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AGRICULTURE, RESOURCES AND ENVIRONMENT COMMITTEE

Members present:

Mr IP Rickuss MP (Chair)
Mr SV Cox MP
Ms MA Maddern MP
Ms J Trad MP
Mr MJ Trout MP

Staff present:

Mr R Hansen (Research Director)
Mr M Gorringe (Principal Research Officer)

PUBLIC INQUIRY—EXAMINATION OF THE NORTH STRADBROKE ISLAND PROTECTION AND SUSTAINABILITY AND ANOTHER ACT AMENDMENT BILL 2013

TRANSCRIPT OF PROCEEDINGS

THURSDAY, 31 OCTOBER 2013

Brisbane

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Committee met at 1.18 pm

BRAY, Mr Neil, Acting Deputy Director, General Policy and Program Support, Department of Natural Resources and Mines

DITCHFIELD, Ms Bernadette, Executive Director, Lands and Mines Policy, Department of Natural Resources and Mines

KELLY, Mr Mark, Regional Director, Southern Region, Department of Natural Resources and Mines

MEADOWCROFT, Mr Rex, Director, Legislative Support, Department of Natural Resources and Mines

NICHOLAS, Mr Graham, Director, Vegetation Management Policy, Lands and Mines Policy, Department of Natural Resources and Mines

WATSON, Mr Craig, Mining Registrar, Southern Region, Department of Natural Resources and Mines

CHEYNE, Mr Damon, Principal Environmental Officer, Environmental Services & Regulation Division, Department of Environment and Heritage Protection

HERTSLET, Mr Bryce, Regional Manager, Southern Region (East), Environmental Services & Regulation Division, Department of Environment and Heritage Protection

CHAIR: Welcome, ladies and gentlemen. I declare open this meeting of the Agriculture, Resources and Environment Committee. Before we start, can all phones be switched to silent. I would like to acknowledge the traditional owners of the land on which this meeting is taking place. I am Ian Rickuss, the chair of the committee. The other members of the committee here today are: Jackie Trad, the member for South Brisbane; Sam Cox, the member for Thuringowa; Anne Maddern, the member for Maryborough; and Michael Trout, the member for Barron River. Please note these proceedings are being broadcast live by the parliamentary website.

The purpose of this meeting is to receive a follow-up briefing from the departmental officers on issues raised at the public hearing yesterday and to assist the committee in the examination of the North Stradbroke Island Protection and Sustainability and Another Act Amendment Bill 2013. I remind officers about the sub judice rule that applies to parliamentary proceedings under standing order 233(1). The rule applies to a matter presently before the Supreme Court between the Department of Environment and Heritage and Sibelco, concerning the alleged unlawful extraction of B-grade sand for building and other purposes between 3 December 2003 and 2008 in Sibelco's sandmining operation on North Stradbroke Island. Members and briefing officers should exercise care in avoiding saying anything during the committee proceedings today that would be regarded as contempt outside the parliament and could jeopardise those court proceedings.

I remind honourable members that these officers have given their time here today to provide factual information. They are not here to give opinions about the merits or otherwise of the policy behind the bill's alternative approach. Any questions about the policy of the government that the bill seeks to implement should be directed in the first instance to the responsible minister, Mr Andrew Cripps.

Neil, you have introduced all your officers several times. I do not think we need to do that again. Would you like to raise any issues first and we will go from there?

Mr Bray: No. I just welcome the opportunity to come back to assist the committee. We have the same team that were there when I made that speech in response to the submissions that had been made. Beyond that, we are ready to take questions from the committee.

Ms TRAD: Good afternoon, Mr Bray. Thank you for coming back. Can I start with your statement yesterday in relation to consultation where you acknowledged that no public consultation occurred on the bill and that the department further understands that the government decided that consultation occurred at the time of the election. Mr Bray, are you aware of the statement that was put out by the then opposition, now government, in relation to continuing sandmining on Stradbroke Island?

Mr Bray: Not at the time, no.

Ms TRAD: So the statement said—

An LNP government would consult with community and other stakeholders to agree on an orderly transition to end sandmining on North Stradbroke Island.

Mr Bray, on what did you base the no-consultation approach to the development of this bill?

Mr Bray: The development of this bill followed engagements both with QYAC and Sibelco earlier in the year. The development of the bill was undertaken with the known concerns and positions of both those parties. Probably to assist you on this question, I do have Rex Meadowcroft, the director in legislative support. Rex, did you want to add anything at this point?

