# *INFRASTRUCTURE, PLANNING AND NATURAL RESOURCES COMMITTEE*

**Members present:**

Mr J Pearce MP (Chair)
Mr GJ Butcher MP
Mr MJ Hart MP
Mr S Knuth MP
Mrs BL Lauga MP
Mr LL Millar MP

**Staff present:**

Ms J Dewar (Research Director)
Ms M Telford (Principal Research Officer)
Ms M Westcott (Principal Research Officer)

## PUBLIC HEARING—EXAMINATION OF THE PLANNING BILLS 2015

### TRANSCRIPT OF PROCEEDINGS

**WEDNESDAY, 27 JANUARY 2016**

**Cairns**

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**Committee met at 10.59 am**

**CHAIR:** I declare open the public hearing for the committee's examination of the planning bills 2015. I thank you for your attendance here today. I am Jim Pearce, the member for Mirani and chair of the committee. The other committee members here are: Mr Michael Hart, the deputy chair and member for Burleigh; Mr Glenn Butcher, the member for Gladstone; Mrs Brittany Lauga, the member for Keppel; Mr Shane Knuth, the member for Dalrymple; and Mr Lachlan Millar, the member for Gregory.

The Parliament of Queensland Act 2001 requires the committee to examine the bill to consider the policy to be given effect by the bill and the application of fundamental legislative principles. Today's public hearing will form part of the committee's examination of the bill. Before we commence, may I ask that mobile phones be switched off or put onto silent mode. The hearing is being transcribed by Hansard. May I ask that witnesses state their name and position when they first speak and speak clearly into the microphones.

This hearing is a formal committee proceeding. The guide for appearing as a witness before a committee has been provided to those appearing today. The committee will also observe schedule 3 of the standing orders.

## HARWOOD, Dr Sharon, Land Use and Social Planner, James Cook University

## MUNDRABY, Mr Vincent, Private capacity

## NEAL, Mr Paul (Djungan), Yarrabah Aboriginal Social Entrepreneur and Resident

## WHITE, Mr Bruce, Consultant Anthropologist, Biocultural Connexions

**CHAIR:** Welcome. Would anybody like to make an opening statement?

**Dr Harwood:** Thank you for the opportunity to provide evidence at the parliamentary committee on the draft planning bill and the draft planning regulations for 2016. First I take this opportunity to commend the Queensland government for their inclusion of section 5 'Advancing purpose of act' and subsection 2(d), which reads—

(d) valuing, protecting and promoting Aboriginal and Torres Strait Islander knowledge, culture and tradition ...

This is the first time in the history of planning in Australia that Aboriginal and Torres Strait Islander people, their knowledge, culture and tradition have been explicitly acknowledged, valued and protected in any piece of planning legislation. This inclusion makes me very proud to be a planner in the state of Queensland and very proud that Queensland is the first state in Australia to do so.

I have sought the advice and counsel of both Professor Hirini Matunga, professor of Maori and Indigenous development at Lincoln University in New Zealand, and Ed Wensing, a fellow of the Planning Institute of Australia and an adjunct associate professor at James Cook University, in the writing of this submission.

We believe that it is critical to create a parallel process of Indigenous planning within and beside the mainstream approach to planning, use and management of the Indigenous state in Queensland. It is important to understand that Indigenous people have had their own world views driven by a different set of cultural values and norms and the state's planning system has been adapted to take these matters into consideration in a fair and equitable manner.

The Planning Bill 2015 and the draft planning regulations 2016 must therefore be sufficiently flexible to provide a place for Indigenous knowledge, culture and traditions and their approaches and practices in planning to evolve and fit within the broader planning and development system that operates within Queensland. I have inserted a diagram in my submission which shows how I think the two forms of planning can coexist.

For Indigenous planning to be truly successful, the priority must be for Aboriginal and Torres Strait Islander people to define their community for the mapping of their future and the development of their own planning approaches and tools to create and consolidate this future. This can only occur

when mainstream planning creates a conceptual and, in this particular instance, a procedural space by legitimising Indigenous planning as a parallel tradition that is allowed to have its own history, focus, goals and approaches. The very tricky part, and unfortunately the mismatch we currently face between sections 5(2)(d) of the Planning Bill 2015 and schedules 2 and 3 of the draft planning regulations 2016, is that it does not permit the parallel tradition to evolve and adapt.

In my earlier submission on the Planning Bill dated October 2015, I outlined how a parallel planning process that respects Indigenous planning could be incorporated into the mainstream planning system. In particular I suggested that it is necessary to create new land use zonings that could be applied by the Aboriginal land trust to their land. I notice that these are not included in the draft planning regulations 2016. I believe that there is an opportunity here for your committee to build on section 5(2)(d) of the bill. Having included this provision in the bill, it would be of great assistance to the planning fraternity, as well as the Aboriginal land trusts, if some additional provisions could be included in both the bill and regulations.

Firstly, it is important that the provisions of section 5(2)(d) be retained. This is a significant step in the right direction towards acknowledging Aboriginal and Torres Strait Islander people's knowledge, culture and traditions and ensure that they are valued and respected by the wider community. Section 5(2)(d) needs to be operationalised within the bill. It needs to be geared to advancing the purpose that is outlined in section 3 of the bill. Otherwise it stands alone without any mechanism to make the intention of section 5(2)(d) a practical and positive reality. Therefore, section 5(2)(d) needs a mechanism or mechanisms for advancing section 3 through Indigenous lands through the process of self-definition and hence through Indigenous planning.

My suggestion is that new provisions be inserted into the bill that would enable community based planning to occur at a land trust level. The bill needs to reflect the fact that this local-level planning needs to be driven by the relevant Aboriginal and/or Torres Strait Islander community, but would ultimately need the assistance of the local shire council to have that embodied within the local planning scheme. I am suggesting a collaborative approach be undertaken.

I have inserted another diagram in my submission that describes how I envisage this occurring. It is in fact a three-phase process. The land trust creates a strategic plan. We are terming this, at this point, an Indigenous ecological sustainability plan. That is then converted over to a local area plan for insertion into the local government planning scheme.

The regulations relating to zoning need to include some new zoning provisions that will better reflect Aboriginal and Torres Strait Islander people's land use aspirations on land trust lands and on lands subject to native title but may not be land trust land. These will need to be developed in consultation with Aboriginal and Torres Strait Islander people and the land trust because they should reflect their land use and management aspirations.

Professor Matunga specifically suggests the following. He says we need maybe an Indigenous ideological sustainability plan that is prepared beyond the act by Indigenous communities, as represented by their land trusts, against the backdrop of sections 3, 4 and 5 of the Planning Bill but referred to in the regulations. These are similar to the New Zealand equivalent of iwi management plans in the Resource Management Act 1991 and the Conservation Act 1987 in New Zealand. We have a precedent already and we should probably be looking to this to adapt.

These Indigenous ecological sustainability plans become a reference point for the state and local government to give effect to section 5(2)(d) and Indigenous perspectives on sections 3, 4 and 5 of the bill. We also suggest that the minister propose state planning instruments and/or policies in the regulations to cover both guidelines for engaging with Indigenous communities and guidelines for giving effect to section 5(2)(d).

There are some additional matters that the committee will need to consider. The first is support for land trusts. Planning does not only occur at local government level. The land trusts are established under Queensland legislation but are not well resourced to undertake the full range of responsibilities that come with being landholders for their communities and as significant stakeholders in the Queensland planning system. The support they require includes support for policy development, plan development, corporate governance, capability training and administrative support.

At this time, I would like to acknowledge my colleague Mr Jim Turnour, the chief executive officer of the Jabalbina Yalanji Aboriginal Corporation, who is sitting behind me. He and I put together a submission to the preliminary draft Douglas planning scheme earlier last year. That outlined some of the matters they had experienced themselves as a land trust within three local government areas.

There is an inherent problem with the Local Government Act 2009 in its provisions for rating, and it is linked to the zones that are listed within a planning scheme. For Aboriginal freehold land under the Aboriginal Land Act, if the land is zoned rural it is more likely that the relevant local government authority can levy rates upon their use for commercial purposes and apply the market or alienable land value. If the land is zoned environmental conservation and management, the range of commercial options also becomes very limited. You cannot do anything but you do not pay rates. We think there needs to be a bit of shake-up between the two.

There is an additional oversight in the planning system for land trusts within the purview of the Wet Tropics world heritage management plan. Currently there is a lack of integration between the Wet Tropics world heritage management plan and the Sustainable Planning Act or this derivation. If you go through IDAS for a development application within the Wet Tropics area as it currently stands, you will get certain exemptions under the Sustainable Planning Act but then those are reversed when you go to do your development under the Wet Tropics management plan. We need to have some consistency to make sure that if you get an approval for one you get an approval for the second.

We held a workshop with land trusts and other Indigenous stakeholders at the James Cook University last year and came up with a list of the things that we think should be considered by the committee. I have included those in my submission. I do not think I should go through those again because of time. Thank you very much for this opportunity.

**CHAIR:** Does anybody else want to add to that?

**Mr White:** There are two submissions. That was Sharon's submission. Our submission I will outline very briefly. It is fantastic that the new Planning Bill is going to show value and promote Aboriginal tradition in advancing its goals. We think that is really great. We were hoping we could give you a hardcopy of the steady march of positive native title determinations across Queensland and the local government areas where we are now getting positive native title determinations. There are 122 positive native title determinations in Queensland. Associated with those determinations are 699 Indigenous land use agreements. Some 97 of those Indigenous land use agreements are agreements with councils about the future use of lands.

The planning system should be able to work with this huge march of native title determinations. As an anthropologist I know that every time the Federal Court makes a determination that native title exists they are also saying that there is an Aboriginal society there with its own system of law. When you are looking at the bill and have regard to the extent to which the fundamental legislative principle has regard to Aboriginal tradition, you can go through all the determinations and find that there are 122 Aboriginal societies that the Federal Court says exist in Queensland.

