



LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY
Sessional Committee on Environment and Sustainable Development

Committee Members:

Mr Peter Chandler, MLA	Member for Brennan
Mr Michael Gunner, MLA	Member for Fannie Bay
Ms Marion Scrymgour, MLA	Member for Arafura
Mr Peter Styles, MLA	Member for Sanderson
Ms Lynne Walker, MLA	Member for Nhulunbuy (Acting Chair)
Mr Gerry Wood, MLA	Member for Nelson

PUBLIC HEARING, FRIDAY 16 OCTOBER 2009

Northern Territory Environment Protection Authority

Witnesses:

Dr Andrew Tupper	Chairperson
Juanita Croft	Executive Director EPA

Madam Acting CHAIR: I reconvene this public meeting of the Sessional Committee on Environment and Sustainable Development. Our inquiry arises from a reference to the committee by the Honourable Alison Anderson MLA, former Minister for Natural Resources, Environment and Heritage.

I welcome officers from the Environment Protection Authority Mr Andrew Tupper, Chairman, and Ms Juanita Croft, Executive Director of the EPA. Thank you both for appearing before us today.

Although the committee does not require you to give evidence under oath, these hearings are formal proceedings of the parliament and consequently they warrant the same respect as proceedings of the House itself. I remind witnesses that giving false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. Whilst this meeting is public, witnesses do have the right to request to be heard in private session. If you wish to be heard *in camera*, please advise the committee prior to commencing your answer.

I remind members that personal opinions should not be sought from public servants who appear in a professional capacity.

Today's proceedings are being electronically recorded. To ensure the accurate transcription of the recording, I ask that witnesses and members identify themselves prior to speaking and in the first instance, I invite officers of the EPA to state their full names and positions before commencing their evidence. So if we could just do that first up, Andrew and Juanita.

Dr TUPPER: Andrew Tupper, Chairperson EPA.

Ms CROFT: Juanita Croft, Executive Director EPA.

Madam Acting CHAIR: Thank you. As soon as practicable following this hearing, a transcript of your evidence will be uploaded to the Committee's website, but not before you have proofed it. Andrew, I believe you will be leading us this morning. Thank you, over to you.

Dr TUPPER: Thank you, very much. Do you have a copy of our written submission?

Madam Acting CHAIR: Yes, members did have it sent to them.

Dr TUPPER: I think what we are not going to do is read through that in detail and we are not going to give a PowerPoint. We have just had an excellent presentation and we are not going to try and top that. So I will try to save you a little bit of time.

The reason we wanted to put in a submission; we are not in a position to give expert comment on the matter at hand, but we wanted to talk about ecologically sustainable development in the Territory and what our take on that is at the moment.

As I think you know, the Northern Territory EPA, as is stated in the current act, is to give advice to government and the community about ecologically sustainable development in the Territory. We have currently a staff of five, a budget that allows for that, and essentially the budget allows us to do one or two investigations at a time, depending on the size of the investigation.

So that way we prioritised our work initially, apart from the considerable start-up work involved, obviously, was to say: 'Okay, so we have got one major project referred to us' which was the project about environmental impact assessment and that is a discussion paper currently in the public domain before it gets finalised, 'but even before we get looking at that one, we need to do another project, which is about what is ecologically sustainable development?'. Now, we thought it was important that, even though it is fairly dry kind of work to do, that we actually say: 'If we are throwing around these words in the Northern Territory, we actually need a common understanding of what these words mean and when we are choosing to tell a public servant or an organisation they have to respect principles of ecologically sustainable development, we want to express that in a way that highlights what the barriers are for the Northern Territory'.

So some months ago, we put out a discussion paper on that. I have a couple of copies here and it is also on our web site and it is being circulated. In our submission to the inquiry, we go through those principles. I will just read them out in bullet-point form now. There are six principles that have gone in there.

The first is that ecologically sustainable development is necessary to support a strong, diversified and healthy Northern Territory society. I think that is self-evident and I won't go into that.

The second is the nature-dependent Northern Territory identity is to be protected and promoted.