Ms TRAD: Sorry, just to go back to you, Mr Bray, because they were your statements yesterday.

Mr Bray: They were my words in speech.

Ms TRAD: Yes. In the development of this bill, are you saying that QYAC was consulted?

Mr Bray: No, not in the development of this bill. I was just making reference to meetings that had occurred through the calendar year 2013 with QYAC and Sibelco.

Ms TRAD: So are you saying that QYAC gave false evidence yesterday when they said that no meeting had occurred in relation to the development of this bill?

Mr Bray: I am not saying that they made—

Ms TRAD: Gave false evidence?

Mr Bray:—gave false evidence, no. There was no consultation in the formal development of this bill. I did make mention at the hearing before yesterday's, last week, with our director-general that we did meet with QYAC, but it was on the 18th following the tabling of the bill.

Ms TRAD: So there was no public consultation. You claimed yesterday that that was based on the fact that the government had consulted through the election campaign on this matter, but the official statement from the LNP at the time said that they would consult for an orderly transition, consult with all stakeholders in the community. Mr Bray, what are you basing your statements from yesterday on?

Mr Bray: I made a reference quite specifically: the department further understands the government decided the consultation occurred at the time of the election. The public—

Ms TRAD: What do you base that understanding on, Mr Bray, if you did not base it on the official statement?

Mr Bray: My preparation of that statement was about the public discussion about the extension of mining leases.

CHAIR: Was that discussion held with the minister? Would that question be better directed at the minister?

Ms TRAD: I am asking Mr Bray about his statements given to the committee yesterday and what he is basing his statements on; obviously not on the official statement that was released by the LNP—

CHAIR: Not on the press statement, you are saying? It is not on the press statement, prior to the election? That is the one that you are talking about?

Ms TRAD: The official position, yes.

CHAIR: The press statement, prior to the election?

Ms TRAD: The official position of the current governing party in relation to this matter was that they would consult in government with stakeholders and the community around the orderly transition.

CHAIR: Aren't you quoting a press release that the LNP made while they were in opposition?

Ms TRAD: Yes, Ian.

CHAIR: That is right.

Ms TRAD: Yes.

CHAIR: So you are quoting a press release that the LNP made in opposition—

Ms TRAD: Which was the official statement, the official position, of the LNP.

CHAIR: While it was in opposition.

Ms TRAD: Which is what they took to the election, which is what Mr Bray said in his statement yesterday.

CHAIR: That is right. That is what your statement is about. I feel your question should be to the minister, asking why there was no briefing. Just one other point—

Dr ROBINSON: Chairman, may I seek leave?

CHAIR: Is everyone happy with that?

Ms TRAD: No, I want my dissent noted.

CHAIR: Thank you.

Ms TRAD: Okay, I will keep going. I have some more questions.

Dr ROBINSON: I have a question, Mr Chair.

Ms TRAD: I still have a run of questions, thanks.

Dr ROBINSON: I would like the opportunity, Mr Chair.

Ms TRAD: I bet you would.

Dr ROBINSON: I do not have six or seven.

CHAIR: On the issue that we have just been talking about?

Dr ROBINSON: Yes. I would like to address a question to Mr Bray on this particular matter.

CHAIR: Yes, if it is on that question.

Dr ROBINSON: Mr Bray, it is on the public record that the LNP's position when in opposition, going back to July 2010 and over the years since, has clearly developed into one in which there was a very clear expectation in the community that sandmining would be extended should the LNP be in government. To my knowledge, as we raised in the similar meeting to this last week, where I raised a question about attempts of the departments involved to make contact with stakeholders in order for there to be further consultation, I would like to reiterate my question and perhaps you have had opportunity to reflect a little more: have there been attempts to have consultation with the various stakeholders? Have some of those stakeholders seemed to be reluctant or just not available to the minister and to the department?

Mr Bray: In response to the question, and I have been in this acting position for only several months, but my understanding in terms of the engagement between stakeholders is offers were made to facilitate conversations.

Dr ROBINSON: So there have been attempts of government to engage with the various stakeholder groups, but perhaps there is a question of their availability, and I am aware of cancellations by some groups upon the minister's attempts. I also have had situations where meetings I have requested have been denied by certain groups claiming not to be part of the process. Thank you for clarifying that.

