

**Senate Environment and Communications
References Committee**
Answers to questions on notice
Environment and Energy portfolio

Inquiry name: Inquiry into Australia's faunal extinction crisis

Hearing date: 23 August 2019

Question No: 1

Hansard Page: 31

Question Date: 23 August 2019

Question Type: Spoken

Senator Rice asked:

Question Text:

CHAIR: Can you then take us through the time line, as far as you're aware, from when you were first aware of this proposal to do a review.

Mr Knudson: I'm just going turn to one of my colleagues—Geoff, I think you had a list of the time frames—but I think March 2018 was the actual launching of Dr Craik's review. And I'm just reading through some time lines to see if there's any mention of—and there isn't in here—any earlier consideration. That being said, Senator, I'm happy to come back on notice, if that's helpful, about whether there were any sort of specific public statements by the government that it wanted to take a look at the agricultural sector and its interaction with the act prior to the announcement in March.

CHAIR: So how about prior to the formal announcement—the process of engagement with the department prior to the announcement? Presumably there were discussions with you. You weren't taken completely unawares.

Mr Knudson: No, that's right, and that's why I'm suggesting perhaps it makes best sense for me to come back on notice with any of the specific steps that were taken leading up to that March 2018 announcement. But it's a fairly typical process. There would have been a discussion about a proposed terms of reference. There would have been discussion about the selection of Dr Craik to head the review. All of those would have been elements that would have happened prior to the announcement.

Answer:

The Government took a decision to establish a targeted *Review of interactions between the EPBC Act and the agriculture sector* in early 2018.

In the lead up to the announcement of the Review during February and March 2018 the Department supported the Government to develop a Terms of Reference and to appoint an independent reviewer.

On 29 March 2018 the Government formally announced the Review and the appointment of Dr Wendy Craik as the Independent Reviewer.

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Inquiry name: Inquiry into Australia's faunal extinction crisis

Hearing date: 23 August 2019

Question No: 2

Hansard Page: 34 & 35

Question Date: 23 August 2019

Question Type: Spoken

Senator Gallagher asked:

Question Text:

Senator GALLAGHER: Before we get into this line of questioning, can someone at the table answer for me how or when the department became aware that Minister Taylor had an interest in Jam Land, and the compliance action being undertaken—the correlating activity happening with land owned by Jam Land? I think that would assist.

Ms Collins: I haven't got specific timing in relation to that question, but we were certainly aware at the time the request came in, that—

Senator GALLAGHER: For the meeting in March 2017—at that point you were aware?

Ms Collins: We were aware that there was a relationship between the landowner and Minister Taylor.

Senator GALLAGHER: And how did you become aware of that?

Ms Collins: I can't say exactly, but we knew there was a familial, as in family, relationship.

Senator GALLAGHER: It's pretty critical information, isn't it? So someone must have advised someone? There must have been some sort of formal information?

Ms Collins: I'm not sure exactly how it came about that we were aware of that, but we were certainly aware of the family relationship between the landowner being investigated and the minister. And so we were—and I think it's fair to say my colleague, Mr Richardson, was going out of his way to make sure that there was no action that might threaten the integrity of the investigation.

Senator GALLAGHER: Okay, we can come to that. So there's not a specific date you're aware of and you're not aware of how you came into that information, or how the department came into having that information, but you had it by March 2017? Is there any way of actually finding out that information?

Ms Collins: Sorry, could you repeat the question?

Senator GALLAGHER: Is there any way you can find out that information on what date—

Ms Collins: I can take that on notice, certainly.

Senator GALLAGHER: and how that information was relayed? I think that is critical to the committee's understanding of what's happened.

Ms Collins: Yes.

Mr Oxley: Senator, your question was about how that information was relayed. Could you just be clearer about to who?

Senator GALLAGHER: I guess I'm trying to find that out too. I'm trying to understand on what date and to whom in the department information was provided about the link between Minister Taylor and the compliance action being undertaken, and how that information was relayed. For example, if Minister Taylor provided that information, you can understand that position being put. You could also understand it coming through a search of the records of the company, for example. It's not clear to me how the department came into that information, and I think it is useful to understand what form that was. And, of course, the subsequent thing, which I think is where Senator Rice is going, is how that was managed.

