire, Answers to supplementary questions, 8 October 2014, Mr Bailey, p 3.

A3 sign on the outskirts of Coonabarabran

- 1.31 There was no mention in OEH's evidence to the original inquiry of an A3 'park closed' sign being placed onto the **Tourist Drive road sign** on the outskirts of Coonabarabran on **7 January 2013**. According to OEH's answers to supplementary questions, the first 'park closed' sign displayed at this location was a laminated large format red and yellow 'park closed' sign measuring 980 mm x 530 mm on **11 January 2013**.
- 1.32 However, according to Mr Shobbrook several Coonabarabran residents saw a smaller white paper 'park closed' sign placed on the Tourist Drive road sign in the week leading up the fire. Such a sign can be seen in the following still frames from a video taken by a resident of Coonabarabran on 16 January 2013 and included in Mr Shobbrook's correspondence:



Correspondence from Mr Shobbrook to Chair, 8 March 2016, pp 12-13.

- 1.33 The white paper ‘park closed’ sign is also visible in the following photograph of the road sign taken by Mr Shobbrook on 2 February 2013:



Correspondence from Mr Shobbrook to Chair, 8 March 2016, p 15.

- 1.34 In its submission to this inquiry, OEH confirmed that that an A3 ‘park closed’ sign was in fact displayed at this location on 7 January 2013. It admitted that it had failed to disclose this to the original inquiry, and expressed regret for this omission.³²

Signs were smaller than A3 size

- 1.35 Mr Shobbrook’s key allegation was that the signs installed on 7 January 2013 were A4 rather than A3 in size. In support of this allegation, Mr Shobbrook referred to the following statements by residents of Coonabarabran:

- One resident stated in her submission to the original inquiry that the sign installed on the outskirts of Coonabarabran on 7 January 2013 ‘simply said CLOSED and was about 250 mm wide and about 125 mm high and covered about 5% of the sign. I remember looking at it and thinking no-one will notice it’. That same resident more recently described the sign as being ‘the equivalent of an A4 piece of paper folded down the middle and laid sideways, e.g. about 300 mm across and 150 mm high’.³³
- Another resident described the sign displayed at the eastern entrance to the national park in the week before the fire as ‘a very small sign on the side of the road on an A4 piece of paper, saying PARK CLOSED’, and stated that the ‘piece of A4 paper [was] swinging on a sign on the side of the road when you came over the ramp into the national park’.³⁴

³² Submission 2, NSW Office of Environment and Heritage, p 9.

³³ Correspondence from Mr Shobbrook to Chair, 8 March 2016, p 10.

³⁴ Correspondence from Mr Shobbrook to Chair, 8 March 2016, p 9.

- 1.36** In its evidence to this inquiry, OEH maintained that the signs displayed on 7 January 2013 were A3 in size. In support of this contention, OEH provided the committee with the following recently taken photograph showing the Tourist Drive sign with A4 and A3-sized paper affixed to it, for the purposes of comparison with the images provided by Mr Shobbrook:



Submission 2, NSW Office of Environment and Heritage, p 4.

- 1.37** At the committee's *in camera* hearing in August Mr Shobbrook maintained that the 'park closed' signs displayed on 7 January 2013 were smaller than A3 size, telling the committee, 'I do not mind saying they are pretty close' but 'near enough is not good enough'.³⁵

³⁵ *In camera* evidence, Mr Shobbrook, 22 August 2016, p 9, published by resolution of the committee.

There were no vehicle barrier boards

- 1.38** The final allegation involving the ‘park closed’ signs displayed on 7 January 2013 related to OEH’s evidence to the original inquiry that such signs were placed onto vehicle barrier boards located across ‘all park entry points off John Renshaw Parkway’.
- 1.39** In his correspondence dated 8 March 2016, Mr Shobbrook noted evidence given to the coronial inquiry by the NPWS ranger denying the existence of vehicle barrier boards at the eastern and western entrances to the national park.³⁶ Mr Shobbrook also referred to statements by two residents of Coonabarabran who passed by the eastern and western entrances to the park in the week leading up to the fire that they saw no such vehicle barrier boards with attached signs.³⁷
- 1.40** In its submission to this inquiry, OEH noted that its evidence to the original inquiry was that vehicle barrier boards were located across all park entry points **off John Renshaw Parkway**, explaining:

OEH does not claim and has never claimed to have erected barrier boards **across** John Renshaw Parkway to prevent public entry to the park as implied by Mr Shobbrook. [The NPWS ranger’s] evidence at the Coronial Inquiry does not contradict OEH’s evidence to the Parliamentary Inquiry on this matter.

On Monday afternoon 7 January 2013 NPWS staff installed vehicle barriers and A3 park closed signs at entrances to the park off John Renshaw Parkway including at White Gum Lookout, entrance to main campground, Pincham Carpark, Split Rock, and Camp Wambelong. An A3 park closed sign was attached to the gate at the Gunneemoorro entrance to the park.³⁸

- 1.41** OEH also informed the committee that vehicle barrier boards were subsequently erected **across** the eastern and western entrances to the national park on John Renshaw Parkway by Gilgandra Shire Council, which manages the road. The barrier at the western entrance was erected on the 13 January 2013, while the barrier at the eastern entrance was erected sometime after the 13 January 2013.³⁹

Committee comment

- 1.42** It is unfortunate that OEH failed to disclose to the original inquiry the fact that an A3 white paper sign was displayed on the Tourist Drive road sign on the outskirts of Coonabarabran on 7 January 2013. This omission led to significant confusion about exactly when the different ‘park closed’ signs were displayed at this location in the period around the fire, not only for Mr Shobbrook, but initially for this committee in trying to understand the timeline of events. The committee notes that OEH has rightly expressed regret for this omission.