We are worried that the provision that says you are going to look at Aboriginal tradition sticks out like a sore thumb. It sits there at the beginning. You can do a search and you will find that 'native title' appears only once. 'Aboriginal' does not appear again in any of the 320 pages. It does not appear in the regulations. We are saying that it is a great intent but something needs to be done to insert it into the rest of planning scheme. That is the basis of our suggestion.

I had two examples demonstrating that it has not been inserted. One is to go to the definitions. Very critical to the planning system is the definition of who a landowner is. When there is a development application on a reserve or something like that, you need the owner's consent. The definition of 'landowner' excludes native title. It is limited to people who can charge rent. A similar example of how Aboriginal tradition is being missed in the rest of bill is that it says that the intent of legislation is to protect places of cultural heritage significance. If you look up what 'cultural heritage significance' is in the current bill, you find that 'cultural heritage significance' is limited to the Queensland Heritage Act. There is no reference to the Aboriginal Cultural Heritage Act.

In looking at this bill and seeing whether it has sufficient regard to Aboriginal tradition, it is great that the intent is in there but it would be fantastic if someone could insert it all the way through. The department seems to have put it in at the last moment. That is what we believe. I will pass over to Paul, who did the submission with me.

**Mr Neal:** We would like to come to an outcome, because both bills speak for us and I will speak to both bills. We would like more time to recommend changes to allow for bung planning. There is not enough time. We have a lot of opportunities so we are expressing that we need more time. As Bruce and Sharon expressed and as Vince will in their rights and liabilities, those 320 pages, there are planning laws for people, lifestyle and sustainability, to protect Aboriginal culture and knowledge. As Bruce said, the intent needs to be expressed throughout the legislation and the statutory instrument. Currently the legislation does not cater for or consider Aboriginal cultural heritage. In the definition of an owner—someone who charges rent—to protect the significant cultural heritage; it is historical recognition only. This is why we need to fix the bill.

There are 700 ILUAs to date throughout Queensland, and there are going to be more because of the process of native title claims. We need to fix this bill. As for our 130 years of existence in Yarrabah, my people were sent there on chains—one half of them. My father was imprisoned from two years of age and released from prison at 14 years of age. He is still alive. They worked as slaves to keep that community going. We paid for every physical improvement in that community—the roads and all of the infrastructure—until the state government came in the 1960s and locked down every single historical building that we put up except for the church.

This bill, along with all the other bills over the past 130 years, has restricted us from engaging with the rest of the community. We cannot engage. Vince will tell you, as the records will tell you, that back in the seventies we had an interest in getting in the banana industry. We did that. We ran a commercial operation, only to be shut down by the government. All the fertilisers were buried and implements were removed, and the banana industry moved to Tully and Innisfail. These are the restrictions simply because the land tenure act does not allow us to engage, and we would like this fixed.

**Mr Mundraby:** Mr Chair, thank you for inviting us to have this talk. My presentation is just on the dot points and chronology. I have attachments that will be forwarded so you can have a look at them. The chronology of events actually started in 2006-07 in terms of the transition from the deed of grant in trust to the Local Government Act. There are some legal imperatives that were allowed under the deed of grant in trust that were not afforded under the Local Government Act. The transfer, or the paradigm shift as we call it, is that responsibilities would now be given to the land trust or the prescribed body corporates that have lodged native title claims over the deed of grant in trust area. Some of those legal imperatives were discussed in the Yarrabah case study, as I call it.

The Yarrabah claims were lodged from 1994 and have an outcome in 2011-12 respectively. For 24-odd years we have negotiated Indigenous land use agreements that look at the legal imperatives such as future act notices that will look at economic development in some of the areas of land within Yarrabah. The future act, or the Indigenous land use agreements, are not complied with even though after 24-odd years we have had the native title claim and negotiated these Indigenous land use agreements in the Federal Court.

In 2012 I made a submission to the Senate committee in terms of the Aboriginal Land Act and the amendments. I found that it was what the communities were waiting for due to the tenure of land and the amendments to the Aboriginal Land Act. The interface between the Aboriginal Land Act and the Local Government Act is good. However, there is no framework or engagement in terms of these many different Indigenous local governments that I talk about, which are the 21 Indigenous local government areas in Queensland.

They also touch on other tenures within normal shires such as these deed of grant in trust areas. In Charters Towers there is a deed of grant in trust area. In Malanda there is a deed of grant in trust area. There are also other areas of tenure that have the same consultation, such as One Mile on Stradbroke Island, in terms of how the services would be delivered on that area of land post the transfer.

In looking at the chronology of events, once I made my submission on the amendments to the Aboriginal Land Act there were local government elections in Yarrabah. One would have thought that the new government would sit down and work out the fundamentals on the interface between the 13 different Indigenous land use agreements and how the new local government should engage with the community. This did not occur, which is why we have a lot of legal imperatives now in a holding pattern in terms of what will happen once we have the local government elections in March and also the new proposed bill that is before us in parliament now.

The chronology that I have here is that in 2014 we engaged with the Yarrabah local council in terms of their consultant—RPS consultancy. They came to Yarrabah and met with us for one hour in 2014 prior to undertaking their local government town planning process. We did not talk to the consultants, and the maximum time of engagement we had with the consultants over the last two years is 2½ hours face to face. We did not meet with the council directly to engage and talk about our country based plan as we call it, or it could be a local area plan as my colleague mentioned.

We are looking from the ground up. Why I say 'the ground up' is that in 1994 we knew there would be a determination over this tenure. We achieved the transfer of these lands last year, on 21 December. Three days before Christmas we had the land transferred to ourselves. Now we are the new trustees to half of the Yarrabah DOGIT. What does that mean? We would need to unpack all engagements with the Yarrabah council due to the fact that there is now a planning scheme that may be pushed through the process and we do not know what is in it. We have written submissions to the

council. It did not respond in terms of our issues raised in that submission. There was no engagement. We have cultural heritage areas that were identified with the council through the 22-year process of developing our areas. We have protected areas. We have a local government ILUA. There is a framework that we can engage with. However, that was thrown out the window and engagement in terms of community engagement is an afterthought.

There are also issues pre deed of grant in trust—predetermination or pre-DOGIT, as we call it—where there are rights and interests of families, as Paul mentioned, who wrote to Mr Bob Katter Snr way back in the mid-seventies to have economic enterprises on these blocks of land. We have been granted a lease, but the government of the day did not sign off on these leases. Why? Because Mr Goss was coming around with the state Land Act around about that time. There was an evolution of legislation that prevented the go-forward from the 1970s pre Mabo. That is what we are trying to unblock and unravel now.

At Yarrabah, even way back in 2006-07 when we made the transition from the department of community services act—the old DOGIT act—to the Local Government Act, we thought there would be a movement to identify what is actually on the ground. Bear in mind that the lands have not been valued or did not have a town planning scheme over the top of it.

**CHAIR:** Thanks, Vince. There have been a lot of things said that I would like to ask questions about, but we are not going to have enough time. I would like to start with you, Vincent. What can this legislation do to fix all of those problems that you have talked about?

**Mr Mundraby:** There would need to be a brace on what is existing and what is in the pipeline at the moment. The problem arose because of how this new government came into play. What we have had is the state development minister and local government minister sign off on a lot of actions without coming back to the ground and seeing what is actually there. We have a situation where we have a proposed town planning scheme at Yarrabah that will go through the bureaucratic process without consultation with the community, and we have new legislation that talks about proper, fair and transparent engagement. What can the legislation do for us is my question in response? We see the good principles involved and the intent, which is why we want to expand it a little more and do it properly.

Our tenure at Yarrabah has not been valued. This is the first time in 124 years that we are going to head down this path. We would like to do it properly and in a measured way. Now that we have these issues of legal imperative such as a new trust for the whole area, we would like to develop our local area plan and have that adopted under the town plan with the local government.

**CHAIR:** My understanding was that you developed the planning scheme anyway before it went to government.

**Mr Mundraby:** No, council does that.

**CHAIR:** So you are saying they are not talking to the community itself?

**Mr Mundraby:** There was no community engagement by the council.

**CHAIR:** Well, sack them.

**Mr Mundraby:** I will let the polling booths do that in March. However, the principles that should have been deployed should have given credence to the Aboriginal Land Act and how to interact with the new trustees of the land. That was not done. We have had the council doing its own engagement strategy by the presentation of material in its foyer and expecting people to walk in there. That does not happen. Community engagement does not happen like that in an Aboriginal community.

**Dr Harwood:** In terms of the submission processes, when you are making submissions to the planning scheme they only accept written submissions.

**CHAIR:** Whose responsibility is it to fix that?

**Mr Mundraby:** It is the local government.

**Mr White:** I want to get one thing clear. If you look at a planning scheme that is produced under the current Sustainable Planning Act, it is not capable of including Indigenous land use agreements or native title because the current planning system—the law, the legislation—does not recognise or allow you to have Indigenous land use agreements. When we were talking with Yarrabah shire council they could not see those ILUAs. They said that they are private contracts. They are not something that the planning system picks up. We are saying here is a chance for the new planning bill to do it.

**CHAIR:** Do you want to add anything?

**Dr Harwood:** My suggestion is perhaps that we create a state planning policy to be able to operationalise this further and that we include, as we have suggested, guidelines for consultation and guidelines for putting together a land trust plan.

**Mr HART:** Anybody can answer this question. These bills are not new. The previous bill from the previous government, which is now a private member's bill, has been around for two years in consultation. The new bill has been around for this year at least. Are you saying that nobody has consulted with the Indigenous people in this area at all about this bill?