The third is that equity and social cohesion are intrinsic to how the Northern Territory operates.

The fourth is that the public sector must lead in the advocacy and enactment of ecologically sustainable development in the Northern Territory.

Fifth is that the Northern Territory community and business are key partners in ecologically sustainable development.

And the sixth is that acknowledging and addressing regional circumstances is required to achieve ecologically sustainable development in the Northern Territory.

As we were watching the previous presentation, I think we saw a lot of those themes actually reflected in there. So probably what we are saying isn't and shouldn't be in contradiction to most of the evidence you've been hearing.

We are saying there is the triple-bottom line aspect of ecologically sustainable development and it is really important that that goes in there. Precautionary principle, obviously, is very important and, overall, these six principles are what should be embedded in anything that we do in the Territory and any policy that we come up with.

Apart from that, in our submission, we are basically saying agriculture is really important and there are various ways to get these principles in there and, again, we just heard that so I will not go through it again.

This paper itself, we expect to finalise around the end of the year. We will have a decision to make about whether it is given to the minister and given to the public before or after Christmas, and that will depend on what timing is fair.

We expect that the principles in there will be very similar to how they are in the discussion paper and most changes to the discussion paper would be around the way we express things or the way things are fleshed out. So, really, it is just a request to the committee to consider these as almost finalised principles and to incorporate them into the conclusions of your deliberations.

That is actually pretty much all I wanted to say on that and I am very happy to answer any questions.

Madam Acting CHAIR: Members, any questions? Member for Nelson.

Mr WOOD: Andrew, the precautionary principle is something that has been around a while and it sometimes can also be used not to have any development because if you do not do something, generally speaking, it does not come in to play.

How far should we take the precautionary principle? Development sometimes has to take it - there is a certain element of risk with development no matter what you do, whether it is environmentally or economically or whatever. So how do you find the balance between the precautionary principle and moving ahead, if you might say, with development in the Northern Territory?

Dr TUPPER: Did you want to comment?

Ms CROFT: I was just going to respond that the intent of the precautionary principle is not about obstructing or blocking development, and I think it does tend to get used in that way by people who are wanting to stop development from proceeding. The intent of the precautionary principle is more about do we understand or do we have the science to understand what the impact of a development may be and do we have the science to understand that the management measures being promoted actually will achieve what they are meant to do and if we do not have that knowledge, then we respond according to risk. And I think that is the issue with the precautionary principle: you respond according to risk; you do not use it as a reason to stop a development from proceeding.

Dr TUPPER: I do not have anything to add to that.

Ms SCRYMGOUR: I was going to ask a question, but I think I'd better let Gerry ask his questions. We have been arguing EPA.

Mr WOOD: Maybe the Member for Brennan should ask a few questions of the EPA to see if they have been working hard enough.

Maybe I will just ask one: when your economically sustainable paper finally comes through, what weight do you expect it to have in relation to planning matters, land clearing matters? They are fairly consistent things that are coming in to being because the government has just put out draft land clearing guidelines. As we heard from the Horticultural Association, of course, and I know from the Ag Association and the pastoralists, these issues are becoming now not only common, but they are the issues that these industries have now got to face up to. So where will your document fit in within all of that?

Dr TUPPER: I guess when the document goes up, there are two questions. One is: does the elected government of the Northern Territory accept these principles? The second is: what is our implementation strategy, how do they move from being dry principles to hitting the dirt, so to speak? There have been some discussions about implementation of the strategy. Juanita, would you mind?

Ms CROFT: We were taking, I suppose, a bit of a two-staged approach with this work; recognising that the first stage is actually understanding what the concept means. The reality is the Northern Territory signed up to the national strategy for ESD some time in the early 1990s, so the point of this paper was trying to interpret what do those four big principles actually mean within a Northern Territory context. So the first stage was just to try and get that common understanding and acceptance of 'this is what it means'. The next stage, and I cannot put a timeframe on that stage, is looking at do we then go down the path of having some performance sustainability strategy for the Northern Territory, which actually takes it from just being a high level document, which is lovely, to actually how is it getting implemented down through government agencies and out further and beyond. Sitting here listening to the Horticultural Association, that industry is beginning to lead the way and they are tackling these issues already.