³⁶ Correspondence from Mr Shobbrook to Chair, 8 March 2016, p 5.

³⁷ Correspondence from Mr Shobbrook to Chair, 8 March 2016, pp 9-10.

³⁸ Submission 2, NSW Office of Environment and Heritage, p 2.

³⁹ Submission 2, NSW Office of Environment and Heritage, p 3.

- 1.43 In relation to Mr Shobbrook's allegation about the size of the 'park closed' signs displayed on 7 January 2013, the committee is satisfied, based on the additional evidence provided by OEH to this inquiry, that the signs were A3 in size rather than A4 as Mr Shobbrook contends.
- 1.44 The committee accepts that OEH never claimed to have erected vehicle barrier boards **across** the John Renshaw parkway but rather across park entry points **off** of the John Renshaw Parkway and as such acknowledges that OEH did not mislead the original inquiry.

Signage affixed on 11 January 2013

- 1.45 As noted above, OEH's evidence to the original inquiry was that on 11 January 2013, NPWS staff relevantly:
- replaced the A3 signs at the eastern and western entrances to the national park with larger red and yellow laminated 'park closed' signs measuring 1000 mm x 400 mm
 - installed a laminated large format red and yellow 'park closed' sign measuring 980 mm x 530 mm on the outskirts of Coonabarabran (that is, on the Tourist Drive road sign).⁴⁰

No large red and yellow signs at eastern and western entrances to the national park

- 1.46 Mr Shobbrook strongly disputed OEH's evidence that large red and yellow laminated 'park closed' signs were displayed at the eastern and western entrances to the national park on 11 January 2013. In this regard, Mr Shobbrook drew the committee's attention to a recent statement by a resident of Coonabarabran that:
- she drove through the eastern entrance to the park at 6.45 am on 11 January 2013 and 'did not notice' a 'park closed' sign
 - she drove back through the western entrance to the park at 2.30 pm and 'there was no' large 'park closed' sign.⁴¹
- 1.47 Mr Shobbrook also provided the following photograph taken on the morning on 13 January 2013 showing the western entrance to the national park, with the permanent Warrumbungle National Park entry sign partially obscured behind a tree. Mr Shobbrook's annotations are in blue:

⁴⁰ Inquiry into the Wambelong fire, Answers to supplementary questions, 8 October 2014, Mr Bailey, p 3.

⁴¹ Correspondence from Mr Shobbrook to Chair, 8 March 2016, p 10.



Correspondence from Mr Shobbrook to Chair, 26 March 2016, Attachment C.

1.48 At the *in camera* hearing, Mr Shobbrook tabled the following additional photograph of the western entrance to the national park taken on 12 January 2013:



Tabled document, Mr John Shobbrook, Photograph of western entrance to Warrumbungle National Park taken on the day of the Wambelong fire.

1.49 Mr Shobbrook asserted that, looking at the photographs, the permanent park entry sign ‘does not show anything like the model that National Parks said their signs looked like’, with ‘no red and yellow visible’.⁴²

1.50 OEH provided the following response to the allegation that it did not place large red and yellow ‘park closed’ signs at eastern and western entrances to the national park on 11 January 2013:

- On 11 January 2013, [the NPWS ranger] undertook the task of displaying the large yellow and red park closed signs, as follows:

He commenced this task on the western side of the park and subsequently travelled east to complete the task, finishing his shift at Coonabarabran. On the basis of both a time entry recorded by [the ranger] in a field record sheet, showing a time of 16:05 hours near the park visitor centre, and a timesheet entry showing he finished work at 17:45 hours at Coonabarabran, NPWS estimates that the large park closed sign was displayed at the western park entrance at approximately 15:00 hours or sometime shortly thereafter, and at the eastern park entrance at approximately 17:00 hours.⁴³

- On the basis of the estimated times of display, it is probable that one or more of the members of the public quoted by Mr Shobbrook drove past the stated locations before the red and yellow park closed signs were displayed.⁴⁴
- The two photographs of the western park entrance provided by Mr Shobbrook are not evidence that no large red and yellow ‘park closed’ signs were displayed on 11 January 2013. In both photographs, the western park entry sign is obscured by foliage in the foreground, and it is impossible to discern one way or the other.⁴⁵
- As a result of further investigations,⁴⁶ OEH recently obtained a photograph taken by another NPWS employee on 17 January 2013, depicting the western park entry sign:

⁴² *In camera* evidence, Mr Shobbrook, 22 August 2016, p 2, published by resolution of the committee.

⁴³ Submission 2, NSW Office of Environment and Heritage, p 6. Copies of the relevant field record sheet and the ranger’s timesheet, with entries as described by OEH, were provided to the committee: Answers to supplementary questions, NSW Office of Environment and Heritage, 8 September 2016, Attachments 1 and 2.

⁴⁴ Submission 2, NSW Office of Environment and Heritage, p 6.

⁴⁵ Submission 2, NSW Office of Environment and Heritage, p 5; *In camera* evidence, Mr Bailey, 22 August 2016, pp 15-16, published by resolution of the committee.

⁴⁶ Mr Bailey informed the committee that this photograph was not in OEH’s possession at the time of the original inquiry. In preparing its submission to the current inquiry, OEH contacted a number of NPWS officers who were at the fire at different times but did not work locally, one of whom provided this photograph: *In camera* evidence, Mr Bailey, 22 August 2016, p 15, published by resolution of the committee.



Submission 2, NSW Office of Environment and Heritage, p 5.