**Mr White:** No. We asked to be consulted and the department did have a workshop. It invited all the Aboriginal local councils. It did not invite native title holders and it did not invite land trusts. It only invited the Aboriginal councils. But a lot of the issues, and particularly this one about native title—whether a planning scheme should identify the areas that have, for example, had a native title determination on it so you can see where the native title is or where the Indigenous land use agreements are—were identified as part of the consultation process. We do not know how things work inside government, but as a result of those consultations this new provision advancing the purpose of the act was inserted. So the difference between the previous one and this new one is that there was consultation and this one provision was stuck in. I was saying that it is like a sore thumb. It has not been integrated.

**Mr HART:** You are saying that it is a motherhood statement but it does not flow through.

**Mr White:** That is right. Exactly.

**Mr Mundraby:** That is right, because the terms of reference for the RPS consultants to develop the town plan did not include or identify the Indigenous land use to be considered.

**CHAIR:** Do you have anything important to say, because we have run out of time?

**Dr Harwood:** Everything that I have had to say is in this submission and I have attached my submission to the planning team, as well as Jabalbina's submission to the preliminary draft planning scheme of Douglas shire, so that you have an understanding of the sorts of things that are lacking.

**Mrs LAUGA:** I understand from the draft bill that it will include new provisions around the consultation of planning schemes. It disappoints me that the consultation has been only 2½ hours in the last two years. That is really poor consultation. I understand that the consultation guideline will specifically go through how councils need to be engaging with their communities. I would certainly like to make a recommendation of the committee that perhaps there be a special provision or information in that guideline about engaging with traditional owners and native title owners of land and that they should also be part of that engagement process of the planning process.

**Mr White:** I could not get my head around the difference between subordinate legislation and a statutory instrument. We were worried that the statutory instrument was just going to be produced within the department. We are asking for something be put into the legislation that says that the statutory instrument must have to pass on that regard for Aboriginal tradition.

**CHAIR:** I have to call an end to this. I understand it a lot better now because of your involvement, so thanks very much.

**Mr Neal:** We just need more time for proper planning to be put in place to address the nine overlays that are affecting us and keeping us restricted from engaging. With the nine overlays, you cannot do anything in our community—49,000 square kilometres.

**Mr White:** Cape York Land Council missed putting their submission in. They are the native title representative body for the whole of Cape York Peninsula. So they asked me if I could pass this on for them.

**CHAIR:** Is leave granted to table it? There being no objection, it is so ordered. Sorry about the time, but we just have so many interested people.

## GOWLETT, Mr Adam, President, Cairns Branch, Urban Development Institute of Australia

**CHAIR:** Would you like to make an opening statement?

**Mr Gowlett:** The role of the property development industry in driving growth and jobs cannot be underestimated. The UDIA Queensland research reveals that the Queensland property development industry typically ranks as the fourth largest contributor to gross state product and to jobs. Approximately one in 10 Queensland workers is employed by the property development industry, and many more jobs are indirectly created and sustained from the property development industry. For every $1 million in turnover generated by the Queensland development industry, three direct full-time jobs are created and sustained. Not only is continued health of the property development industry important for growth and jobs; it is essential for generating the revenue required to deliver community services and to build productivity-enhancing infrastructure.

In relation to the bills, the risk for the industry is that Queensland competes with other states when businesses decide where to do business. Businesses will consider a range of factors when they conduct their activities and the risks associated with those activities will be a crucial factor. Very few developers can self-fund development projects and will rely on financing to deliver those projects. Financiers assess the legislative processes and the risks associated and will determine their appetite for risk in various locations including which states they will be most active in. There is a very real risk for Queensland that the industry will look elsewhere within Australia to invest and conduct their activities, as has occurred in the past.

In relation to the bills that are in front of us, the UDIA has submitted two separate submissions to the committee. I will just comment on probably the most important three things we see as being the key points. Probably the first one is the unbinding of code versus impact assessment. As the bills are currently drafted, the code assessment has potentially been made more complex. The code assessments are considered by the industry to involve significant financial and planning risks and complexity than impact assessable developments. So people will make a decision on where they are going to invest partially based on that. As currently drafted, the code is not tied exclusively to planning codes and may allow some councils to identify an entire planning scheme or broad policy intent statements as parameters for assessment. This adds significant uncertainty to the planning system and jeopardises the ability of projects to attract finance.

The next point is the compensation for natural hazards. Effectively we are creating a de facto planning process which subverts the planning system, causing confusion and delays. It provides the scope for a local authority to down zone land, removing the ability for landowners to seek compensation and removing certainty and creating an environment where some lending institutions may be less supportive of investing in Queensland, which is a risk for Queensland.

The third point that we think is very important is that the land surrender powers are left with the Department of Environment and Heritage Protection. Under the provisions, there is no right of appeal against land surrender requirements, nor is there a right of compensation for land surrendered. The minister can force the surrender of land with no rights to compensation.

They are probably the main three areas where we have concerns. Obviously, like I said, the Queensland branch has provided fairly substantial submissions—I think they are around 17 or 18 pages—particularly referring to individual aspects of the legislation.

**CHAIR:** You mentioned financial institutions lending money to developers in Queensland. Is that your view? Do you have any evidence to back up that comment?

**Mr Gowlett:** During the past six or seven years, it has been experienced significantly in North Queensland that it has been very difficult to attract development finance. At the start of the GFC there were examples where financial institutions were calling in loans from landholders, citing that they had lost an appetite for the risk that was associated in North Queensland. For instance, a developer might have a parcel of land that they own 50 per cent shareholding in and have a mortgage on the balance—so a $4 million parcel of land with $2 million under mortgage—and the bank had called the developer in and said, 'We have lost interest in having that much exposure. Please pay $1 million on that loan by the end of the month,' effectively reducing the ability for that developer to continue to hold that land and putting him in a position to sell the land there and then. So it makes it very difficult. If anyone came to us and told us to halve our home mortgage by the end of the month, we would all be in enormous trouble. It is no different. It is just acting in a business interest.

**Mr HART:** Adam, there are six bills we are looking at here. The two main bills are two planning bills—one a government bill and one a non-government bill. Do you have an opinion as to which bill should move forward, so which is the best out of the two, and then what amendments might need to be made to that particular bill?

**Mr Gowlett:** Personally I do not have a view on that. The UDIA submission from our head office provides advice on the bills. I believe, and I think the industry's view is, that it is important to get one of the bills proceeding. SPA has been a very complicated act to deal with. It was supposed to have simplified things from the Integrated Planning Act. I do not think it has achieved that role. SARA has helped on part of the way through, but SPA has definitely been complicated. So we are looking forward as an industry to the new bill, whichever one it is, to make the development process more certain and to give more certainty to the Queensland development industry and obviously the financing and lending industry which sits in the background.

**Mr HART:** One of the major differences between the two bills was a change away from code and impact in one of the bills. Do you have an opinion about that, whether we are better to stick with code and impact or to move away from that?

**Mr Gowlett:** My understanding is that there have been changes with the way that that terminology has been put in place. As I mentioned before, the code was quite a broad scope of planning provisions and dealing with applications under the planning scheme, whereas impact assessment tightens that up. I know that under the framework we have seen at some of the presentations by government on the way through with the new planning process there were some changes talked about for the terminology. That was still creating some confusion as well. I think the hope was that code would be extended, that the planning scheme would actually deal with a lot of the code assessments and that anything that was impact assessable would actually be dealt with under the planning scheme as an impact assessment and you would know that you would be in for more work, if you like, in those areas.

**Mr HART:** Overall, do you think these bills reduce the requirements that are placed on development?

**Mr Gowlett:** I think the bills do have some quite good improvements and they should provide some increased certainty for the development industry and increased certainty for the community as well. You mentioned before during the last submission about consultation. It was disappointing to hear about the level of consultation here. I can only speak to the experience that I have had in Cairns with Cairns Regional Council's planning scheme. They went over and above, in my opinion, as far as consultation went. The staff were available at all hours. They had displays at shopping centres. They had displays everywhere. If there were any community groups, if there were any people interested in making submissions or having a brief, council staff were only too happy to do that outside of hours, after hours. I personally went to three or four different workshops where the staff were presenting to landscaping groups, community groups—Rotary—and all sorts of other groups who were interested. Like I said, it was disappointing to hear what the previous group were saying. I can only tell you what our experience was here.

**Mrs LAUGA:** They are two very different councils as well—Cairns versus Yarrabah—and they both have different planning schemes as well.

**Mr Gowlett:** Absolutely, totally different.

**Mrs LAUGA:** It is great to hear they really got involved in consultation engagement during their planning scheme process. Going back to your first point in relation to code assessment and how you were suggesting that the government bill is making code more complex, could you outline that more specifically? You did talk about code not being tied specifically to codes in the planning scheme and that you were concerned that it might leave it wide open. Isn't that how it is currently, though, where it is really at council's discretion which codes are applicable to a code assessable application, and at the moment they could list a whole lot as well?

**Mr Gowlett:** I think under the new scheme or the new legislation the possibility is that council may choose to incorporate restrictions to code assessment and the legislation leaves that a little bit open to interpretation to the particular council. So if the council chooses to be, I guess, more difficult in its assessment, effectively it could bring the whole scheme under a greater assessment process whereas if the council was feeling more confident in their planning scheme, and the more items they have in their planning scheme that are code assessment, the scheme will actually determine how the uses are considered. I think the risk coming from our Brisbane office is suggesting that it is that risk that you do not know what the particular councils may choose to do. It leaves it quite open.

**Mrs LAUGA:** I guess that is probably why it is important for stakeholders to get involved in the plan-making process and outline concerns about the level of assessment and codes required for certain types of applications, because there is nothing stopping council from identifying something as impact instead of code and so really you have the same issue.