Madam Acting CHAIR: Member for Sanderson.

Mr STYLES: Juanita, a bit earlier when Gerry Wood asked the question in relation to the precautionary principle, you said roughly: 'Do we have the science to understand what we are about to do and respond according to risk?' We have heard from the NT Horticultural Association that there is a move for more locally produced product to get the cost of transport down, the environmental footprint, etcetera, etcetera. Are you in a position as an EPA to advise the government that they need to do more soil, water land usage mapping? We did hear that there is some good mapping that has been done in relation to water and some good mapping in relation to soil, but for the Horticultural Association, it needs to be probably a little bit better. So part of your discussions, will that be a recommendation to government that they actually do more mapping and provide some resources so that that can be done?

Ms CROFT: Collecting the knowledge, is that what you mean?

Mr STYLES: Yes, collecting the knowledge so that you people are able to make perhaps better informed decisions and the industry itself can actually have more information at their disposal so they can put better proposals to the community and to you guys.

Dr TUPPER: I just want to comment that the EPA Board wants to be strategic about what it does and to spend our resources wisely, so certainly we have not investigated that matter, and we would only choose to make comment on it if we thought we had value to add to the Territory. The process by which we would investigate the matter, we could take a private referral, a public referral or a ministerial referral where that gap has been identified or we could self-refer if we see the gap ourselves, looking down on the whole landscape and choose to allocate resources to that. So the short answer is that we would not seek to come and make expert comment upon every single element of sustainability in the Territory unless we thought there was value in it and unless we thought it was worth putting resources in to that.

Mr STYLES: Just a supplementary to that, Andrew, when you opened, you said that one of the things that the EPA does is give advice to the Northern Territory Government on environmentally sustainable development. So if the horticultural industry is looking for a big plot of land here, I am assuming that that would be one of the things that would be referred to the EPA to say have a look at this; we might need some sort of an independent assessment or get someone to do an environmental impact statement to produce to you guys so that you can have a look at it. If we do not have data and we do not have sufficient mapping, would you be referring back to government departments or making a recommendation to government to say: 'We really need to do this'? The point of my question is: is there sufficient knowledge for private enterprise and the Horticultural Association to have a look at and say: 'We believe that this section of land over here is suitable and these are the reasons why'. I believe you people should be looking at something like that if we are looking at large scale developments like the Ord River project or something so that you can look at it and say: 'Yes, okay. We are in agreement with this' or 'we are not' or 'we recommend this'. Is that the sort of thing you would do?

Dr TUPPER: Let me give a response and I would also like to give Juanita the opportunity to add if she would like to. This is getting into the field of Environmental Impact Assessment. Now at the moment, that assessment happens under an act which is administered by NRETAS. Referrals come to the Minister, the Minister asks NRETAS to do the work and, usually, it is work around a particular proposal that has come about. That is Juanita's expert background, so I will let her speak about that further if she wants to.

Ms CROFT: It's my old hat.

Dr TUPPER: So that is not the current work of the EPA. Where I think, and there has been a lot of discussion recently about where the EPA might add value to this process, would be in seeking to come out from the broader view and saying: 'Is this a process working properly?' Now, in the discussion paper that we currently have on Environmental Impact Assessment, which is a fairly major work that we put out in May and we have been doing a lot of community consultation on, one of the points that is argued in that discussion paper is that we should be thinking in the Territory much more about strategic assessment of an area, so strategic environmental assessment, and there might be various ways of doing that. That would be where we look at an area - when I say 'we', I mean the Territory and resourcing issues need to be sorted out - and say: 'Well, what is the appropriate use for this?' so we are not going to be talking about a gas plant here and an agricultural farm here and a dairy next to it. 'What is an appropriate use for that whole area?' and by doing some of that work right up front, it would make a lot of the decision making and angst a lot smoother downstream. Juanita, did you want to add to that?