- 1.51** OEH also confirmed that the signs displayed on the eastern and western entrances to the park on 11 January 2013 were in fact 1000 mm x 280 mm, not 1000 mm x 400 mm (as per its answers to supplementary questions in the original inquiry).⁴⁷
- 1.52** At the committee's *in camera* hearing, Mr Shobbrook stood by his claim that no red and yellow 'park closed' signs were installed on the eastern and western park entry signs on 11 January 2013. In particular, Mr Shobbrook pointed out that 'a photograph taken on 17 January does not prove that that sign existed on 11 January or the 12th or any day prior to the 17th'.⁴⁸ He also raised questions about the authenticity of the photograph and the date on which it was claimed to have been taken.⁴⁹ OEH subsequently provided a screenshot of the photograph's metadata, indicating that it was taken on 17 January 2013.⁵⁰

⁴⁷ Correspondence from Mr Bailey to Chair, 25 May 2016, p 2.

⁴⁸ *In camera* evidence, Mr Shobbrook, 22 August 2016, p 3, published by resolution of the committee.

⁴⁹ *In camera* evidence, Mr Shobbrook, 22 August 2016, pp 3, 7, 9-10, published by resolution of the committee.

⁵⁰ Answers to questions on notice, NSW Office of Environment and Heritage, 8 September 2016, Attachment 2.

No large red and yellow sign on the outskirts of Coonabarabran

- 1.53** Mr Shobbrook's final allegation relates to OEH's evidence that a large format red and yellow 'park closed' sign was displayed on the Tourist Drive road sign on the outskirts of Coonabarabran on 11 January 2013. According to Mr Shobbrook, no such sign was displayed and OEH's evidence in this regard was false.
- 1.54** In support of this allegation, Mr Shobbrook relied on the video taken by a local resident on 16 January 2013 (still frames of which are reproduced at paragraph 1.32 above), which shows only the smaller white paper 'park closed' sign some four days after the larger red and yellow sign was said to have been displayed.⁵¹ Mr Shobbrook also referred to a statement by a local resident who had seen the 'park closed' sign affixed to the Tourist Drive sign on the outskirts of Coonabarabran on 12 January 2013, and who had observed: 'It was so small we nearly missed it, but I was looking for it and was very annoyed to see one side had come loose and it was flapping in the wind'.⁵²
- 1.55** OEH was unable to provide any photographic evidence definitively substantiating the existence of a red and yellow 'park closed' sign on the outskirts of Coonabarabran on 11 January 2013. Its response to the allegation was as follows:

The tourist sign on the outskirts of Coonabarabran was the last sign visited by [the NPWS ranger] as part of his task of displaying large park closed signs on the afternoon of 11 January [The ranger's] evidence at the Coronial Inquiry was that upon inspecting the sign he discovered he didn't need to display a large park closed sign as one had been erected earlier by another staff member and was '... suspended below the brown and white tourist sign...'

[Another] NPWS staff member ... has also confirmed that he noticed the large park closed sign in place on his journey between Coonabarabran and the park on 11 January 2013.

Mr Shobbrook's submission contains statements from members of the public who recall seeing only the small park closed sign ..., and the [video] footage taken five days after the large park closed sign was erected. What happened to this sign after it was erected is not known by NPWS staff.

The Bureau of Meteorology records from the Coonabarabran weather station show wind speeds up to 50 km/hr on 12 January 2013 and 65 km/hr on the 13 January 2013. Under these conditions it is possible the sign blew off.

NPWS staff used grey tape to affix some of the park closed signs prior to the fire. In July 2016 NPWS staff inspected the large tourist sign and photographed grey tape beneath the sign on one of the posts It is possible that this grey tape was the same tape used to suspend the large park closed sign beneath the tourist sign.⁵³

⁵¹ Correspondence from Mr Shobbrook to Chair, 8 March 2016, pp 11-12.

⁵² Correspondence from Mr Shobbrook to Chair, 8 March 2016, p 9.

⁵³ Submission 2, NSW Office of Environment and Heritage, p 9.

- 1.56 OEH provided the following photograph of the grey tape beneath the Tourist Drive sign:



Submission 2, NSW Office of Environment and Heritage, p 10.

- 1.57 This issue was explored in some detail at the committee's *in camera* hearing. Mr Shobbrook challenged OEH's explanation. He stated that if the red and yellow sign really had blown off in the wind, 'it must have blown off within hours of it having been put up on the afternoon of 11 January', given that it was gone by the time the local resident drove past it on 12 January 2013.⁵⁴ He also made the observation that:

A sign blowing off the tourist drive sign is highly unlikely because it is shielded on one side by an embankment and a high solid fence and a house, and behind it by a large stand of tall trees.⁵⁵

⁵⁴ *In camera* evidence, Mr Shobbrook, 22 August 2016, p 2, published by resolution of the committee.

⁵⁵ *In camera* evidence, Mr Shobbrook, 22 August 2016, p 2, published by resolution of the committee.

- 1.58 Mr Bailey admitted at the hearing that OEH ‘cannot find definitive evidence’ of the sign’s existence.⁵⁶ However, he noted that the larger vinyl commercially manufactured ‘park closed’ signs (which the committee was informed were ordered on 9 January 2013, delivered by the manufacturer on 23 January 2013, and displayed sometime shortly thereafter⁵⁷), were tied rather than taped onto the Tourist Drive sign, as shown in the following photograph:



Correspondence from Mr Shobbrook to Chair, 8 March 2016, p 15.

⁵⁶ *In camera* evidence, Mr Bailey, 22 August 2016, p 19, published by resolution of the committee.

⁵⁷ Submission 2, NSW Office of Environment and Heritage, p 2.

- 1.59 Mr Bailey also noted that NPWS officers had used grey tape to display other ‘park closed’ signs in the period leading up to the fire,⁵⁸ as shown in the following photograph of the vehicle barrier board placed across the entrance to Camp Wambelong off John Renshaw Parkway on 7 January 2013:



Submission 2, NSW Office of Environment and Heritage, p 10.