**Mr Gowlett:** That is right.

**Mrs LAUGA:** I think that your submission was great—thank you—and I am really interested in this difficulty in financing developments and what role government can play in that by way of legislation versus banks and financiers. What engagement does the UDIA have with banks and financiers about their processes and helping perhaps to make that system a little bit easier rather than the UDIA always looking to government to loosen planning regulation to help facilitate that relationship?

**Mr Gowlett:** The UDIA does have a fairly close relationship with the lending institutions. The lending institutions obviously have their boards in most cases not in Queensland, so their boards will ultimately make their decision as to where they are going to invest or otherwise, which was the case during the course of the GFC. Probably the risk for us is that during the GFC North Queensland in particular was seen as a risky area, so Townsville, Cairns and some other centres were seen as areas where the banks had no appetite to be. They contracted their finance obligations back to their capital cities. They are private businesses and that is what they will do, but it has been very hard since then to attract them back to regional centres and to actually get involved in the development process here.

As an example, one of the processes that we have talked about and one of the reasons why dealing with the legislation in a timely manner is important, let us take Mount Peter. Mount Peter is an area about 20 kilometres south of Cairns and it was first proposed for development back in the 1990s. In the mid-2000s Cairns Regional Council formed a Mount Peter task force which started a concerted effort in looking at the orderly development and planning of that area which included the developers, landowners in the area and council staff. In 2008 the then state government declared the area as a master planned area so council had to go through a different planning process and further engage with the development industry to actually fund the development process. It cost in the order of about $3 million as a prefunding process and that master planning process went through until 2012. That planning process is now sitting in abeyance waiting for the new planning scheme to come into play. While council is considering anything that may happen, effectively the land is still zoned rural and so anything the council does is outside of the current planning scheme and we are waiting for the minister to sign off on the new planning scheme, and that is with the minister today. If the planning scheme does not come out shortly, there is a risk that we will have council elections and the planning scheme could be rewritten by a new council.

This is a process where developers have been involved in holding this land for the last 15 years. Developers are often criticised for land banking, but they have been holding it for 15 years and cannot do anything with it yet. So that is 15 years of holding costs that contribute towards the cost of providing housing and it makes people ask why housing is more expensive and why land is more expensive, and this process unfortunately is part of that process. It is important to have the consultation, but at the same time it is important to actually get a result that we can get on with.

**Mr MILLAR:** Do these two bills provide an opportunity to lessen the costs before you develop? If they do not, what do you think needs to be done, because that seems to be a major issue for developers? Scrutiny is important, as is making sure that we follow codes and the requirements, but what do we need to do to lessen the burden before you actually get to build the product or develop the land?

**Mr Gowlett:** Again, part of it is the development process and, I should say, the legislative process. The draft Cairns regional planning scheme has been through a couple of governments. I think it is up to the fourth state planning policy, so there have been changes on the way through changing the rules that the planning scheme has been written within and we have had an enormous amount of consultation in this particular case for the scheme. There has been a very large amount of consultation. We have also had the separation of the Port Douglas council and Cairns Regional Council—the deamalgamation—which has complicated matters further. These things have all added to holding a planning scheme in place. As I think most people would say, the industry is quite keen to see the new planning scheme come into play. The Cairns Regional Council's planning scheme—the draft scheme—appears to be very well considered. It improves opportunities in some areas that make common sense—simple things like in the CBD changing the use of a shop. Rather than a shop going

from being a newsagents to a shoe shop and having to go through a planning process, the planning scheme says that a shop is a shop. So unless you are going to go and do something different with it, it is a shop so you can get on with it and do your business.

**Mr MILLAR:** So you are talking about material change of use?

**Mr Gowlett:** That is right. There are a lot of those sorts of things that should free up industry. It will free up council as well, so it will free up resources everywhere. I think that is important. What is important is certainty, and that is what I think the industry is looking for.

**Mr MILLAR:** You were talking about Mount Peter and that $3 million has already been spent and not a shovel has hit the ground.

**Mr Gowlett:** Yes.

**Mr MILLAR:** How can these bills and the current legislation improve that? We understand that you have to submit—I understand that—but $3 million to the average punter out there would seem a lot of money without a shovel hitting the ground.

**Mr Gowlett:** Correct, yes. Again, I think that was a complication of the process with regard to the policies at the time and the legislation at the time. Like I said, council was starting to move through the planning process through its planning scheme and through its own processes. The state called in the process which added a complication but left it with the council to run the process. If the state was calling it in, maybe the state should have driven the process. I am not sure.

**Mr MILLAR:** So how do we improve this? If you had a magic wand, what would it be?

**Mr Gowlett:** I think probably strengthening some of the aspects that SARA has put in place. SARA is starting to be a role where it is integrating other agencies and actually having a central point making a decision. As I mentioned in the legislation at the moment, the draft legislation also provides that the Minister for Environment and Heritage Protection still has call-in powers, so in some cases it would be good if there was a central agency so that we are not dealing with multiple different agencies trying to achieve the same thing or where we go through one agency and get to a point where we then get moved on to another. That does add a lot of cost and a lot of time when we are actually duplicating the process.

**Mr MILLAR:** I have one last question. With regard to these two bills, do you think they would improve the development opportunities for the Far North and Cairns?

**Mr Gowlett:** I think we are heading in the right direction, yes. In our submission we have given quite a number of areas where we see that there are quite a number of positives, so it is not all about the negatives. I know that I have only spoken about the negatives, but there are quite a number of positive aspects that have come out of the bills. As I said, some of that is that I think we will have a more streamlined process.

**CHAIR:** Given that we are talking about the two different bills and just listening to you talk, I think you are having a little bit of two bob each way. Is there anything in either of those bills that really concerns you or anything that you would not like to see remain in that bill if that particular bill was the chosen one?

**Mr Gowlett:** I will refer you back to the UDIA's submission. That is the one that I will have to provide—

**CHAIR:** But there is nothing that stands out that you are concerned about?

**Mr Gowlett:** No, nothing that stands out. Other things have been mentioned, and the previous group was talking about owner's consent. Again, that is another area where we would like to see the owner's consent be something that is required at the end of approval, not necessarily at the start of approval. We do not think that would actually delay processes. Again, using the example in North Queensland, one of our consultants was involved in a process here to put a culvert under a road and it took 18 months to get through that process trying to get resource entitlement, trying to get landowner's consent and trying to get everything else to keep a community connected on a main road. It was just a very complicated process whereas if it was not waiting for landowner's consent all of the other stuff could have happened and the resource entitlement could have been running through saying, 'Yes, you'll get it as long as you've got the landowner's consent.' If it was the main roads minister, they have it all in front of them to say, 'We're only waiting for one thing now to get this happening.'

**CHAIR:** Too much red tape.

**Mr Gowlett:** Sometimes, yes.

**Mr MILLAR:** I have just one more question, and pull me up if I am wrong. What has to happen to stop the time lapses and the amount of money being spent? The culvert is a perfect example. What would be the perfect solution there if you could give a solution?

**Mr Gowlett:** Again, in that particular case there was an argument between two different departments over whose right it was to make a decision over that particular culvert. Sometimes we need an arbitrator to step in and say, 'We're making the decision.' I think SARA provides that, but it does not quite go far enough in some cases. So I think strengthening the provisions of SARA would help and having a single resource when you get to a point where you cannot get agencies to make a decision between the two agencies.

**Mr MILLAR:** So should there be a time limit on the decision process, like 21 days?

**Mr Gowlett:** Obviously a time limit on the process would be good. The industry has quite often sought a deemed approval, so if a decision has not been made after a certain period of time an application is deemed approved. I think the legislation currently provides that it is the other way around. If a decision is not made after a certain period of time, it is deemed refused. So it triggers your ability to go to court, but that is another expensive process.

**CHAIR:** And time consuming as well.

**Mr Gowlett:** And time consuming.

**Mrs LAUGA:** In relation to the landowner's consent on state owned land, would you not think though that if you get the owner's consent at the end of the application process it could give the community an expectation that the state has endorsed something before it has actually been endorsed and perhaps you might end up with an application on state owned land for something that is completely inappropriate or completely at odds with the intent of that land? Wouldn't it just be easier to obtain that landowner's consent at the outset rather than changing the time when the owner's consent is required?

**Mr Gowlett:** I do not think so. Obtaining the landowner's consent in the first instance, particularly on state owned land, is very difficult in most cases. It does not seem to be a quick process. Quite often we are dealing with a road closure or something like that in a development area, and Mount Peter is a good example. There are multiple roads throughout Mount Peter because it is old rural land and old cane land where there are road reserves that are created but on the ground you would not find them. They are all covered in cane and have been for the last 50 or 100 years but they have been put there historically for access to a property that may not even exist anymore, but to close that road could quite often take two years or more. So if you actually make an application for development approval over that piece of land, you can go through all of the planning, the environmental and all of the other processes while that owner's consent is being obtained. If you come out of it at the end other literally with a development approval sitting in your hand to say that it is all approved bar having your owner's consent, it is one more piece of ammunition, if you like, to go back to the state and say, 'Everything's now here and ready to go. This is the last thing that's outstanding.' You are right: the landowner's consent is only on state owned land. If you are looking to do it over a military base or something like that, yes, there would be different processes. But in reality nobody is going to go out and spend the money that is involved in making a planning application over state owned land without having first had the consultation and discussion with the departments to make sure that they could actually go through that process.

**CHAIR:** With regard to all those issues that you have raised, have there ever been formal approaches to the government to discuss those in a formal way that you are aware of, because it is just ridiculous some of the time? I know what you are talking about.

**Mr Gowlett:** I am not certain. That process has been discussed at our UDIA management level with the minister's office on a regular basis. Our research director and our CEO are with the minister's officers—all of the various ministers—on a very regular basis so I am sure that those discussions have been had. But yes, the road closure one is a very, very long, time-consuming process and it is a frustrating process. Again, looking at the Mount Peter master planning process, there was a state master planning process occurring from 2008 to 2012. All of those roads could have been closed in that process because they should be looking at it as a state process, saying, 'This is where we are planning for the next 30,000 to 50,000 people to live in Cairns. This is where our next 12,000 houses are going to be. This is it.' The whole state, the council and everybody is saying that this is the place for it to go, so let us get some of those constraints out of the way on the way through. But, no, none of that has happened on the way through.

