

31 ORDER FOR PAPERS—DUNGOWAN DAM, WYANGALA DAM AND MOLE RIVER DAM – FURTHER ORDER

Ms Faehrmann moved, according to sessional order: That private members' business item no. 1719 be considered in a short form format.

Question put and passed.

Ms Faehrmann moved, according to notice:

- (1) That this House notes that:
 - (a) on Wednesday 23 February 2022 this House ordered the production of the latest draft or final business cases for the Dungowan Dam and the Wyangala Dam, and
 - (b) on Thursday 3 March 2022 correspondence was received from the Department of Premier and Cabinet which stated that "to the best of their knowledge, no documents are held" by the Minister for Lands and Water, and Minister for Hospitality and Racing, Department of Planning and Environment, Infrastructure NSW, Water NSW or Department of Enterprise, Investment and Trade "that are covered by the terms ... of the resolution and are lawfully required to be provided".
- (2) That this House notes the article in the Northern Daily Leader entitled "State government won't release 'commercial-in-confidence' Dungowan Dam business case, despite parliamentary order", dated 9 March 2022, which states that the government is "claiming the business case is out of scope of the order because it contains cabinet and commercially sensitive information".
- (3) That this House:
 - (a) reasserts its power to order the production of all documents in the possession, custody or control of the Executive Government with the exception of those documents that reveal the actual deliberations of Cabinet, as articulated by Spigelman CJ in *Egan v Chadwick*, and
 - (b) rejects the definition of Cabinet documents used in the Government Information (Public Access) Act 2009, which if followed may lead to a much broader class of documents being withheld from this House.
- (4) That, under standing order 52, there be laid upon the table of the House within two days of the date of passing of this resolution the following documents in the possession, custody or control of Minister for Lands and Water, and Minister for Hospitality and Racing, the Department of Planning and Environment, the Department of Enterprise, Investment and Trade, Water NSW, Infrastructure NSW, or Water Infrastructure NSW relating to dam business cases:
 - (a) the latest draft or final business case for the Dungowan Dam,
 - (b) the latest draft or final business case for the Wyangala Dam,
 - (c) all documents relating to the order of the House of Wednesday 23 February 2022 for the production of documents regarding Dungowan Dam, Wyangala Dam and Mole River Dam, and
 - (d) any legal or other advice regarding the scope or validity of this order of the House created as a result of this order of the House.
- (5) That, should the Leader of the Government fail to table the documents in compliance with this resolution, it will be a matter for this House to take necessary actions and further steps to address the issue of continued non-compliance.

Debate ensued.

Mr Tudehope by leave, spoke beyond the time for debate.

Question put.

The House divided.

Ayes22

Noes14

Majority.....8

AYES

Banasiak
Borsak
Boyd
Buttigieg (teller)
D'Adam (teller)
Donnelly
Fachrmann
Field

Graham
Hurst
Jackson
Latham
Mookhey
Moriarty
Nile

Pearson
Primrose
Roberts
Searle
Secord
Sharpe
Veitch

NOES

Amato
Cusack
Fang
Farlow (teller)
Farraway

Franklin
Maclaren-Jones
Mallard (teller)
Martin
Poulos

Rath
Taylor
Tudehope
Ward

PAIRS

Houssos
Moselmane

Mitchell
Barrett

Question resolved in the affirmative.