Committee comment

- 1.60 The photographs of the western entrance to the national park provided by Mr Shobbrook were not sufficiently clear to enable the committee to challenge OEH’s statements regarding the signs at the eastern and western entrances to the national park. And while the committee agrees that a photograph taken on 17 January 2013 does not prove that that sign existed on any day prior to that date, it also does not prove that the signs were **not** displayed on 11 January 2013. Therefore, on the evidence before the committee, we are unable to accept Mr Shobbrook’s claim that OEH’s evidence to the original inquiry was in error or deliberately false.
- 1.61 Perhaps the most perplexing aspect of the matters Mr Shobbrook brought to the committee’s attention relates to the large red and yellow ‘park closed’ sign said to have been displayed on the Tourist Drive road sign on the outskirts of Coonabarabran on 11 January 2013. Based on the information provided by Mr Shobbrook, it appears that no such ‘park closed’ sign was

⁵⁸ *In camera* evidence, Mr Bailey, 22 August 2016, p 19, published by resolution of the committee.

there by the following day and there is clear video evidence showing the absence of such a sign on 16 January 2013.

- 1.62** OEH stands by its claim that such a sign was erected and has obtained a statement by a second NPWS officer (in addition to the ranger who gave evidence to the coronial inquiry) who observed the large red and yellow sign on 11 January 2013. The fact that there is grey tape still visible underneath the Tourist Drive road sign, while certainly consistent with OEH's claim, is of limited assistance in the circumstances.
- 1.63** Nevertheless, in the committee's view, it is certainly possible that the sign blew off in the wind. Such an explanation appears plausible and is consistent with the evidence provided by both Mr Shobbrook and OEH. However, it is impossible for the committee to come any definitive conclusion on this matter. What is clear is that there is nothing before the committee that would allow it to conclude that OEH's claim was either in error or deliberately false.

Conclusion

- 1.64** Our committee has taken very seriously Mr Shobbrook's allegations regarding the accuracy of OEH's evidence to our original Wambelong inquiry. Any suggestion that a witness has deliberately misled a parliamentary committee potentially compromises the effectiveness of such inquiries. It is therefore critical that witnesses give accurate and complete evidence, whether in person at a hearing or in answers to questions after a hearing, and that committees ensure adherence to this obligation.
- 1.65** It is understandable that Mr Shobbrook, who lost his home and belongings in a devastating fire, would strive to understand exactly what happened before, during and after this catastrophic event. Unfortunately Mr Shobbrook's endeavours in this regard have been hindered by inaccurate and incomplete answers from OEH to questions raised during the committee's original inquiry. OEH's failure to advise that the photos of the park closed signs tendered to the inquiry were not photos of the actual signs (despite having made this clear to the Coroner) and then neglecting to correct the record when the committee published this misinformation in its report, is of particular concern. Such imprecision has undoubtedly fuelled Mr Shobbrook's view of the 'appropriateness' of the NPWS' overall response to the fire.
- 1.66** While we are not persuaded that OEH purposefully misled the committee, our examination of Mr Shobbrook's allegations indicates that its approach to our original inquiry was insufficiently attentive. OEH, and any other government agency invited to participate in a parliamentary inquiry, should heed the lessons generated by the committee's examination of Mr Shobbrook's concerns and take the requisite care and attention required to ensure the reliability and accuracy of its evidence. Failure to do so may lead to further inquiries being established to review the accuracy of public servants' evidence (as occurred in this instance), with the worst case scenario being the imposition of serious sanctions under the *Parliamentary Evidence Act 1901* if a committee finds that a witness knowingly provided false evidence.⁵⁹

⁵⁹ *Parliamentary Evidence Act 1901*, s 13. The penalty for providing false evidence under the Act is a term of imprisonment for up to 5 years.

- 1.67** Government agencies and their officers should be reminded of their obligation to provide accurate and complete information when participating in parliamentary inquiries. Accordingly, the committee recommends that the Premier's guidelines for public servants participating in parliamentary inquiries be amended to emphasise their obligation to provide accurate and complete information to such committees.

Recommendation 1

That Premier's Memorandum: M1998-09: *Guidelines for Public Sector Employees Dealing with the Legislative Council's General Purpose Standing Committees* be amended to ensure government agencies and their officers are aware of their obligation to provide accurate and complete information when participating in parliamentary inquiries.

- 1.68** Finally, we would like to thank Mr Shobbrook for raising his concerns with us, and acknowledge the devastating and ongoing impact of the Wambelong fire on him and other members of the Coonabarabran and surrounding community.

Appendix 1 Minutes

Minutes no. 9

Wednesday 4 May 2016

General Purpose Standing Committee No. 5

Room 814/815, Parliament House, Sydney at 1.15 pm

1. Members present

Mr Brown, *Chair*

Mr Veitch, *Deputy Chair*

Mr Colless

Dr Faruqi (substituting for Mr Buckingham)

Mr MacDonald

Mr Pearce

Ms Sharpe

2. Previous minutes

Resolved, on the motion of Mr Veitch: That draft minutes no. 8 be confirmed.

3. Correspondence

The committee noted the following items of correspondence:

Received:

- 20 April 2016 – Email from Stephen Barlett, Executive Officer, Namoi Council to secretariat, requesting a hearing be held in Tamworth for the inquiry into water augmentation
- 19 April 2016 – Email from David Swan, Project Officer, Lower Macquarie Utility Alliance, to Chair, offering to assist the inquiry into water augmentation
- 1 April 2016 – Email to the Committee Director from Hon Shaoquett Moselmane MLC, Opposition Whip to Chair, advising that Hon Daniel Mookhey MLC will be a participating member for the duration of the inquiry into water augmentation
- 23 March 2016 – Letter from Hon Greg Pearce MLC to Chair drawing attention to the State Development Committee's 2013 report entitled 'Adequacy of water storages in NSW'
- 22 March 2016 – Letter to secretariat from Hon Dr Phelps MLC, Government Whip advising that Hon Matthew Mason-Cox MLC will substitute for Hon Greg Pearce MLC for the duration of the inquiry into water augmentation
- 8 March 2016 – Letter from Mr X to Chair regarding the evidence from witnesses representing the Office of Environment and Heritage to the inquiry into the Wambelong Fire.