**CHAIR:** Okay. Thank you very much.

## NUGENT, Ms Aletta, Manager Strategic Planning, Cassowary Coast Regional Council

**CHAIR:** Ms Nugent, do you have an opening statement?

**Ms Nugent:** I do. To start off, the Cassowary Coast Regional Council has made a number of submissions on the proposed new planning legislation in Queensland over the years, on each version that has been released, as well as discussion papers, statutory rules. At every opportunity council has been proactive in making submissions. In council's view, the planning bill represents an improvement on previous versions of the legislation, including an improvement on the Planning and Development (Planning for Prosperity) Bill, which I am going to call the P&D bill, if that is okay, for the sake of simplicity.

The language in the new planning bill has been simplified. Certain sections have been redrafted so they are more easily read. They are much more readable. The purpose of the new planning bill is much less vague and more appropriate, in council's view, representative of a modern planning system. However, there are still a number of issues in both.

In council's view, overall we are still left with a complex, process-heavy planning system. There is still a real focus on process over outcomes. There seems to have been, the whole way through, this intent to move process requirements from the legislation and put that into statutory documents and guidelines. Council has no problem with that, but the issue you have now is that you have process spread everywhere, so you have some in the act, some in the proposed regs, some in the statutory rules. To actually find out what needs to go in a notice, what needs to happen for an application, you need to refer to a number of different documents and flick through, which makes things more complicated.

There seems to have been a change in terminology, in many cases for change's sake. The underlying process or thing has not changed but what it is called has now changed. The issue with that, mainly, is that every single template, form, electronic—we all have electronic work flows. All those programs have to be changed. Everything has to be changed. When the underlying thing has not changed, it is just going to cost money with no outcome. There have been a number of changes to the categories of assessment, and I will talk about that a little more in a second.

There has been a substantial increase in the ministerial power over local planning matters. In particular, there is now the ability for the minister to direct councils in relation to making local planning policies and temporary local planning instruments, which are meant to purely regulate local planning matters. It is council's view that that should be a matter for councils and not for the state, because it is purely a local planning matter that is being dealt with.

There has been a significant increase in the requirement to publish information on planning matters. That presents a substantial administrative burden and, for smaller councils such as the Cassowary Coast Regional Council, our electronic and IT platforms are such that, for a start, it impacts the amount of resources that are going to have to go into putting that material together—and then it cannot actually be presented in any meaningful way, in any event. I understand this desire to have increased transparency for planning decisions—we do not have an issue with that—but you have to look at the benefit and whether that outweighs the administrative burden that will be placed particularly on smaller local governments.

There are also some issues that council has with the jurisdiction of third-party assessment managers. Council does not have any issue with the concept of a third-party assessment manager. In fact, it is supported. But where you are having these third-party assessment managers having a role that continues past the initial approval of an application, council has concerns that they are actually getting involved in what should be a council policy matter rather than just applying a planning scheme.

Overall, I guess council's view is that this is a missed opportunity. We are going through this process. It has been happening for a couple of years, as was mentioned before, to prepare new legislation for Queensland. It has been this constant change. If we are going to go to the trouble of preparing new legislation, we should really try to get some meaningful, positive outcome from that legislation. Unfortunately, it appears that I do not think the outcomes are going to change substantially. I think even the previous people who have spoken have not really been able to articulate whether this legislation will be able to produce any different outcome in terms of land use planning in Queensland. Actually, there is some concern, particularly if you read the draft legislation with the associated statutory documents that have been released, that there will be a lot of time now spent by local government planners trying to communicate and debate over the process requirements of the legislation rather than actually spending their time on planning, which is what they should be doing.

That is a summary of council's submission. It is quite lengthy. That is because it does appear from this process that Queensland will get new legislation. Council wanted to make sure that it put forward all of its views on what changes could be made to improve that.

Regarding the categories of assessment that I touched on before, council supports the de-linking of public notification from impact assessment, which is provided for in the P&D bill but not in the planning bill. Council thinks that would be an improvement and would make for more flexibility. However, with the way that coding and impact assessment are currently expressed in the planning bill, and also to some extent in the P&D bill, at the moment there is little to distinguish between code and impact assessment than the requirement for public notification.

Code assessment has gone too far; I agree with my colleague from the UDIA. You have impact assessment that covers a broad range of matters. Code assessment, council feels, should be scaled back and limited to an assessment of a development against the codes, particularly with the planning bill where compliance assessment has been removed, or some sort of more streamlined assessment process. With code assessment being as cumbersome as it is, it creates problems. The removal of 'self-assessable development' and the merging of that with 'exempt development' to form 'accepted development' means now that there is no sort of streamlined avenue for a development assessment. The development either does not have to comply with the planning scheme in any sort of meaningful way or it bumps up to needing a code assessable development application, which is quite a cumbersome and extensive process. I think those categories of assessment need to be looked at further and refined somewhat to create greater flexibility. I do not think changing their names necessarily is the answer, because there is no real point in changing the names if you are not going to change and refine the underlying process.

**CHAIR:** Thank you. With the two planning bills, what are the major weaknesses that you see when you go through those bills? Is there anything that stands out that you think we should know about?

**Ms Nugent:** I think they are not that different from what we have now. There may be things moved from the legislation into different instruments, but as a whole the system is not really that different. The names of a lot of things have changed. Certainly there is an increase in ministerial power. Obviously, council believes that it is best placed to be dealing with the local planning matters within its local government area and, therefore, it does not think that increase in ministerial power is welcome. It believes that ministerial power should be left with matters of state planning interests rather than local planning interests.

Some of the provisions have been included to increase transparency. With some of the provisions around consultation—and there was some reference to consultation guidelines beforehand—publishing different notices and information on web sites and that sort of thing, we believe that does go too far. Again, councils should be in a position to say what is appropriate for our local government area and the people who invest in our community and who live in our community, rather than having these burdensome requirements that are really administrative, in the end, being placed on them. Like I said, personally I have some issues with the way that the categories of assessment are in the Sustainable Planning Act and I do not think there has been any improvement.

**CHAIR:** What are those issues?

**Ms Nugent:** The fact that the code assessment, I think, now is far too onerous and too cumbersome and that it should be scaled back or refined. In my view, you should have your exempt development; self-assessment where you have a process where people can tick off certain criteria in the planning scheme but not need to go to council for a development approval; you have code assessment where it is more—not fast-tracked but there is set criteria that need to be met but a development approval is required; and then impact assessment, which is assessment against the full planning scheme and other factors.

**Mr HART:** How many people are there in your planning section?

**Ms Nugent:** We have two planners. There is a manager of statutory planning or manager of planning services and then there is me, the manager of strategic planning.

**Mr HART:** You always seem to present very well, I must say. Congratulations.

**Ms Nugent:** Thank you.

**Mr HART:** You mentioned a few times that the names of the processes have changed but the process has not changed. Can you give us some examples? Would you be able to give us a list of those at a later date?

**Ms Nugent:** Yes, certainly. They are all outlined in the submission. I will just try to pull a couple out.

**Mr HART:** Give us a couple of the key ones.

**Ms Nugent:** 'Request for negotiated decision notice': I know that is a cumbersome term, but at least it is descriptive of what it is. You are requesting a negotiated decision notice. That is now called a 'change request', I think. It kind of interacts, then, with some other terminology that is used, so it gets a little bit confusing.

**Mr HART:** Would that require a change in your forms and a change in the results that those forms then spit out?

**Ms Nugent:** Yes, it would require a change. The impact of this legislation would mean a complete review and change to just about every single form and template that we have, including our electronic application system.

**Mr HART:** On that one particular process, the actual process has not changed, just the name?

**Ms Nugent:** Yes, essentially. I think there might be some tweaking of the time frames. That is not the only term that has changed in that process of requesting a negotiated decision notice. From memory, I think the name of the actual notice you then issue has changed, too.

**Mr HART:** Well, that is stupid.

**Mrs LAUGA:** Can I just clarify, though, that the majority of people did not understand, or the whole intent of changing names and things was all about making it easier for people to understand. I appreciate that 'negotiated decision notice' changing to 'change request' does interfere with whether that is a change to the development and approval or a change to the conditions. Perhaps there is another term that could be better suited?

**Ms Nugent:** I understand that, but sometimes when I am speaking to, say, someone who is interested in doing a development and I am explaining to them what they have to do, I am parroting off all these little terms and I feel almost robotic. Sometimes you can see on their face that they are going, 'Oh my goodness!' You can see them getting angry sometimes, particularly if they are not a consultant or someone who has worked in the industry. I have sympathy for them. In some of the sections there are terms that have been made up, but you could just call it a notice. When you have made a decision, just give the person a notice of the decision, rather than giving that notice a little term. Having all these little terms: I know it is probably silly and minor in the overall context, but if one of the aims is to make the system less scary for laypeople and a bit easier for people to understand and interpret, you need to drop some of the terms and phrases. I think it adds to that cumbersome feel of the whole legislation, if that makes sense.

**Mr HART:** Is there a statewide template for planning processes that somebody puts out that you could adopt, so somebody will make these necessary changes and allow the council to utilise that?

**Ms Nugent:** Yes, the state does often. It has been a while since I have worked in statutory planning, so I have not looked at the templates and everything for a while. The state has commonly released those sorts of things that can then be taken up and modified and adopted by councils. I believe that the state has committed to making resources available towards the implementation of the new planning bill, which is great. Council's view is that that is great, but we would really like to see some positive outcome from all of this as well. If you are going to introduce new legislation, there are going to be costs and issues associated with its implementation. If you are going to go through all of that pain of implementation, you want to have some sort of good outcome at the end, I think.