Ms TRAD: Okay, Mr Bray, following on from that, just to clarify: are you telling me that the department sought specific meetings with QYAC in the development of this bill?

Mr Bray: No, I am not saying that.

Ms TRAD: No, okay. Thank you very much. Moving onto the issue in relation to new section 11F, which is about the necessity to remove any ability for judicial review of the extension of the mining leases and that this clause has been put in there to provide Sibelco with a level of confidence that they can continue their mining operation. Mr Bray, yesterday we heard from

Quandamooka in relation to the confidence that they can have as the native title holders, in terms of the confidence they can have in the government to honour elements of the ILUA and their rights as native title holders. We have the confidence of Sibelco being enshrined in legislation and we have—

CHAIR: Do you have a question, Jackie?

Ms TRAD: Yes, I do. I am getting to it. And now we have the government walking away from an agreement that it has with the native title holders, so what confidence can they have in the process?

Dr ROBINSON: Mr Chair, that is seeking an opinion. That is out of order.

Ms TRAD: No, it is not. The Crown Law letters tabled yesterday, Dr Robinson: I direct you to that.

Dr ROBINSON: Through you, Mr Chair, on a point of order, that is seeking an opinion on policy.

Ms TRAD: And, Mr Chair, it is obvious that Dr Robinson is running interference on behalf of the mining company at this committee hearing.

CHAIR: Please—

Dr ROBINSON: Mr Chairman, I object to that.

Mr TROUT: That is a big assumption.

Ms TRAD: I think it is pretty evident.

CHAIR: I can probably cut to the chase on this one for you, Mr Bray. Could I ask: what is the department's opinion in relation to the ILUA?

Mr Bray: In terms of the ILUA, I will restate what I said yesterday: it is confident that the provisions of the bill do not breach the state's Indigenous land use agreement with the Quandamooka Yoolooburrabee—

Ms TRAD: On what do you base that on, Mr Bray? Have you been apprised of the crown law letters that were tabled yesterday by QYAC wherein they say that the ILUA will have to be renegotiated because of the government's intention to extend sandmining and, furthermore, the ILUA was suspended?

Mr Bray: My advice is that it does not breach the ILUA.

Ms TRAD: Who provided that advice if crown law is telling QYAC that it does breach the ILUA?

Mr Bray: I am just restating what I am aware of.

Ms TRAD: Yes, but on what does the department base its advice?

Mr Bray: On advice from crown law.

Ms TRAD: So crown law gave QYAC one form of advice and exactly the opposite to you. Is that what you are saying?

Mr Bray: What I am stating is that the issues—and you have mentioned native title as well and I just restate that the department is confident that the bill does not breach the Commonwealth Native Title Act 1993. That advice is privileged and that is the basis upon which—

Ms TRAD: So why suspend the ILUA?

Mrs MADDERN: I would just like to make something—

CHAIR: You are badgering—

Ms TRAD: And you asking people if they were part of a radical green organisation was not badgering?

CHAIR: Please.

Mrs MADDERN: Jackie, that is enough.

CHAIR: Please, no side arguments.

Ms TRAD: You control him as well, Ian. You did not do a very good job yesterday.

Dr ROBINSON: Point of order. That was—

CHAIR: Please, could I have a bit of quiet. Ms Maddern has the call.

Mrs MADDERN: I would just like to ask a basic question about the ILUA. As I understood in your previous briefing, that agreement is commercial-in-confidence; right?

Mr Bray: Correct.

Mrs MADDERN: So we do not have any capacity really to see what is in that ILUA. All we have is what you can tell us as independent departmental officers and/or what Quandamooka is saying about the ILUA. But we as a committee do not have any real capacity to make a judgement on that.

Mr Bray: Correct. It is an agreement that both parties keep in confidence.

Mrs MADDERN: Have agreed to and it is in confidence.

Mr Bray: There is confidentiality, yes.

Mrs MADDERN: I just think that there is not too much that we can do about that.

Ms TRAD: No, but in good faith I think that QYAC tabled yesterday advice they had received from crown law in relation to the ILUA and crown law makes it very, very clear to them that the ILUA will have to be renegotiated and then they suspended it.

Mr TROUT: That is for the department to work out.

Ms TRAD: Yes, I know. We do not like the truth, do we. We actually do not like the truth.

Dr ROBINSON: Can I just say as a point of order that people address their comments through you as the chair. I think the conversation is becoming disrespectful to the department.