Ms CROFT: No, thank you.

Madam Acting CHAIR: Member for Brennan.

Mr CHANDLER: I had five questions; I am going to make it two. Playing the devil's advocate, the report that you submit to the government, does the EPA have a strategy if it is not accepted by government? Further, will the document, when it is finalised, be a firm position or will it be a position that can adjust for future needs? I am just throwing it out there that a future need may be that if things deteriorate in the southern areas of Australia and there is more, I suppose, national pressure on producing more food in the northern areas – and I don't want to use that term 'the food bowl' - but if there is more pressure, the document that you put out, will it be able to adapt to that or is it a firm position, if that makes sense?

Dr TUPPER: The document that we will be seeking to put out is to establish the principles under which ecologically sustainable development should happen. Now, in the argument about the food bowl - - -

Mr CHANDLER: That we haven't mentioned.

Dr TUPPER: That we haven't mentioned, agricultural production in the north, the detail of that argument we would expect to address the principles because if they didn't, then we're not appropriately looking after the Territory. So in putting that document to government, we would be saying: 'Do we accept these principles?' If government replied and said: 'No', well, we would be saying: 'Government is elected to govern', but the advice that we have made, we will have believed to have been useful, worthy advice paid for by the people of the Northern Territory and on the public record and so therefore it becomes a political debate about government's response to those principles. Government might choose to say: 'We accept most of that. We would like you work a little bit further on these aspects' and then that will be a different sort of process. I guess my overall impression is that that will be a debate in the political realm.

Mr CHANDLER: My second question was: do you ever see in the future of the EPA – I'm thinking of a business model here - that someone wanting to set up a new horticultural industry or business that, if they were prepared to fund the EPA, can you ever see scope within the EPA to provide advice directly to business, for instance, if they were prepared to pay and resource that investigation?

Dr TUPPER: Again, I think that is a political question in that we would have to consider does it compromise the independence of the EPA. I do not really see much scope under the existing act for that to happen. Given that there are very interesting discussions happening at the moment, perhaps that is the sort of element that might happen in those political discussions. Right now, I would say no. We have got an existing budget. The budgetary arrangements have been organised in a way where it is felt that we have the independence to comment without respecting too much who we owe favours to and that is what we are working to. It would be different model EPA that takes us to private money, frankly.

Madam Acting CHAIR: Member for Sanderson, you had a question.

Mr STYLES: Andrew, just in relation to the opening statement - and I will just give you my understanding at the moment and clarify it if you can - the EPA gives to the Northern Territory Government advice on the principles of economically sustainable development. Is that what your opening statement meant?

Dr TUPPER: We give advice and make recommendations to government, business and the community about ecologically sustainable development. Yes, that is the way it is phrased in the act.

Mr STYLES: And from the conversation that I have been listening to, you guys look at the principles and people who are out there doing environmental impact statements, they will look at those principles and say: 'We need to make sure that this, this and this is done' and all that sort of stuff. Is that roughly the picture?

Dr TUPPER: In relation to this work, it is, but this work is like our starting point. Now, in the indefinite lifetime of the EPA, we would be expecting to make explicit detailed comment on a number of important matters and it might be just a small bit that is very important to the Territory. So, for example, our act talks about emerging environmental issues. Well, it may be that in a year's time there will be an environmental issue that is so important that we will just be focusing on that one thing. We merely chose to start with this over-arching approach because we thought if we do not do that, then we are only going to be lost down in the forest.

Mr GUNNER: Sorry, I missed a little bit, but my understanding of it is you almost have a policy role or a principle role and then not quite an operational role. So to use the Jabiru example, they have the Office of the Supervising Scientist that does the operational work; you are more in the sphere of the principle side of things, so there is a demarcation almost, an avoidance of duplication of work. You are in that sphere. That is how I understand it.

Dr TUPPER: Yes, I think that is a good understanding.

Madam Acting CHAIR: : Any other questions, Members? Any other comments in closing from the EPA?