**Mr MILLAR:** Just picking up on what you were saying, there are two issues that you feel concerned about: one is that there is not much change in the actual process of getting developments approved; secondly, there are concerns that the state will have more power over local issues. Is that something that is shared amongst your councillors and other planning people across Far North Queensland?

**Ms Nugent:** I believe that the LGAQ has raised as an issue the increase in ministerial power, so that indicates that a number of other councils in Queensland share that concern.

**CHAIR:** Not always.

**Ms Nugent:** There is never 100 per cent agreement on everything. But if the LGAQ are raising it as one of the key points in their submission, I feel that it has to have been raised by a number of councils.

**Mr MILLAR:** I am one of those laypeople when it comes to planning; I am not an expert in it at all. This morning I heard about Mount Peter and the $3 million in costs before they even put a shovel in the ground, and their concern is that it has just changed some names but it really has not done anything. What are some critical areas that you would like to see changed and brought into this legislation—not only from a councillor's point of view or from a planner's point of view—that would improve your ability to get projects off the ground with less money spent prior to putting a shovel in the ground?

**Ms Nugent:** This legislation has been in development for two years now, but I think we need to take a step back, sit down again with the legislation and say, 'What do we need to have in here and what don't we need to have in here? What does this do? Do we really need this? Is this really adding any value to planning at all?,' and apply that across the whole of the legislation. I think rather than going into it thinking that we want to increase transparency and we want to reduce the size of the act, just go through—because I think all of those things have been put in there—and say, 'What does this actually achieve? What does this actually do? Do we need to have this? What benefit is this going to serve?' Go through that, like I said, with the public notification and the levels of assessment. Look at that and ask, 'How is code assessment working? Is it working the way that we see it working or is it just too much?,' and cut it back. Is there any point having the bulk of the provisions regarding what needs to go into a decision notice in the act and then three items in the regulation? What purpose is that serving? Should we just have it all in the act so someone can turn to that section and read everything they need to and not have to flick through other documents? That would be my recommendation. Maybe if a fresh set of eyes has a good look through it—looking overall at, 'How is this going to work, what does this achieve and do we even need it?'

**Mr BUTCHER:** You mentioned earlier that you think this bill may not favour smaller councils. Can you explain a bit more how you think these bills benefit bigger councils rather than the smaller regional councils?

**Ms Nugent:** I do not know that they benefit or disadvantage the larger or smaller councils; it is more that I think some of the provisions are going to be more easily delivered by larger councils. There are some requirements to publish quite detailed reasons for decisions and details about development applications on websites, and in the regulations—which we are not talking about today—there are a number of other requirements. Smaller councils' websites just will not be able to do that in any meaningful way. I guess the information could be uploaded and put somewhere, but it is not going to be easy to find by anyone or presented in a meaningful way. At Cassowary Coast we do only have two planners, and we do not want all of their time spent on drafting these documents.

There was talk before about engagement and consultation and the difference between engagement carried out by Cairns Regional Council and the engagement carried out by Yarrabah. Any consultation requirements or guidelines, whatever is in them, if you only have one planner or one person doing your community engagement for your planning scheme, you are only going to be able to do so much no matter what those guidelines say; whereas if you have a team of 10 planners and quite substantial IT resources and things like that, obviously you are going to be able to do a lot more. I think the legislation and any guidelines should be bare bones to allow for local governments to tailor them appropriately for their communities within their resources.

**Mr KNUTH:** The bills are very broad. There are two different bills that are being introduced. Did you find this confusing? Is there anything from there that you would like to see in here?

**Ms Nugent:** I found some of the drafting in the P&D bill a little bit difficult. I had to reread a couple of things again and again. I think some of that has been refined in the Planning Bill and improved, which is good, and some previous comments there have been taken up. The council and I personally believe that the delinking of public notification from impact assessment, which is provided for in the P&D bill but not in the Planning Bill, is a good thing, but I think that that needs to be coupled with having another look at some of the other categories of assessment so you have something to distinguish between code and impact assessment as they currently are.

In general there are changes. I think there was some discussion about the natural hazards compensation provisions. The provision there has been improved from council's point of view in the Planning Bill; however, I still think that it is a bit too complicated when all local government is trying to do is protect its population from hazards. The purpose of the Planning Bill, as I said before, is also much improved from the purpose of the P&D bill, which I felt was a bit vague.

**Mrs LAUGA:** You were talking about the publication of information by councils, and I have been trying to find what specifically needs to be published.

**Ms Nugent:** I believe it is the reasons for the decision. There has to be a summary of why council decided the way it did in relation to a development application.

**Mrs LAUGA:** Do they have to provide that outside of the decision notice?

**Ms Nugent:** Yes, this is something that has to be published on the council's website. It has to be made public.

**Mrs LAUGA:** Is there anything else?

**Ms Nugent:** That is in the act. In the regulations, off the top of my head, there is just a large amount of information, details on development applications, building applications. I would have to go back and have a look. I am happy to make my submission on the statutory rules and regulations available to the committee if you would like, because that sets out all of the concerns that council has in that regard. But I think in the act itself it was just to do with publishing the reasons for decisions.

**Mrs LAUGA:** You also mentioned a concern about process being spread everywhere. I think there was a lot of concern about having such a large act, and that was the primary reason to reduce the size of the act and then refer the reader to specific other documents that they needed to get to. In terms of you saying there is not a lot that has changed, I do not want to get into a debate but there are some things that are really big changes in terms of time frames, the stop-the-clock provisions and taking away the 10-business-day automatic extension to information requests and decision notices. Those things will reduce time frames that DAs will be decided by, so I think that will have benefits to applicants; would you agree?

**Ms Nugent:** There certainly are changes. They are largely delivered through the decision rules, and that is why I have not mentioned it in here. With regard to the process, council's view, as articulated in the submission, is that we do not really mind where it is as long as it is all in the one spot. We have no problem with there being decision rules, but just have everything about that there so you can just open that and follow it through and not have to go between documents.

With the rules there have been a lot of changes. Council has made a detailed submission on that. I think with some of the statutory time frames—and again speaking purely from the council's point of view—with the deemed approval provisions for code assessable development in the act we have some concerns with the inability to extend the time frames without agreement from the applicant in terms of meeting council agendas. A lot of the smaller councils do not decide those applications under delegation; they go to a council meeting. If you have a deadline finishing here and the applicant stops the clock, for example, and then restarts it with three days to go two weeks out from a council meeting, you are a bit stuck because then deemed approval becomes available. So there are some issues there.

Overall, the latest version of the decision rules are much improved from previous versions. We made a comprehensive submission again, because we really wanted to get them right. I am happy to make that submission available to the committee.

**CHAIR:** Can you do that by Friday week?

**Ms Nugent:** I can do it by Friday if you would like.

**CHAIR:** That sounds good. Thank you very much. I am going to read something and then I will ask you to comment—

In their submission, (No.72) the Crime and Corruption Commission has raised concerns that 'Local governments are vulnerable to corrupt conduct due to the diverse functions they undertake, the substantial amounts of money involved in their functions, and the considerable authority and decision-making powers their employees possess' (Sub 72 Pg. 1). Do you believe that planning related corruption is an issue for Council and what steps are taken to reduce potential risks? In particular with regards to the following:

- what constitutes 'minor or inconsequential' effects of a development when determining whether an exemption certificate applies (Section 46(3)(b)(i) PB; s. 41(3)(b)(i) PDB)
- removing an appropriately qualified person from an alternative assessment managers list (Section 48 PB; s. 43 PDB)
- whether the creation of an alternative assessment managers list is limited to code/standard assessments (Both sets of Explanatory Notes (PB, p. 59; PDB, p. 50) state 'impact merit assessment ... is more appropriately undertaken by a directly accountable body such as a local government')
- negotiating the required fee with an applicant (For a chosen assessment manager. See 'required fee' in schedule 2 PB & PDB)
- how consent of the owner must be given (Section 51(2) PB; s. 46(2) PDB.)

**Ms Nugent:** I do not think there is any issue. I think the initial question was whether planning related corruption is an issue for Cassowary Coast. I do not believe so. I think you need to have a good governance structure within your council to make sure that any decisions are subject to review and go through proper scrutiny.

In relation to those particular issues, for the exemption certificate in my view you may want to think about if that is going to be subject to a decision that is subject to being able to be undertaken under delegation by an officer or whether you want it to be reviewed by the council. I think if it is left as a council decision you may not have so much of an issue there, or at least at a director or CEO level perhaps.

With the alternative assessment managers list my view is that, although it would be established in accordance with the legislation, you would have some process similar to at the moment, where you set up a panel of prequalified suppliers or whatever under the local government purchasing processes, and if you follow a similar process for establishing that list you should not run into any issues there. In terms of this alternative assessment managers list and limiting the jurisdiction of those, I do not see an issue with this alternative assessment manager undertaking impact assessment if they follow the rules and the legislation. However, as stated in council's submission, I do see an issue where the jurisdiction does extend past that original decision stage and gets into matters such as enforcement and maybe deciding to change or extend an approval which may be many years in the future where council's policy position has changed. I think those decisions and enforcement decisions need to refer to council's overall general policy, not just the planning scheme. I do see an issue there.

In terms of negotiating a required fee with an applicant, again I think that is about how your governance structure is set up within council. In Cassowary Coast at least, at the director level there is discretion to alter certain fees in some circumstances now, and I think that as long as you have the right processes around being able to do that from a governance point of view the issue of corruption should not arise.

In terms of the consent of the owner, again I guess it is about your governance structures and how that is established. In council at the moment, if the owner's consent is to be given by council, that is handled by a different department to the planning department to make sure that it is done at arm's length.