Ms Collins: Okay. I will take that on notice. I'll say it's also not unusual for us to do a property search to just work out who the property owner is in terms of our investigation and who we're dealing with. But, as I say, I'll take it on notice specifically.

Senator GALLAGHER: Yes. There are questions about whether that should have been the way that you became aware. If that is how you became aware of the information, we would have other questions—perhaps not for you. But I think it is pretty critical. It does surprise me a little that that information isn't at the fingertips of officials at the moment.

Answer:

The Department had become aware of the family connection between Mr Angus Taylor MP and Jam Land Pty Ltd by November 2016 through routine examination of publicly available information. Specifically a media article published in "The Weekly Times" dated 27 May 2015.

The Department's investigation is confined to Jam Land Pty Ltd and its directors at the time of the alleged contravention which occurred late in 2016.

In April 2019, the Department undertook additional searches of the ASIC database. This search confirmed that Gufee Pty Ltd had become a shareholder in Jam Land Pty Ltd on or about 18 May 2017.

Neither Angus Taylor, nor the company Gufee Pty Ltd, were registered as shareholders of Jam Land Pty Ltd at the time the alleged offence occurred.

Contraventions under the *Environment Protection and Biodiversity Conservation Act 1999* are available to be taken against natural persons, constitutional corporations and their executive officers, the Commonwealth or a Commonwealth agency. Shareholders of companies have no bearing on the EPBC Act investigation.

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Hearing date: 23 August 2019

Question No: 3

Hansard Page: 43

Question Date: 23 August 2019

Question Type: Spoken

Senator Rice asked:

Question Text:

CHAIR: I now want to go to the final document, document 8, the email on Saturday, 22 April, at 5.46 pm—so working weekends. It basically outlines all of the information that you had then put to the minister's office about operations of the act, but once again there are two sections which are redacted there, relevant to compliance.

Mr Oxley: They are, in my recollection, but we can certainly go back and check on notice that they fall into the category we've already described, around revelation of approaches to compliance.

CHAIR: In the final one there, it's in the middle of a paragraph:

The approved conservation advice, including condition thresholds, was developed in close consultation with the experts from NSW agencies to ensure alignment where possible. As noted in previous briefing, this includes the groundcover assessment methodologies that Angus Taylor MP has mistakenly been advised are not aligned.

Then we go into a blanked-out section about compliance.

Mr Oxley: I really do need to take it on notice, because I don't have the full detail of that quite long email advice at hand.

Mr Richardson: Senator, the fact that that's been redacted with 37(1)(a) means it is in the same category as the previous, so it will have been talking about compliance, either in general or in specifics, and to disclose it would then disclose an approach to the compliance and it would compromise future compliance investigations.

Answer:

The Department can confirm that the S37(1)(a) redactions in the document referred to are relevant to the compliance investigation on the Monaro. Given the interests of the Committee and because the redacted material relates to information that is now publicly known, the redacted text is provided in an attachment below.

Attachments:

1. S37(1)(a) redacted text from the document referred to in this question.

Attachment 1

S37(1)(a) redacted text from the document referred to in this question.

Text redacted under S37(1)(a) for FOI 190419 is shown in italics:

- 22 April 5.46 pm from Stephen Oxley to [redacted] (FOI 190419 Document 8)

“...An action must be planned or undertaken that is likely to have a significant impact on the defined ecological community for those EPBC Act provisions to be triggered.

Since the ecological community was listed in 2000, the Department understands that this has happened only once for agriculture activities, and that is in relation to the current compliance investigation.”

“The approved conservation advice, including condition thresholds, was developed in close consultation with experts from NSW agencies to ensure alignment where possible. As noted in previous briefing, this includes the groundcover assessment methodologies that Angus Taylor MP has mistakenly been advised are not aligned. *Both NSW and Commonwealth are pursuing the current compliance case in question because the alleged destruction of high quality native grasslands has triggered both state and national law.* Also in previous briefing we noted that discussion with NSW agencies indicates that they have not yet decided on final process and methodologies for the change in regulations on 1 July 2017. It is important to note that EPBC Act requirements are not intended to fully align with NSW native vegetation regulations. This is because State vegetation laws cover native vegetation, while national ecological community listings complement state vegetation laws by providing specific protection to select Australian species and ecosystem functions that are at most risk of extinction.”