CHAIR: Do we have another question?

Ms TRAD: I have lots of questions but I am happy to give someone else a go.

Mr COX: Just to clarify for me, your Department of Natural Resources and Mines is the department that deals with ILUAs?

Mr Bray: That is right. We engage them and we undertake quarterly meetings. We are proposing another one.

Mr COX: A meeting with ILUAs and what ILUAs are meant to be achieve?

Mr Bray: Correct. We have dedicated officers coordinating about seven departments within the state government who engage in quarterly meetings.

Mr COX: So within your capacity in presenting this bill you have sought other advice and you are confident of the ILUAs, as you have just stated.

Mr Bray: Correct. That is right.

Mr COX: That is will not affect the Quandamooka people?

Mr Bray: Correct.

Mr COX: Thank you.

Dr ROBINSON: I thank the panel for being available today and I trust that you overlook the behaviour of some of the members. The issue of the economic benefits to the people of North Stradbroke Island—the over 2,000 residents and the 100 local businesses—the department's information in terms of the benefits to the community that over 80 per cent of the community have supported, can you give us some idea of what sort of impact statement or what sort of information underpins those substantial benefits to the community based on any research that your department has done?

Mr Bray: Yes. I would like to just restate a comment that I made at the first committee meeting that we did commission a study with the Department of State Development, Infrastructure and Planning. A report has been provided, the *North Stradbroke Island economic impact on mineral sands mining*. I will just refer to Bernadette who, more specifically as executive director, commissioned that work.

Ms Ditchfield: Within the government we sought our economic expertise, which was through the department of state development and they provided a report to us to help the government's decision making.

Dr ROBINSON: And was there a clear conclusion on the values of this legislation to the community?

Ms Ditchfield: On reading the numbers, there was an economic benefit in extending sandmining.

Dr ROBINSON: Thank you.

Ms TRAD: Did the department base it on any economic analysis provided by Sibelco?

Ms Ditchfield: We primarily gained the information from ABS data, but there was production data provided by Sibelco.

Ms TRAD: Okay. So census data?

Ms Ditchfield: Yes, it was publicly available data.

Ms TRAD: Yes, very good. In terms of production data it was Sibelco's information?

Ms Ditchfield: That is correct.

Ms TRAD: So was this a desktop review, largely? Did you hop on site and have a look, do a headcount in terms of employees?

Ms Ditchfield: We relied on the publicly available data.

Ms TRAD: So it was a desktop review. All right. Mr Bray, just following on in relation to the statement you made yesterday and your remarks about the category A and B areas being removed, you were saying that there were no category A or B areas that were included in the area to be mined by Sibelco. Is that right?

Mr Bray: That is the statement I made, yes—'Concern has been expressed about the proposed environmental authority permitting operations in environmentally sensitive areas and particularly category A and B areas. This is not the case.' That was the statement I made. I refer you to Bryce Hertslet. Would you like to make any further comments?

Mr Hertslet: That is an accurate statement. There is no category A or B environmentally sensitive areas.

Ms TRAD: What about category A or B culturally sensitive areas?

Mr Hertslet: In terms of category A, it does not fit the definition. 'Cultural heritage area' does meet the definition in category B. However, we have made inquiries with the cultural heritage unit and there are no cultural heritage areas that are listed or meet the definition of category B within that area.

Ms TRAD: Yes.

Mr Hertslet: But notwithstanding that, I want to say, in terms of cultural heritage—because we obviously did do some inquiries with the cultural heritage unit—they did advise that, irrespective of the environmental authority, all significant Aboriginal cultural heritage is protected under the Aboriginal Cultural Heritage Act and penalty provisions apply for any unauthorised harm. Obviously, a person carrying out any activity must take all reasonable and practical measures to ensure that the activity does not harm Aboriginal cultural heritage. This applies whether or not such places are recorded in an official register and whether or not they are located in or on or under private land. Aboriginal cultural heritage continues to be protected under the Aboriginal Cultural Heritage Act.

Ms TRAD: So Mr Hertslet, have you read the QYAC submission?

Mr Hertslet: I have, yes.

Ms TRAD: So they state very clearly that culturally sensitive areas are included in the new mining areas.

Mr Hertslet: And I guess the important point is that there are no areas under which we are able to consider in terms of the category B definition. I am not suggesting that there are not Aboriginal cultural heritage areas that are of significance there and they will continue to be protected.