Sent:

- 20 April 2016 – Email from Chair to stakeholders inviting them to make a submission to the inquiry into water augmentation.

4. Inquiry into water augmentation

4.1 Communication update

Members were asked to retweet to assist with raising awareness and interest in the inquiry. The committee noted that there will be a further update on the communications strategy at the next committee meeting.

4.2 Closing date for submissions

The committee noted that the closing date for submissions was extended to 14 August 2016, following agreement via email.

5. Inquiry into Wambelong fire – evidence from Office of Environment and Heritage

The committee considered the correspondence dated 8 March 2016 regarding the evidence from the Office of Environment and Heritage to the inquiry into the Wambelong fire.

Resolved, on the motion of Mr Colless: That the committee:

- accept the material provided in correspondence from Mr X dated 8 March 2016 concerning the evidence given by the Office of Environment and Heritage to the Wambelong fire inquiry, including the 27 page document and video files provided on USB
- keep the material confidential
- keep the author's name confidential, including in the minutes of proceedings.

Resolved, on the motion of Dr Faruqi: That the committee write to Mr X to inform him that:

- the committee has resolved to accept the material provided in correspondence dated 8 March 2016, including the 27 page document and video files provided on USB, and has resolved to keep the material confidential
- the matters he raises are under consideration.

Resolved, on the motion of Dr Faruqi: That the committee write to Mr Terry Bailey, Chief Executive, Office of Environment and Heritage, in the terms of the draft letter circulated by the secretariat at the meeting, as amended, and request that he respond by Wednesday 25 May 2016.

Resolved, on the motion of Dr Faruqi: That the committee meet in the sitting week of 31 May-2 June 2016 after receiving a response from Mr Bailey, Office of Environment and Heritage, to consider whether to take further action in relation to this matter.

6. Adjournment

The committee adjourned at 2.00 pm until the sitting week 31 May-2 June 2016, on a date to be confirmed.

Madeleine Foley
Clerk to the Committee

Minutes no. 10

Thursday 2 June 2016

General Purpose Standing Committee No. 5

Room 1254, Parliament House, Sydney at 1.13 pm

1. Members present

Mr Brown, *Chair*

Mr Veitch, *Deputy Chair*

Mr Colless

Dr Faruqi (substituting for Mr Buckingham)

Mr MacDonald

Mr Pearce

Ms Sharpe

2. Previous minutes

Resolved, on the motion of Ms Sharpe: That draft minutes no. 9 be confirmed.

3. Correspondence

The Committee noted the following items of correspondence:

Received:

- 26 May 2016 – Letter from Mr X providing further photographs regarding the Office of Environment and Heritage's evidence to the Wambelong fire inquiry
- 25 May 2016 – Letter from Mr Terry Bailey, Chief Executive, Office of Environment and Heritage, to the Chair, responding to the committee and clarifying the Office's evidence to the Wambelong fire inquiry

Sent:

- 5 May 2016 – Letter from the Chair to Mr Terry Bailey, Chief Executive, Office of Environment and Heritage, seeking clarification of the Office's evidence to the Wambelong fire inquiry
- 5 May 2016 – Letter from the Chair to Mr X advising that his material has been accepted and made confidential, and is under consideration by the committee

4. Inquiry into Wambelong fire – evidence from Office of Environment and Heritage

Resolved, on the motion of Ms Sharpe: That the committee keep confidential the following correspondence regarding the evidence from the Office of Environment and Heritage to the Wambelong fire inquiry:

- 26 May 2016 – from Mr X to the Chair
- 25 May 2016 – from Mr Bailey, OEH, to the Chair
- 5 May 2016 – from the Chair to Mr Bailey, OEH
- 5 May 2016 – from the Chair to Mr X
- 8 March 2016 – from Mr X to the Chair.

Resolved, on the motion of Mr Pearce: That the committee proceed with an inquiry into specific aspects of the evidence given by the Office of Environment and Heritage to the committee's previous inquiry into the Wambelong fire, and that the secretariat draft terms of reference for a self-reference into this matter, to be considered during the next sitting week.

5. Adjournment

The committee adjourned at 1.30 pm *sine die*.

Madeleine Foley

Clerk to the Committee

Minutes no. 11

Wednesday 22 June 2016

General Purpose Standing Committee No. 5

Members' Lounge, Parliament House, Sydney at 10.45 am

1. Members present

Mr Brown, *Chair*

Mr Colless

Dr Faruqi (substituting for Mr Buckingham)

Mr MacDonald

Mr Mookhey (substituting for Mr Veitch)

Mr Pearce

Ms Sharpe

2. Previous minutes

Resolved, on the motion of Mr MacDonald: That draft minutes no. 10 be confirmed.

3. Inquiry into Budget Estimates 2016-2017

The committee noted that the Budget Estimates timetable for 2016-2017 was agreed to by the House, with the following GPSC 5 hearings:

Date	Time	Portfolio	Room
Wednesday 31 August 2016	2.00 pm – 5.00 pm	Industry, Resources and Energy (Roberts)	Macquarie
Friday 2 September 2016	9.00 am – 1.00 pm	Primary Industries, Lands and Water (Blair)	Jubilee
	2.00 pm – 5.00 pm	The Environment, Heritage (Speakman)	Jubilee

3.1 Allocation of question time

The committee noted that under the resolution establishing General Purpose Standing Committees, the sequence of questions at hearings is to alternate between opposition, crossbench and government members, with equal time allocated to each, unless the committee decides otherwise.