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Question No: 4

Hansard Page: 46

Question Date: 23 August 2019

Question Type: Spoken

Senator Gallagher asked:

Question Text:

Senator GALLAGHER: Can I ask a few questions. I think it would be useful for the committee to have a list of the meetings that the department have had with MPs and ministers over the grasslands—the listing of the grasslands. I would include that meeting with the National Party in October of 2017 in that. If you have it here, I'm happy to take it. Otherwise, come back to the committee.

Mr Knudson: I think we'd have to come back on notice, but I believe that that was the only meeting with a minister. The other thing that might be helpful is if we include the stakeholder engagement that happened with respect to the listing decision, because that's the external facing which also raised awareness of this issue

Answer:

Excluding meetings between the Department and the relevant Minister for the Environment at the time of the listing assessment and decision, there have been three (3) meetings that the Department has had with MPs and/or ministers over the grasslands listing

- 1) 20 March 2017: Meeting with Minister Taylor
- 2) 25 October 2017: preparatory meeting with Minister Frydenberg for the meeting with the National Party MPs
- 3) 25 October 2017: Meeting with National Party MPs

A summary of the stakeholder engagement with respect to the listing decision is attached.

Attachments:

1. Summary of the stakeholder engagement for the revised listing of the Natural Temperate Grasslands of the South Eastern Highlands.

Attachment 1

Summary of the stakeholder engagement for the revised listing of the Natural Temperate Grasslands of the South Eastern Highlands.

Minister Hunt added the grassland review to the Threatened Species Scientific Committee's published Finalised Priority Assessment List in 2013, with an initial assessment completion date of 31 July 2014.

The listing deadline was extended through to April 2016 to allow more time.

The formal consultation during the assessment met the Committee's requirements set out in the EPBC Act, which requires a publication on the internet for at least 30 business days.

In addition, the Committee's consultation notice was sent to a wide range of stakeholders and the consultation period was extended on two occasions. To assist with the Committee's consultation on a new proposed definition and threat assessment, the Department produced a specific consultation guide including a section on what it would mean for landholders.

State/territory agencies, Local Land Services (LLS), Local Councils, the National Farmers' Federation (NFF), and NSW Farmers' Association were consulted directly during the process of revising the listing in 2014-2016. The former Departmental NFF liaison officer helped with this. The targeted request for comment sent to these groups asked them to consider forwarding it on through their member networks and newsletters.

South-East LLS officers were familiar with the original listing and the organisation has received several Australian Government grants to help manage the grassland. LLS officers attended an expert workshop that was part of the listing review and were involved in subsequent consultation with experts throughout the review.

The NFF provided a submission on behalf of its members. The Department responded via a meeting and detailed letter addressing each concern raised. There were ongoing conversations with the NFF about the grasslands listing review over almost 2 years following their submission and before Minister Hunt made the final listing decision on 6 April 2016.

The NFF submission raised concerns about farmers understanding the thresholds and EPBC Act obligations. To help address this, the Department collaborated with NFF to develop a post-listing information guide, which includes a flowchart about how to recognise a patch of the grassland and what condition it might be in. It also includes other useful information and key contacts regarding the EPBC Act and potential funding initiatives to manage the grassland and its threats.

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Question No: 5

Hansard Page: 50

Question Date: 23 August 2019

Question Type: Spoken

Senator Rice asked:

Question Text:

CHAIR: We did invite them to appear today. I hope that they may yet appear, but they weren't able to appear today. The time line that I've got here is that, essentially, you then began your more on-the-ground outreach, including the field day. The Monaro farm day was a site visit initiated by the NFF on 9 March. Was that the only site visit? Were there other site visits?

Ms Collins: In terms of engagement, we've had staff from compliance, assessments and biodiversity conservation go to the local land service regions—to the north-west, the Hunter, the north-east, the central west and the south-east, which is the area that encapsulates the Monaro. Through those field trips, we've engaged with nine out of the 11 local land services regions, because we found neighbouring regions came along as well. The intent of those field days was to be able to provide training to the local land services regions but also to get a sense from them as to how the EPBC Act is being applied in the regions. We prepared regionally specific information about matters of national environmental significance and how they might be assessed in those areas. So we've had coverage right across New South Wales in the areas that are most likely to intersect with the EPBC Act.