Ms TRAD: No, they will not, Mr Hertslet, because this bill supersedes—it is the more recent—

Dr ROBINSON: Point of order. Mr Chair, this is badgering of public servants.

Ms TRAD: It is not.

CHAIR: Excuse me, Mark, please, stop interrupting. Jackie, I think Bryce has answered the question.

Ms TRAD: He has not, Ian.

Dr ROBINSON: How many goes do you need?

Ms TRAD: I will keep coming back to it, Dr Robinson. If you do not like it, you can leave the committee.

CHAIR: Please.

Dr ROBINSON: I am happy to be here, Mr Chair.

Ms TRAD: And I am happy to keep asking my questions.

CHAIR: Mark, would you like to ask a question?

Dr ROBINSON: Mr Bray, I am happy to have the opportunity to get an occasional question in as well between the member for South Brisbane's tirade.

Ms TRAD: You are here on our indulgence. You know that.

Dr ROBINSON: Not your indulgence—permission of the committee, thank you. Mr Bray, could you give us some idea of what the department would feel is the expected benefit to all Indigenous families on North Stradbroke Island with regard to the extension of the sandmining in terms of, for example, jobs, economic benefit of other kinds, general wellbeing, social, cultural benefits or any of those areas that would be helpful in terms of strengthening the future of the Quandamooka people, which is part of the purpose of this bill? Could you give us some comment on that, please?

Ms TRAD: Point of order. Mr Chair, I do not think Mr Bray is in a position. He has advised that the department has not consulted Quandamooka in the development of this bill. I do not think, given that the department has not consulted QYAC, that Mr Bray can give advice as to how the bill will assist QYAC and the traditional owners.

CHAIR: Order please! Mr Bray, I will give you the opportunity to answer that question.

Mr Bray: There were some quite specific economic benefits referred to in that report I referred to earlier, the *North Stradbroke Island economic impact of mineral sands mining*, talking about the potential jobs, 107 full-time equivalent jobs—I know our director-general referred to those—retained from 2015 to 2035, the wider benefits within the economy of the continued presence and time to transition the economy to alternative industries. I know our director-general also, for the record, referred to the benefits through the engagement with the QYAC.

Dr ROBINSON: So clearly the department is of the view that there are some benefits to the Indigenous people that could be gained directly from the government's bill. But further to that, as a supplementary, are there any indications that community groups, other industry organisations—for example Sibelco—are prepared to engage in further direct communication with, for example, QYAC in order to provide further benefits?

Mr Bray: Yes.

Dr ROBINSON: That is my question.

Mr Bray: In response to that question, I know within the QYAC submission there was reference to potential engagement in remediation works following the ceasing of mining. They expressed an interest. They expressed that interest at Cleveland on 18 September as well. So that would be a direct involvement.

Dr ROBINSON: So that was one of the consultation meetings with QYAC?

Mr Bray: Following the tabling of the report.

Dr ROBINSON: Thank you.

Mr TROUT: Mr Bray, from yesterday's hearing it was quite evident the economic benefits to sandmining on North Stradbroke Island. With the new strategy of Sibelco shutting down two mines and just extending the lease of one, could you give comment on the environmental outcomes of why the department went down this line?

Mr Bray: We have specialists from our mining area. Mark Kelly may summarise what is proposed within the legislation.

Mr Kelly: The amendment bill only affects the Yarraman Mine and the Enterprise Mine. I cannot make comment on the Vance Mine. The amendment bill does not affect that. The Yarraman Mine has been extended, I believe, until 2020 with five years of rehabilitation with a non-winning clause at the end. The Enterprise lease is extended to 2035 with an extra five years of rehabilitation at the end. In terms of speaking for the company, I am unable to do that.

Mr TROUT: But from your perspective, as the administrator of their permits and their goals, are you comfortable with what you have set in place to make sure that it is rehabilitated to a very good standard?

Mr Kelly: The rehabilitation approvals or requirements is a matter for the Department of Environment and Heritage Protection. I will pass that question to Bryce Hertslet.

Mr Hertslet: Thank you for the question. Specifically, in terms of rehabilitation, the rehabilitation is regulated under environmental authorities. The rehabilitation criteria was developed about 10 years ago in consultation with the mine operator, stakeholders and the Centre for Mined Land Rehabilitation at the University of Queensland. The mine operator conducts a study to identify the subsurface profile prior to commencing operations.