3.2 Government questions

Mr MacDonald moved: That with no questions asked by government members:

- On Wednesday 31 August 2016, the portfolios of Industry, Resources and Energy be examined from 2.00 pm until 4.00 pm
- On Friday 2 September 2016, the portfolios of Primary Industries, Lands and Water be examined from 9.00 am to 11.40 am
- On Friday 2 September 2016, the portfolios of The Environment and Heritage be examined from 2.00 pm to 4.00 pm.

Dr Faruqi moved: That the motion be amended to omit everything after ‘That with no questions asked by government members’ and insert instead: ‘the timing of the hearings remain as per the hearing schedule, with the time to be divided equally among the opposition and cross bench members’.

Amendment of Dr Faruqi put.

The committee divided.

Ayes: Dr Faruqi, Mr Mookhey, Ms Sharpe

Noes: Mr Brown, Mr Colless, Mr MacDonald, Mr Pearce.

Amendment of Dr Faruqi resolved in the negative.

Original question of Mr MacDonald put and passed.

3.3 Order for examination of portfolios

The committee noted that the portfolios would be considered concurrently.

3.4 Witness requests

Resolved, on the motion of Dr Faruqi: That members provide any additional witnesses, or changes to witnesses listed in last year’s hearing notices to the secretariat by 5.00 pm Friday 24 June 2016.

4. Consideration of terms of reference

The Chair tabled the following proposed self reference:

Inquiry into aspects of the evidence given to the General Purpose Standing No. 5 inquiry into the Wambelong fire

That General Purpose Standing Committee No. 5 inquire into and report on aspects of the evidence given by the Office of Environment and Heritage to the committee’s inquiry into the Wambelong fire.

Resolved, on the motion of Mr Pearce: That the committee adopt the terms of reference.

5. Conduct of the inquiry into Wambelong fire inquiry evidence

Resolved, on the motion of Mr MacDonald: That the committee adopt the following approach to conducting the inquiry:

Submissions

- by invitation only, to Mr John Shobbrook and Mr Terry Bailey, Chief Executive, Office of Environment and Heritage
- due date of 29 July 2016 (five weeks)
- if other material is received, such as the people who provided photographic/video evidence to Mr Shobbrook, the committee could consider whether to accept the material as submissions

Correspondence from Mr Shobbrook and Mr Bailey to be provided to each other

- provide to Mr Bailey the material from Mr Shobbrook in his correspondence of 8 March 2016, including the 27 page document and video files provided on USB, and the correspondence of 26 May and attached photographs
- provide to Mr Shobbrook the correspondence from Mr Bailey dated 25 May 2016
- publish Mr Shobbrook's name, eg. in correspondence and the minutes of proceedings. Mr Shobbrook's name was previously kept confidential on the basis that an inquiry was not underway and there was some doubt as to whether he was protected by parliamentary privilege

Letters inviting submissions

- inform Mr Shobbrook and Mr Bailey that an *in camera* hearing is likely to be held in August, to which they may be invited as witnesses
- advise Mr Shobbrook that he may wish to refer the other concerns he raised in his correspondence of 8 March 2016 to the relevant authorities, that is the concerns about evidence given by National Parks and Wildlife Service rangers to the coronial inquiry

Advertising

- no media release or tweet to announce the inquiry, no public call for submissions

Website

- place inquiry on the committee's website, after the terms of reference are reported to the House
- do not activate the web portal to enable people to make submissions
- place a note on the website advising that the committee is not receiving public submissions and providing contact details for the secretariat

***In camera* hearing**

- hold half-day *in camera* hearing in August with Mr Shobbrook and Mr Bailey as witnesses
- consider publishing the *in camera* transcript after the hearing, as well as the correspondence from Mr Shobbrook of 8 March and 26 May 2016, and the correspondence from Mr Bailey of 25 May 2016. The committee may wish to consult witnesses regarding publication, although the decision as to what is published rests with the committee

Reporting date

- September 2016

6. Adjournment

The committee adjourned at 10.59 am *sine die*.

Madeleine Foley
Clerk to the Committee

Minutes no. 12

Wednesday 10 August 2016

General Purpose Standing Committee No. 5

Members' Lounge, Parliament House, Sydney at 10.30 am

1. Members present

Mr Brown, *Chair*

Mr Veitch, *Deputy Chair*

Mr Colless

Dr Faruqi (substituting for Mr Buckingham for the duration of the inquiry)

Mrs Houssos (substituting for Ms Sharpe)

Mr MacDonald

2. Apologies

Mr Pearce

3. Previous minutes

Resolved, on the motion of Mr Colless: That draft minutes no. 11 be confirmed.

4. Correspondence

The committee noted the following items of correspondence:

Received

- 20 June 2016 – Email from Mr Buckingham to secretariat, advising that Dr Faruqi will be substituting for Mr Buckingham for the duration of the inquiry into Wambelong fire inquiry evidence
- 28 July 2016 – Letter from the Hon. Mark Speakman MP, Minister for the Environment and Heritage to secretariat, regarding witnesses for the upcoming Budget Estimates hearing for the Environment and Heritage portfolios
- 29 July 2016 – Letter from Mr Terry Bailey, Chief Executive, Office of Environment and Heritage, requesting clarification of the scope of the inquiry.

Sent

- 27 June 2016 – Letter from Chair to Mr John Shobbrook, inviting him to provide a written submission
- 27 June 2016 – Letter from Chair to Mr Terry Bailey, Chief Executive, Office of Environment and Heritage, inviting him to provide a written submission.