**CHAIR:** What do you think about community consultation? Is it necessary or is it a pain in the butt?

**Ms Nugent:** Maybe a bit of a both! No, it is definitely necessary. No, I do not think it is a pain at all. I like to do community engagement. It is definitely necessary. I think it is something that has to be done properly. It can be difficult sometimes to get the community excited about a planning scheme. A lot of people find planning pretty boring. You have to try to find ways to engage with the community. I think it is very important that the community has the opportunity to have a say and have buy-in because ultimately that is a document that then governs the way that place is developed for the next 10 years at least. In relation to engagement on particular development applications, again I think that is important as well. I do think with delinking public notification from impact assessment you then give the local government the ability somewhat to say, 'These are the types of developments that are going to be important in this area for this particular community. These are the ones that people are going to want a say on,' and not just as is the situation at the moment where it is everything else that is not code assessable is impact assessable and then is publicly notified.

**CHAIR:** How seriously does council take a submission from the ratepayer?

**Ms Nugent:** Very seriously.

**CHAIR:** Have the comments or issues raised by ratepayers ever changed the outcome of a project approval?

**Ms Nugent:** Yes, certainly, and often influence conditions of development. It is certainly something that council takes quite seriously and does look at quite closely. Council just finalised its planning scheme in July last year. I know that in terms of the submissions on the planning scheme, council went through them in a great deal of depth and it did result in changes to the planning scheme.

**Mr HART:** How is your council going with its infrastructure plan?

**Ms Nugent:** We have had resourcing issues. It is quite a resource intensive exercise. Council at the moment is doing a lot of the preliminary work to be able to then put the local government infrastructure plan together and has some consultants working on some of the underlying assumptions that will inform it.

**Mr HART:** How does council feel about the refunding and offsetting provisions?

**Ms Nugent:** I have not gone into much depth in that today. I think it is very complicated. Some of it almost seems to be from the point of view that councils cannot be trusted to do the right thing. A lot of this stuff has just happened as a matter of course. I think there have been a few situations where perhaps the local government may have—and I do not know of any specific circumstances—done something that maybe was not in the best interests of a particular development and that has given rise to these—

**Mr HART:** Has your council had any issues with developers having problems with what they have been charged for things?

**Ms Nugent:** Council's infrastructure charges are quite low. They are well below the capped charges at the moment. Also council's development levels are quite low. I have to say that there are not a lot of charges being levied.

**CHAIR:** Thank you very much.

**JAMES, Councillor Terry, Deputy Mayor and Chairperson of the Planning and Economic Committee, Cairns Regional Council**

**STILES, Ms Lauren, Strategic Planner, Cairns Regional Council**

**CHAIR:** Do you wish to make an opening statement?

**Councillor James:** I am here to speak from the elected person's point of view and more of a higher level side of things. Lauren will get into the more technical aspects of what we are talking about today. Generally, council is appreciative of the opportunity to review and provide comment on the draft Planning Bill 2015 and supporting instruments. Council supports the government's intent to undertake reform to deliver better planning and a better planning system that enables responsible development that delivers prosperity. However, notwithstanding the above, it remains council's position that wholesale reform is not needed to deliver a better planning system. We would rather tweak the current system that we have and improve on it than throw it out and start again. It takes a long time for the broader community and the development community to understand planning schemes generally, let alone if we threw them out and started all over again. It just creates confusion and we feel it is just not justified when it can be simply done by tweaking it around the edges.

**Ms Stiles:** That is probably our high-level summary. There are some specific concerns much in the same way that the Cassowary Coast has with some of the new types or categories of levels of assessment, specifically, the lack of self-assessment under the new proposed Planning Bill and the planning and development bill. Our planning scheme is currently in the process of being prepared and hopefully adopted shortly. We are at the final stages. This planning scheme has been prepared with a very risk tolerant approach to development assessment and we have very heavily reduced the levels of assessment for development in our region. We have given significant amounts of development a self-assessment category under the draft scheme.

Moving forward without that level of assessment does pose a lot of risk to development in our region. The options of accepted development being a development that is not assessed by any criteria or then the option to go to code assessment, which does require an application to council, does not leave council a lot of option to facilitate those small, low-level developments that may be just a small change of use within the existing building or something that is considered appropriate in a particular zone. We feel that the lack of self-assessment may result in councils pushing a lot of development—not just our own council but everyone using the Planning Bill—into code assessment as there is no alternative. It is really just to manage minor things like the height of development and setbacks from boundaries. If that cannot be managed easily through a self-assessable process, it is very cumbersome to require someone to pay a fee and lodge an application for code assessment just to deal with one or two elements like that. That is a big concern.

**Councillor James:** Self-assessable is really the only part of a planning scheme that provides certainty, particularly for a lot of the smaller players. Planning schemes are quite complex for the average person. Once you start moving everything up into code or impact it just prolongs the process and the processes have generally become too long over the years as they exist now.

**Ms Stiles:** There has been a lot of discussion about the length of the bill. I know an aim was to reduce the length and put other critical information in separate documentation. We are not opposed to shortening the length of the bill or simplifying it. By all means, that is the preference. However, now having so many different documents containing different processes does make that cumbersome nature fall back in again, particularly because you are referring back and forth. Some of the documents do not contain rules and it is up to negotiation, as Alette did say, with plan making. The process is not as transparent because there is not a set process; it is all about a negotiation between council and the state specifically for plan making. The issue with having it in different locations is just that it may not actually make it simpler to read. It may be harder to read if critical information is located elsewhere.

With regards to the terminology, as Councillor James said, we feel that the Sustainable Planning Act would form a good basis of foundation for some really good changes to the planning process. However, changes to terminology may not really deliver what we are seeking. What we want is better outcomes. Changes in the terminology might assist in communicating some of this stuff but at the same time consistency in terminology does assist over time.

Cairns Regional Council is currently in the process of preparing a Sustainable Planning Act planning scheme. It has not come in yet, which means we have not had a Sustainable Planning Act planning scheme in force in Cairns which means we cannot really determine whether or not the

Sustainable Planning Act planning scheme is good or bad or needs changing or there is something wrong with it. It might be premature to make significant changes. Essentially, the change in the terminology is felt to be unnecessary and may be a cost burden on council.

**Councillor James:** Especially when there is no reason for the change. We were hoping to adopt our sustainable planning scheme at today's council meeting. That has been going backwards and forwards for quite a time now. We have not got the nod from the minister that we expected today. It would be nice to again give the industry some certainty and bring that in, which we hoped to take effect by 1 March this year. There has been some good things in our new scheme in terms of aligning the definitions throughout the state. That sort of thing is a good thing. Changing the terminology for the sake of change with no apparent reason is just ridiculous. Everyone has just gotten comfortable with what we have now and then to throw it out and start again would just confuse the whole thing and prolong the processes, particularly when the development industry does not just have to look at the planning scheme. I come from the development industry myself and I have been involved in it for the last 42 years. Once you get through the planning process you then have to look at the Building Code of Australia, the Queensland Development Code, the Australian standards, the local council laws and other statutory authorities. So there is a great conglomeration of authorities and acts that you have to deal with just to get on with the job. If we start changing the Planning Bill again, which is probably the most complicated side of all of these documents, it just prolongs the agony and Queensland, particularly rural Queensland, is desperate for something to happen outside of Brisbane.

**Mr MILLAR:** Absolutely.

**CHAIR:** From across the state we have had support from city and regional councils towards the planning bills. Some of it has been good. Much has been varied. Some welcome the changes; others are strongly opposed. Can you provide your thoughts on why the views of councils are varied?

**Ms Stiles:** Every council deals with different developers, has different customers and clients, different development applications, different experiences on how a development has gone or impacted on a region. It is too hard to say what is influencing each of the different opinions. We just want to have our opinion heard on the matter. There is definitely some real opportunity for improvements with the planning bills. I see in the planning and development act the decoupling of public notification is probably one of those things that people are really responding to as positive. Using the Sustainable Planning Act as a foundation and making changes probably could have resulted in the same outcome. I guess there are a lot of minor issues under the planning bills that need to be tightened up. As far as commenting on why other councils support certain elements, I probably cannot comment too much more than that.

**Councillor James:** It probably comes down to the individual planners. The average councillor does not understand—

**CHAIR:** You are all using the same legislation. You are all working under the same legislation.

**Councillor James:** They are all working under the same—

**CHAIR:** A different interpretation maybe?

**Councillor James:** It is too subjective—different interpretations. The average councillor does not understand planning schemes, let alone planning bills. So they rely on their officers. It just depends on how good the explanation is as to whether they support them or not.

**CHAIR:** Is there anything in either of the bills that really stands out that you do not like, you find difficult to manage and you would take out if you had an opportunity?

**Ms Stiles:** Yes, the lack of self-assessment. The reinstatement of self-assessment or something of an equivalent nature that does give council the opportunity to not require an application but still get a development in a certain form would be welcomed. Another one is the decoupling of public notification from impact assessment. The ability for council to seek community views but not impact on a development through submitter appeal rights would be very beneficial, no matter which planning bill is progressed with. I believe that is in the Planning and Development Bill but not in the Planning Bill. Some of the broader ministerial powers are considered unnecessary and do extend further. There are several minor tweaks and issues that we raised in our submission, which I think is about 50 pages long. I do apologise for the length. We have gone to some trouble to itemise specific sections and make specific recommendations, but what we have noticed generally is that there are just some loopholes or unfinished sections. There are some conflicts with definitions and the use of certain terms. There is duplication of terms, so similar terms introduced that mean similar things and could be confused. I guess we probably just request that a focus on outcomes is taken rather than process, like Alette said. We do want to see the process streamlined and improved, but without making unnecessary change just for the sake of change.