Dr TUPPER: This is not actually an EPA comment, so excuse me; I think it is probably allowable, though. I will just switch hats for one moment and speak as a public servant in the sense that I am also Regional Director of the Bureau of Meteorology. I will simply comment, if you have not already heard in relation to the food bowl discussion, that future rainfall increase or otherwise is regarded as uncertain and that might be a factor in considering that particular issue.

Mr GUNNER: I have been reading an article that said we have based a lot of our food production on a rainfall prediction that was almost like the golden years, 50 years of good rain, and now we are moving in to a cycle where people are now saying that there is going to be much less rain. I am sorry; I am not putting that in very good scientific terms; but I have been reading that we have based a lot of food production is based on rainfall that is not atypical.

Dr TUPPER: Yes. I guess the wording around all of that is in the IPCC Fourth Assessment Report and Summary for Policy Makers, which gives guarded phrases about what we might [inaudible]. So with a public servant hat on, I would say that that is probably good guidance on how we should be doing that element of risk management. And if I was going to go back to an EPA hat and comment, I would probably say something similar.

Mr CHANDLER: Can I just ask one question on rainfall? How far in the Top End can we go back and we have got reliable rainfall figures?

Dr TUPPER: The Australian Rainfall Record, the Territory part of that is quite good in many locations. In some locations it is over 100 years, and in some locations it is more like 30 or 50 years, but overall it is quite good.

Madam Acting CHAIR: Last question, Member for Nelson.

Mr WOOD: It is one and a half. In relation to rainfall, you have also got to be realistic. You have got to eat, you have got to use the water where it is and you have to adapt to change because if we ever get more water, as Peter Stubbs said at the NT Agricultural Association dinner last week, because he believes the Kununurra rainfall has increased over the last few years, you would use the water as we have got it and we could store it there and we could use it and I imagine Australia has to adapt to these changes. So if the water decreases, so does our food production unless we get cleverer in the kind of crops and how we use the water. So it is one factor, but it is not the only factor because there are a lot of other factors about how we got our crops that come in to play.

My half a question is a practical question: why has the EPA got a security swipe on the front door of its office? Is there anything in there that is top secret?

Dr TUPPER: I think that is definitely a matter for the Secretariat to comment on.

Ms CROFT: The building that we have moved in to has security attached to it, so we need a security swipe to use the lift before 7.30am and after 5.00pm.

Mr WOOD: I understand that. I think when I got to the front door, I did not feel the EPA was something like ASIO or the Police or Treasury. It was just good old EPA that you could walk up to the front counter and say: 'Hello, can I have a pamphlet on the EPA?'

Dr TUPPER: Perhaps I will speak to that. The EPA is required under its act to engage appropriately and we would hope that as we evolve, we have that sense of connection with the community. We have been doing a lot of consultation in remote communities in regards to the Environmental Impact Assessment Report and we have been trying to make sure that when we have board meetings, we do get around a bit. We have met in Alice Springs and Nhulunbuy. In Darwin, we are seeking to have a future program where with each board meeting, we are able to do some element of community connection, run seminars and so on. The communication strategy of the EPA is still being developed and it has been matched to responsible use of the resources we're given, but I actually think that is a good point.

Madam Acting CHAIR: Member for Sanderson, you had a comment to make?

Mr STYLES: Just a comment; I suspect that with the EPA working on various things and with various members of the community, some of whom may be likely to take their right of freedom of speech just a tad too far sometimes, so therefore I would, as a former police officer, suggest that sometimes in those situations where you may be treading on someone's toes, as they see it, not as you see it, they are wanting to come marching in and voice their - - -

Mr WOOD: Well, I can knock on the front door of the Horticultural Association. I bet you they get more cranky customers than the EPA.

Madam Acting CHAIR: Thank you, Member for Sanderson. On behalf of the committee, I would like to thank Andrew Tupper and Juanita Croft from the EPA for appearing for us today and giving evidence. So thank you very much and we will now take a short lunch break before reconvening.

The Committee suspended