5. Inquiry into Budget Estimates 2016-2017**5.1 Witnesses for portfolios of the Environment, Heritage**

Resolved, on the motion of Mr Veitch: That, in response to the advice of the minister's office, the secretariat write to the minister's office again to request the attendance of the Executive Director, Botanic Gardens and Centennial Parklands and the Deputy Chief Executive, National Parks and Wildlife Services at the hearing for the portfolios of the Environment and Heritage on 2 September 2016.

6. Inquiry into Wambelong fire inquiry evidence

6.1 Confidential correspondence

Resolved, on the motion of Dr Faruqi: That the committee keep confidential the following correspondence concerning the inquiry:

- 27 June 2016 – from the Chair to Mr Shobbrook
- 27 June 2016 – from the Chair to Mr Bailey, Chief Executive, Office of Environment and Heritage
- 29 July 2016 – from Mr Bailey, Chief Executive, Office of Environment and Heritage to the Chair.

6.2 Confidential submissions

Resolved, on the motion of Mr Colless: That the committee keep submission nos 1 and 2 confidential as they contain sensitive information and/or potential adverse mention, subject to Mr Shobbrook being provided with submission no 2 on a confidential basis, and Mr Bailey being provided with submission no 1 on a confidential basis.

6.3 Draft correspondence and scope of the inquiry

Resolved, on the motion of Mr Veitch: That the committee authorise the following letters to be sent:

- Draft letter from Chair to Mr Bailey acknowledging receipt of his submission and clarifying the scope of the inquiry
- Draft letter from Chair to Mr Shobbrook acknowledging receipt of his submission and clarifying the scope of the inquiry.

6.4 Hearing schedule

The committee noted the following hearing schedule for the *in camera* hearing on Monday 22 August 2016:

- 1.00 to 1.10 pm – deliberative meeting
- 1.15 to 2.05 pm – Mr John Shobbrook
- 2.05 to 2.15 pm – afternoon tea break
- 2.15 to 3.05 pm – Mr Terry Bailey, Chief Executive, Office of Environment and Heritage
- 3.10 to 3.30 pm – possible recall of Mr Shobbrook (if necessary)
- 3.30 to 3.45 pm – deliberative meeting (if necessary).

6.5 Attendance of Mr Shobbrook's wife

Resolved, on the motion of Mr Colless: That, as previously agreed, the committee allow Mrs Janette Shobbrook to be present while Mr Shobbrook is giving evidence at the *in camera* hearing.

6.6 Report deliberative

Resolved, on the motion of Mr Veitch: That the committee hold the report deliberative on Friday 14 October 2016, subject to the secretariat confirming the availability of members via email.

7. Adjournment

The committee adjourned at 10.47 am, until 1.00 pm, Monday 22 August 2016 at Parliament House, Sydney (*in camera* hearing, inquiry into Wambelong fire inquiry evidence).

Beverly Duffy
Clerk to the Committee

Minutes no. 13

Monday 22 August 2016

General Purpose Standing Committee No. 5

Waratah Room, Parliament House, Sydney at 1.02 pm

1. Members present

Mr Brown, *Chair*

Mr Veitch, *Deputy Chair*

Mr Colless

Dr Faruqi

Mr MacDonald

Mr Pearce

Ms Sharpe

2. Apologies**3. Previous minutes**

Resolved, on the motion of Mr MacDonald: That draft minutes no. 12 be confirmed.

4. Correspondence

The committee noted the following items of correspondence:

Sent:

- 10 August 2016 – Letter from Chair to Mr John Shobbrook concerning the scope of the inquiry
- 10 August 2016 – Letter from Chair to Mr Terry Bailey, Chief Executive, Office of Environment and Heritage, concerning the scope of the inquiry.

5. Inquiry into Wambelong fire inquiry evidence**5.1 Confidential correspondence**

Resolved, on the motion of Mr Colless: That the committee keep confidential the following correspondence concerning the inquiry:

- 10 August 2016 – from the Chair to Mr Shobbrook
- 10 August 2016 – from the Chair to Mr Bailey, Chief Executive, Office of Environment and Heritage.

5.2 Attendance of additional officers from the Office of Environment and Heritage

Resolved, on the motion of Mr Colless: That the committee allow the following officers from the Office of Environment and Heritage to be present while Mr Terry Bailey, Chief Executive, Office of Environment and Heritage, is giving evidence at the *in camera* hearing:

- Mr Mark Peacock, Director, Park Management Western Branch, appearing as a witness
- Mr Robert Smith, Regional Manager, Northern Plains – Park Management Western Branch, present in the gallery only (not in an advisory capacity)
- Mr Daniel Zanello, Senior Legal Officer, present in the gallery only (not in an advisory capacity).

5.3 Questions on notice and supplementary questions

Resolved, on the motion of Mr Veitch: That witnesses be requested to return answers to questions on notice and supplementary questions within 14 calendar days of the date on which questions are forwarded to the witness.

5.4 Publication of evidence

Resolved, on the motion of Mr MacDonald: That:

- a copy of each witness's *in camera* evidence be provided to the other witness on a confidential basis (similar to the submissions), with each witness to be advised of this. If the witness feels there is a need to respond to any new information relevant to the terms of reference in the other witness's evidence, the witness is to have 14 days to respond
- the decision regarding further publication of the *in camera* transcript and confidential submissions and correspondence be deferred until the report deliberative.

5.5 Report deliberative

The committee noted that the report deliberative date of Friday 14 October 2016 at 10.00 am is confirmed.

5.6 *In camera* hearing

Mr John Shobbrook and Mrs Janette Shobbrook were admitted.

Persons present other than the committee: Beverly Duffy, Sharon Ohnesorge, Shaza Barbar and Hansard Reporters.

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

Mr Shobbrook was sworn and examined.

Mr Shobbrook tendered the following document:

- Photograph of western entrance to Warrumbungle National Park taken on the day of the Wambelong fire.