**Councillor James:** Basically, most smaller councils, particularly in rural Queensland, would just like to see some stability from changes. We just want to get on with the job rather than just keep changing it around the edges because particularly the smaller councils do not have the resources to keep doing this and the money to keep doing it. It is important also for the development industry itself to have some clear guidelines that they can settle down with so they can get on with the job. There have just been too many changes, together with the changes of government over the years.

**Ms Stiles:** It does take a long time to familiarise yourself with planning. There is a whole profession of people who practise planning, and I think for a reason: it is complicated. I think consistency in things as simple as terminology over a period of time will assist in generating that understanding in the industry and the community. We are faced with change regularly, specifically with the preparation of the draft planning scheme, changes to state planning policy—I think we are up to about the fourth one—and state mapping. Mapping of state interests happens so regularly that in one instance we had a change twice in one week. We are not incapable of dealing with change; we would just prefer that that change is intentional and will change the outcome for development.

**Councillor James:** There are not many SPA planning schemes in existence now and there really has not been sufficient time to test them, let alone change it before it is even fully tested.

**Mr HART:** This is not something new. This has been in the wind for two years. The previous government and this government have consulted widely, according to both governments, so what was their reaction when you said that you did not want to see any change? It does not actually say in your submission that you are against this, but you really do not want to see too much change.

**Councillor James:** Absolutely.

**Mr HART:** What was their response when you said that?

**Ms Stiles:** We had provided a very similar submission—and probably more broad—to the department previously. They went through their recent round of consultation and after the due date closed, within two weeks prepared a response to the submissions which was a high-level document. We found it resolved maybe one of our 100 line items. We did not really feel necessarily as though the state had listened to our submission or responded to our concerns.

We as a council are committed to community engagement, and with the submissions on the draft planning scheme we did prepare itemised responses for each submission. Our expectation was that we would receive something of a similar nature from the state in this process, but we just got a high-level summary and it did not really cover off on our responses. I cannot speak to whether or not they considered our submission fully or what their response was, but we did not receive any official correspondence back. We have dealt with regional officers in Cairns in the Department of Infrastructure, Local Government and Planning who have all been very helpful in taking our feedback back, but we have not really seen anything come back.

**Mr HART:** Given that what we are talking about here is overarching legislation and then there is a whole stream of subordinate legislation coming, already arrived or whatever, is there anything you have seen in the subordinate legislation that really should be in the legislation that concerns you greatly?

**Ms Stiles:** Like we have said, the separation of all the processes which could be contained in the bill for ease of readability is probably something that we would submit on. The plan-making rules is a high-level document which does not really outline a process at all. We currently have a very transparent and a very fair and equitable process across Queensland for plan making. Everyone knows what process they will have to go through. The community knows what requirements council will have to make that plan. The current plan-making rules that are on consultation at the moment that we will be submitting on just have a set of high-level principles, the specific processes for negotiation, which could mean that going into plan making a council is uncertain as to what time or cost burden that could have. In an effort to make things simple and transparent we think that a process should be there and with an opportunity to maybe make amendments if need be if that is what councils are wanting. I see the logic and the point and we certainly agree that a simple planning process is the preferred way forward.

**Mr HART:** Given that the legislation might take quite a while to change, if there were any necessary changes to be made, but subordinate legislation can be changed very quickly, do you see any dangers there in any particular area?

**Ms Stiles:** Yes. Processes can change with ease. It is no different really to where we are. We do have a lot of subordinate legislation at the moment which can be changed, but the increase in that does mean that the state could change those more regularly, and specifically those processes too.

Implementing a process in council, as Alette said, does take a lot of time and resourcing and a cost to make all those changes to terminology, forms and resourcing. So making changes to a process does have large ramifications on council. Those being contained within those subordinate documents does give rise to more frequent changes.

**Mr KNUTH:** I note that you are very passionate, in regard to the position you hold, about the planning and the economic development of the region. Obviously as a committee member it is a massive bill. You said from the beginning that you acknowledge the intent of the government's planning bill. Do you see a difference between one and the other, and what benefits are there within the government but also the disadvantages?

**Councillor James:** I suppose as long as the changes are for the better. That can be subjective, too, because the end user does not really get to see the changes until they come into effect and they get to, I suppose, try to use them on the ground. That is the hardest part. How do we know we are going to get something that is better in the long term? You really have to get down to the end users and talk closely with those. That is the biggest issue.

**Mrs LAUGA:** In terms of the concern about the self-assessment going, I think the intent of the new provision is for it to be a merger of exempt and self. Would it not be the case that if you do not comply with the code provisions relevant to that type of use then you have a code-assessable application? If you do comply no application is required, which is essentially similar to what the situation is currently.

**Councillor James:** That is right, but it is still very subjective. That is what it gets down to, I suppose. Self-assessable really has that certainty. A lot more people understand self-assessable, but when you change it to something that is more subjective it is in the laps of the different planners that are assessing the application.

**Mrs LAUGA:** I would have thought it would be a bit easier because if you read the code and you do not comply you have to submit an application. If you do comply with the code you do not.

**Councillor James:** You would think so, but it is not like that on the ground.

**Mrs LAUGA:** Maybe not currently, but that is what the bill proposes to change.

**Ms Stiles:** Forgive me if I am wrong, but I could not see any assessment benchmarks for accepted development.

**Mrs LAUGA:** The information I was reading earlier says that accepted development is the merger of self and exempt and that basically the code provisions, when there is a noncompliance, triggers code assessment.

**Ms Stiles:** There may be some need to include that in the assessment benchmarks. From what I have read in the assessment benchmarks, no codes are listed as requiring assessment for accepted development. You only need to assess against codes for code-assessable development. So there may be an intent that that was to happen but I could not read anything in there, nor in the regulation, that lists that accepted development must be assessed against applicable codes.

**Mrs LAUGA:** Okay, so perhaps if you are applying for a shop and a code-assessable application would require you to apply under—I am trying to think what the Queensland Planning Provisions code would be, maybe the commercial code. Therefore if it is an accepted category it just needs to specify that that applicable code that is applied with code assessment applies to the accepted. Does that make sense?

**Ms Stiles:** Yes. Under the Planning Bill, I could not see anywhere that states that you can assess an accepted development against a code in a planning scheme.

**Mrs LAUGA:** That is a good suggestion. You were talking earlier about your new planning scheme about to be signed off, and now you will have to amend your planning scheme to be compliant with the new legislation when it comes into effect. I guess there are lots of councils who already have their SPA planning schemes in place and they have experience in making those plans under SPA and using them. Whilst Cairns is just one council whose SPA planning scheme is not yet in force, there are numerous other councils who can provide feedback about how their SPA plan making and planning scheme has gone. Does that make sense?

**Ms Stiles:** Yes.

**Mrs LAUGA:** Also I was just thinking there is nothing stopping Cairns Regional Council from enacting the SPA compliant scheme, once you get the minister's approval, and using that. There are transitional provisions under the bill. It is not going to stop you from assessing developments and it is not going to stop you from receiving development applications; it is just going to be a transitional

period. I am pleased that the Deputy Premier has committed that funding to planning reform as well, which is a big difference and it will make a difference to councils, I think. I was curious about the changes to names and provisions that you mentioned are just changes for change's sake. I wondered whether there were some specific examples that you might have.

**Ms Stiles:** Yes, change representations, which I think Alette mentioned. That is just a change of terminology. The process is still very similar. The IDAS process has had a whole change in name, but it is still fundamentally the same. There still is the acknowledgement stage, the information referral stage, the notification stage and the decision stage. While things like stop the clock have been introduced, which I am sure are improvements, some of those fundamentals are still there. Another one is variation approvals. That is a new term for a preliminary approval to vary the effect of a planning scheme. It is the same process and the same type of application but a new term.

**Mrs LAUGA:** Do you think that over time people have adjusted to SPA provisions, they now know what a preliminary approval to override the planning scheme is and the proposed changes are just making it more complex?

**Ms Stiles:** My experience specifically with industry is, yes, they do know what it is and if we maintain that consistency then we will get even more understanding. For people who are coming to us using the planning scheme maybe once or twice in their life when they are going to do a development, to be honest, probably the terminology or the consistency of that terminology will not impact them, but people using this regularly on a day-to-day basis will be impacted by the changes.

**Councillor James:** The doers.

**CHAIR:** Submissions to the committee have raised concerns that trunk infrastructure costs are currently a hurdle to development. Can you outline what currently happens in regard to trunk infrastructure development and cost? How will the proposed bill impact upon councils with the requirement to offset or refund the cost of infrastructure when that cost is not fully known?

**Ms Stiles:** We have made a couple of comments in regard to that. The full cost may not be known and that does create an uncertainty. The full cost of the infrastructure may not be known at the time it is required to give offsets or refunds. That is our main comment in regards to that. I probably cannot talk too much more to specific sections within the Planning Bill, but we do have a couple of comments in our submission that relate to that.

**Mr HART:** How is your infrastructure planning going?

**Ms Stiles:** Good; it is progressing. We have a consultant on board to assist with that.

**Mr HART:** It was not going to be 30 June?

**Ms Stiles:** No.

**CHAIR:** Can I ask why?

**Ms Stiles:** I guess it is a lengthy process. There have been some hurdles and changes along the way. I cannot talk specifically to what has resulted in the consultants needing more time, but we are just not in a position at the moment to—

**Mr HART:** Two years wasn't enough?

**Ms Stiles:** No. Our planning scheme takes more than two years. We have been developing this last planning scheme for over four years now.

**CHAIR:** Thank you very much. We appreciate your time. I want to thank everybody for their attendance today. This is complex legislation that we need to get our heads around, and having the opportunity to hear from people like yourselves makes us think about it in different ways at times which can help us come up with the best outcome. We have gathered some good evidence which will certainly assist us in our examination of the bill. I declare the hearing closed.

**Committee adjourned at 1.04 pm**