CHAIR: Can you tell me when they occurred?

Ms Collins: The central-west one was the most recent one, which would have occurred in the last couple of months. Before then, I think there was one field trip that went to the north-west, the Hunter and the north-east over a period of a couple of weeks. That would have been—I'll have to get back to you on dates—probably 2017 or 2018. I'll just need to get back to you on dates for those.

Answer:

Date	Event and Local Land Service Region
28-30 August 2017	Site visits with Local Land Services staff - North West Local Land Services region.
9-13 October 2017	Local Land Services EPBC in-field workshop. North West, Northern Tablelands, North Coast, Hunter Local Land Services regions.
9 March 2018	Monaro Field Day –South East Local Land Services Region.
30-31 July 2018	Site visits with Local Land Services staff and landholders - North West Local Land Services Region.
20 September 2018	Field testing draft Monaro grasslands guidance with Local Land Services staff and landholders. South East Local Land Services Region.

7-8 August 2019	Local Land Services EPBC in-field workshop. Central West Local Land Services Region.
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Hearing date: 23 August 2019

Question No: 6

Hansard Page: 52

Question Date: 23 August 2019

Question Type: Spoken

Senator Gallagher asked:

Question Text:

Senator GALLAGHER: Have Ministers Price or Ley or their offices sought advice from the department on the grasslands listing or the compliance action relating to the land part owned by Minister Taylor?

Mr Richardson: Sorry, can you repeat the question? Who are you asking about?

Senator GALLAGHER: Has the previous minister, Minister Price, or Minister Ley or their offices sought advice from the department on the grasslands listing or the compliance action relating to Jam Land?

Mr Richardson: I don't recall. I'd probably have to take that on notice to be certain, but I don't believe so.

Senator GALLAGHER: Thank you.

Mr Richardson: On the listing, I should say, not the compliance.

Answer:

No.

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Hearing date: 23 August 2019

Question No: 7

Hansard Page: 52

Question Date: 23 August 2019

Question Type: Spoken

Senator Gallagher asked:

Question Text:

Mr Knudson: I don't believe so. We absolutely have briefed Minister Ley on the act, but I don't recall Minister Taylor.

Ms Campbell: The only thing I would add is: except for at a high level in the incoming government brief which went to both ministers.

Senator GALLAGHER: Has Minister Taylor acted for Minister Ley since 29 May 2019?

Mr Knudson: I'm not sure, but we could easily come back to you on that.

Mr Oxley: We will check because Minister Ley had a week's leave just recently, and I can't now recall who was the acting minister.

Ms Tregurtha: I believe Minister Cormann acted for Minister Ley during that period.

Senator GALLAGHER: Can you check that?

Mr Knudson: We're happy to provide that.

Answer:

Minister Taylor has not acted for Minister Ley since 29 May 2019. Minister Cormann was acting for Minister Ley during her leave between 5-12 August 2019.

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Inquiry name: Inquiry into Australia's faunal extinction crisis

Hearing date: 23 August 2019

Question No: 8

Hansard Page: 52 & 53

Question Date: 23 August 2019

Question Type: Spoken

Senator Gallagher asked:

Question Text:

Senator GALLAGHER: I'm aware there are times, when there is more than one minister in a portfolio, you can copy ministers in or provide them with copies of briefs that are going to either minister. Are you aware of any times this has happened since 29 May, where briefs to Minister Ley would have been routinely copied to Minister Taylor?

Ms Campbell: There are definitely cases that have been copied to Minister Taylor, but my recollection is that it was not in the environment space; it was more in the areas where they have a common interest—the climate adaptation space, for example.

Senator GALLAGHER: Could you check that for us on notice, please.

Ms Campbell: Can I just confirm: specifically about the EPBC and Monaro grasslands?

Senator GALLAGHER: No, just in general when they were routinely copied in and the number of occasions this has occurred—briefs and departmental advice where both ministers have been asked to note or provide comment on a brief as well.

Ms Campbell: We can look that up.

Senator FAWCETT: If there is nothing on EPBC, it's probably worth noting that there were no briefs copied in on that.

Answer:

There were nine briefs to Minister Ley copied to Minister Taylor between 29 May 2019 and 23 August 2019.

None of these briefs were about the EPBC Act, species listings or compliance.