Studies completed in rehabilitated areas indicate that the subsurface profile has redeveloped layers. So whilst that is not exactly the same profile that existed prior to mining, it is similar to natural systems. Additionally, the rehabilitation of surface ecosystems can be effective in redeveloping natural processes when done properly. The techniques conducted by the mine operator have been reviewed by departmental officers, who have endorsed the methodology. Additionally, the rehabilitation program and compliance is assessed by reputable third party auditors, and in this case it is still the Centre for Mine Rehabilitation at UQ. Studies on the rehabilitation have demonstrated that it is a question of returning the impacted areas back to natural systems and processes.

Mr TROUT: Just a follow-up to that question, Bryce. There were comments from individuals yesterday that swamps were drying up. Is there any truth to these statements that were made yesterday? Obviously the department would go absolutely berserk if this was the case. What is your comment to that?

Mr Hertslet: If we had evidence of environmental harm occurring—

Mr TROUT: Swamps drying up—

Mr Hertslet:—those sorts of environmental values, we would be looking to take action, and there is no evidence to date to support that assertion.

Mr TROUT: Thank you.

Mrs MADDERN: Sorry, I would just like to take up that point. It was not the original question I was going to ask, but the environmental authority now says that there is not to be any harm outside of the area that they are mining. If there is harm, what is the penalty? There would be a penalty of some description if there was environmental harm outside of the mining area?

Mr Hertslet: It would constitute an offence, obviously subject to the evidence and the investigation, and there is obviously a range of enforcement action the department can take. The actual penalty would be subject to any judicial process.

Mrs MADDERN: So there are penalties if they do cause environmental damage outside of the mining area. I will just go back to Mr Bray, but I am not sure who is going to be able to answer this question. In your statement yesterday you said—

It has been suggested by some submitters that the extension of sandmining provided for in the bill will damage future national parks.

And underlined in your statement—

The sandmining that will continue is being carried out on land that has already been subject to mining.

Can I assume from that that the land to be mined in the mine path has previously been mined?

Mr Bray: Yes, I made that statement on advice. Mark, did you want to add to that in terms of—

Mr Kelly: I might pass that off to Bryce first and then possibly to the Mining Registrar for Brisbane District Office. But I will pass to Bryce Hertslet first.

Mr Hertslet: Sorry, would you mind repeating the question?

Mrs MADDERN: Yes, it says in the statement that Mr Bray made yesterday—

The sandmining that will continue is being carried out on land that has already been subject to mining.

I am asking that the mine path as suggested under this bill will now be in areas that have previously been mined, so they will not be mining virgin land.

Mr TROUT: National parks.

Mrs MADDERN: Under the national parks path.

Mr Hertslet: I would like to take that on notice, because I am not sure to the extent—what I can say, though, is the areas where approval has or potentially will be given for mining, they are not in, I guess, the higher protected areas, namely, the category A and category B. I am not sure to what extent they have been impacted in the past.

CHAIR: Would the Mining Registrar like to comment on that? Have you got more details you can add to that?

Mr Watson: I would have to take that question on notice.

Mrs MADDERN: I think I would probably just need to alert you to the fact that it related to national park.

Ms TRAD: Mr Meadowcroft, through you, Mr Bray, if I could ask you as the director of legislative support: where two acts seem to contradict each other, which one supersedes? Is it the more recent one?

Mt Meadowcroft: In the absence of any other clarification in the act, yes, that would be correct.

Ms TRAD: So potentially the amendment bill we have before us, by including the environmental authority in the bill, and with that environmental authority having excluded categories A and B, will in fact supersede the Aboriginal Cultural Heritage Act if there are issues of contention around areas of cultural significance?

Mt Meadowcroft: I would probably have to take that question on notice.

Ms TRAD: Could you please take it on notice?

Mt Meadowcroft: Certainly.

Ms TRAD: Yes, because I understand that this legislation, by being new legislation, where there is an issue of contention, may in fact supersede where conflict exists.

Mr COX: Just one question to you, Mr Bray. Have you seen these documents since they have been tabled, the ones from Crown Law advice?

Mr Bray: No, I have not seen them.

Mr COX: I just note they are dated 16 November 2012, so at some stage someone within the department obviously would have come across it.

Mr Bray: Would have been based on the proposal at the time.

Mr COX: That is right.

CHAIR: We are starting to run out of time, so a couple of final questions.