The evidence concluded and the witness withdrew.

Mr Terry Bailey, Mr Mark Peacock, Mr Robert Smith and Mr Daniel Zanello were admitted.

The following witnesses were sworn and examined:

- Mr Terry Bailey, Chief Executive, Office of Environment and Heritage
- Mr Mark Peacock, Director, Park Management Western Branch.

The evidence concluded and the witnesses withdrew.

5.7 Tendered documents

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

- Photograph of western entrance to Warrumbungle National Park taken on the day of the Wambelong fire.

6. Adjournment

The committee adjourned at 3.20 pm, until 2.00 pm, Wednesday 31 August 2016 at Parliament House, Sydney (hearing, inquiry into Budget Estimates 2016-2017).

Beverly Duffy
Clerk to the Committee

Draft minutes no. 18

Friday 14 October 2016

General Purpose Standing Committee No. 5

Room 1136, Parliament House, Sydney at 10.00 am

1. Members presentMr Brown, *Chair*Mr Veitch, *Deputy Chair*

Mr Clarke (substituting for Mr MacDonald)

Mr Colless

Dr Faruqi

Mr Pearce

Ms Sharpe

2. Correspondence

The committee noted the following items of correspondence:

Received:

- 30 August 2016 – Letter from Mr John Shobbrook to secretariat advising of corrections to the *in camera* transcript
- 8 September 2016 – Letter from Mr Terry Bailey, Chief Executive, Office of Environment and Heritage, to secretariat, providing answers to questions on notice and supplementary questions and clarifying certain matters in the *in camera* transcript.

Sent:

- 25 August 2016 – Letter from Chair to Mr John Shobbrook enclosing *in camera* transcript for review
- 25 August 2016 – Letter from Chair to Mr Terry Bailey, Chief Executive, Office of Environment and Heritage, enclosing *in camera* transcript for review.

3. Inquiry into Wambelong fire inquiry evidence**3.1 Answers to questions on notice and supplementary questions**

Resolved, on the motion of Mr Colless: That the committee authorise the publication of answers to questions on notice and supplementary questions from the Office of Environment and Heritage and attachments thereto, as well as the cover letter, received 8 September 2016.

3.2 Transcript corrections

Resolved, on the motion of Mr Pearce: That the committee authorise the following footnotes to be inserted into the transcript, clarifying the evidence of Mr Shobbrook, as per his request:

- page 9, paragraph 1: ‘Mr Shobbrook subsequently advised that the photograph was taken on 2 February 2013 and not on 14 January 2013, as correctly indicated in the subsequent paragraph’
- page 12, paragraph 7: ‘Mr Shobbrook subsequently advised that the ranger’s first statement to the NSW Police dated 19 January 2013 made no mention of the visitors in the park, and that Mr Bailey’s claim in this regard is therefore inaccurate’.

3.3 Publication of evidence

Resolved, on the motion of Mr Colless: That the committee authorise, upon the tabling of the report, the publication of the following evidence previously kept confidential, with the exception of material not relevant to the terms of reference, including potential adverse mention not relevant to the terms of reference, as per the recommendation of the secretariat:

- correspondence from Mr John Shobbrook to Chair dated 8 March 2016, to be published with redactions
- correspondence from Mr Terry Bailey, Chief Executive, Office of Environment and Heritage, dated 25 May 2016, along with one attachment, to be published in full
- correspondence from Mr John Shobbrook to Chair dated 26 May 2016, along with three attachments, to be published in full
- Submission 1, Mr John Shobbrook, to be published with redactions, along with attachments 1-3 thereto
- Submission 2, Office of Environment and Heritage, to be published with redactions
- in camera transcript dated 22 August 2016, to be published with redactions
- photograph of western entrance to Warrumbungle National Park taken on the day of the Wambelong fire, tendered by Mr John Shobbrook.

3.4 Report tabling date

Resolved, on the motion of Mr Veitch: That the committee table its report on Friday 21 October 2016.

3.5 Advice to Mr Shobbrook and Mr Bailey

Resolved, on the motion of Ms Sharpe: That the committee advise Mr Bailey and Mr Shobbrook of its intention to publish redacted versions of their submissions, the *in camera* transcript and correspondence, as well as the date it intends to table the report.

3.6 Consideration of Chair's draft report

The Chair submitted his draft report entitled *Wambelong fire inquiry evidence*, which, having been previously circulated, was taken as being read.

Chapter 1

Resolved, on the motion of Ms Sharpe: That the third paragraph of the section entitled 'Conduct of the inquiry' on page viii be omitted: 'Because of the sensitive nature of this inquiry, the committee resolved to publish only specific parts of the correspondence, submissions, hearing transcript, tabled documents and answers to questions on notice relating to the inquiry. These are available on the committee's website.', and the following new paragraph be inserted instead:

'The committee subsequently resolved to publish those parts of the submissions and hearing transcript, as well as correspondence, tabled documents and answers to questions on notice, relevant to the inquiry's terms of reference. These documents are available on the committee's website.'

Resolved, on the motion of Mr Clarke: 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, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry be tabled in the House with the report;

Upon tabling, all unpublished attachments to submissions, attachments to answers to questions on notice and supplementary questions, and attachments to correspondence relating to the inquiry be kept confidential by the committee;

Upon tabling, and unless otherwise specified by this committee, all unpublished transcripts of evidence, submissions, tabled documents, answers to questions on notice and supplementary

questions, and correspondence relating to the inquiry not already made public, be kept confidential by the committee.

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.

4. Adjournment

The committee adjourned at 10.18 am, until 1.45 pm, Friday 14 October 2016 at Parliament House, Sydney (supplementary hearing, inquiry into Budget Estimates 2016-2017).

Beverly Duffy
Clerk to the Committee