Ms TRAD: I have got a couple of final questions. Mr Hertslet, can you advise whether or not Sibelco has advised you what areas under the new arrangements will be dry mined and dredge mined?

Mr Hertslet: That will be subject to the plan of operations. We have had some, I guess, indication as to what that would be, but ultimately it would be submitted as part of the plan of operations, which we do not have for the new proposal yet.

Ms TRAD: So you are unaware at this stage. And when is the plan of operation due to be submitted?

Mr Hertslet: I would have to take that on notice.

Ms TRAD: Could you, please.

Mr Hertslet: Sure.

Ms TRAD: I just want to clarify something here in relation to this act. What I understand is that the economic analysis has been largely informed by Sibelco's own economic analysis, which they alluded to yesterday. We understand from Sibelco that they were issued with a challenge from government to go away and have a look at what amendments could be made that could extend sandmining while bringing the community with them. That actually has not happened. We know that Sibelco has provided the map which is included as the reference map in the legislation, and we also know that Sibelco asked for the environmental authority, which has been watered down—

CHAIR: Have you got—

Ms TRAD: Absolutely I have.

CHAIR: That is not correct.

Ms TRAD: Well, you might not think it is true, but have a read over the transcripts. Here it is, yes—

Mr Hertslet has confirmed that Sibelco requested the environmental authority be included in the legislation.

So what has Sibelco not gotten that they asked for?

CHAIR: Excuse me, could I just clarify. I think Bernadette stated that a lot of the data was collected from the ABS; is that right?

Ms Ditchfield: That is correct.

Ms TRAD: Some data. But the production data?

Ms Ditchfield: Yes.

Ms TRAD: Thank you.

CHAIR: Well, you are not going to get production data from anyone else, are you?

Ms TRAD: Well, it was not independently verified.

Mrs MADDERN: Do we know that?

Mr TROUT: How do we know that, Jackie?

Ms TRAD: Well, I have just asked. I asked Bernadette earlier. You were not listening.

CHAIR: Yes, I was. Some of the data—

Ms TRAD: So my question was: what did Sibelco ask for that they did not get?

Ms Ditchfield: With all due respect, we are here to answer the—

Mr TROUT: Exactly.

Ms Ditchfield: About the bill, so I suppose—

Mr TROUT: She loves fishing.

Ms Ditchfield:—that is not a question that we can answer, because we are only here to talk about the legislation.

Ms TRAD: With all due respect, Sibelco looks like they actually wrote the legislation, so—

CHAIR: Why don't you ask the minister about that? It might be a good idea.

Ms TRAD: I intend to ask the minister, absolutely.

Mrs MADDERN: There has been some comment made again in your statement, Mr Bray. You say here—

Additionally, having regard to the pre-act approval—

And we are talking about the environmental authority—

mining operations up to the Ramsar wetlands mapped boundary was considered appropriate with the suitable safeguards.

Does the environmental authority that is now to be incorporated in this act have a buffer in relation to the Ramsar area?

Mr Bray: The question is best—

Mrs MADDERN: Probably for Mr Hertslet.

Mr Hertslet: So the previous environmental authority that was—sorry, I should say the current environmental authority and the restricted mine path imposed under the NSIPS Act provides for a 25-metre buffer from the outside boundary. What I will go on is with this—prior to the imposition of the restricted mine path there was no buffer requirement, and the proposed project area seeks to reinstate the previously approved boundary along the Ramsar wetland. I would also like to note with this that the activities that are undertaken along the boundary of the Ramsar wetland include the installation of monitoring bores and posimeters for environmental monitoring purposes as well as corridors for power lines and pipes, so in practice there will be some buffer around the neighbouring environmentally sensitive area. Additionally, condition G2 in annexure A of the proposed environmental authority provides boundaries that prohibit mining operations outside of the project area. So conditions G7 and G10 requires the operator to also produce an environmental monitoring program to be submitted to EHP each year to assess any changes in environmental values that could be caused by the mining activity. The monitoring plan must include trigger levels

and processes for dealing with exceedences of the trigger levels and an obligation to notify EHP of trigger level exceedences. The results of the monitoring program are required to be submitted to EHP in the annual environmental monitoring report.

CHAIR: Thank you very much for your attendance today. It was very good to get the information required. The questions on notice, could we have them by Monday if possible, please?

Mr Bray: I will undertake to do that, yes.

Committee adjourned at 1.55 pm

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