AGRICULTURE, RESOURCES AND ENVIRONMENT COMMITTEE

Members present:

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

Staff present:

Ms H Crighton (Acting Research Director)
Mrs M Johns (Principal Research Officer)

PUBLIC BRIEFING—INQUIRY INTO THE ENVIRONMENTAL PROTECTION AND OTHER LEGISLATION AMENDMENT BILL 2014

TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, 10 SEPTEMBER 2014

Brisbane

WEDNESDAY, 10 SEPTEMBER 2014

_____

Committee met at 11.08 am

CHAIR: Welcome ladies and gentlemen. Before we start, can I ask that all phones be switched off or to silent mode. I declare the meeting of the Agriculture, Resources and Environment Committee open. I would like to acknowledge the traditional owners of the land on which this meeting is taking place. I am Ian Rickuss, the member for Lockyer and chair of the committee. The other members here today are: Jackie Trad, the member for South Brisbane and deputy chair; Sam Cox, the member for Thuringowa; Anne Maddern, the member for Maryborough; Jason Costigan, the member for Whitsunday; and Michael Trout, the member for Barron River. Shane Knuth is an apology today.

Please note that these proceedings are being broadcast live via the parliamentary website. The purpose of the meeting is to receive a briefing on the Environmental Protection and Other Legislation Amendment Bill 2014 to assist the committee in its examination of the bill. The bill was introduced into the House by Andrew Powell MP and subsequently referred to the committee on 28 August with a reporting date of 22 October.

Joining us today for the briefing are officers from the Department of Environment and Heritage Protection. These officers have given their time to be here today to provide factual information. They are not here to give opinions about the merits or otherwise of the policy behind the bill or alternative approaches.

BUCHANAN, Mr Scott, Director, Biodiversity Implementation, Department of Environment and Heritage Protection

COYNE, Mr Pat, Principal Policy Officer, Legislation, Department of Agriculture, Fisheries and Forestry

HODGMAN, Mr Laurie, Director, Environmental Policy and Legislation, Department of Environment and Heritage Protection

MILLER, Ms Tamara, Team Leader, Environmental Policy and Legislation, Department of Environment and Heritage Protection

OESTREICH, Mr Wade, Director, Business Reform, Department of Environment and Heritage Protection

WATKINS, Ms Kate, Team Leader, Environmental Policy and Legislation, Department of Environment and Heritage Protection

CHAIR: I welcome the officers from the department. I understand the briefing will be led by Mr Hodgman. Would you like to make an opening statement?

Mr Hodgman: This bill progresses a second round of green-tape-reduction reforms delivering on the government's regulatory reform and renewal agendas while maintaining environmental standards. The first round of green-tape-reduction reforms were introduced in March 2013 with the commencement of the Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act. Those reforms rebuilt the approval processes for environmental licensing under the EP Act to reduce costs, improve business investment certainty and allow front-line environmental regulation to be delivered more efficiently.

This bill continues that process by supporting firm but fair environmental regulation and also promoting the recovery and use of waste within the economy. This bill streamlines legislative processes, provides regulatory simplification and improves penalties and enforcement tools, while maintaining environmental outcomes. The department has consulted extensively with key stakeholders on most of the amendments in the bill. There is a larger list of those stakeholders at

page 6 of the explanatory notes. The majority of issues raised over the course of the consultation were addressed in the drafting of the legislation or will be addressed as part of the implementation of the bill. There were some submissions raised that were outside the scope of the bill.

A number of the acts are amended by this bill, including the Environmental Protection Act, the Waste Reduction and Recycling Act, the Environmental Offsets Act, the Nature Conservation Act and the Biological Control Act. I will touch on a key feature of the amendments to each of these acts in turn. The amendments to the Environmental Protection Act are in two parts: those that will commence on assent and those that commence on proclamation. I will address each of these in turn.

For those commencing on assent—clauses 18 to 108—the key features of these are the improvements to penalties and enforcement tools. In particular the bill supports the department in being a firm but fair regulator by increasing the maximum penalties for the most serious offences to the same maximum penalties introduced by the Regional Planning Interests Act. These offences are similar in nature to the EP Act offences so the increases improve the correlation between these two acts.

The new penalties also ensure that penalties for Queensland environmental offences are more in line with similar offences in other jurisdictions such as New South Wales and Victoria. For example, the current maximum penalty for wilfully causing serious environmental harm is 4,165 penalty units, or approximately $470,000 for an individual and just over $2.3 million for a corporation. The maximum penalty for this offence is being increased to 6,250 penalty units, or approximately $710,000 for an individual and just over $3.5 million for a corporation. The maximum penalties for related offences, such as material environmental harm and environmental nuisance, which have incrementally lower penalties, are also being increased to maintain relativities between all of the offences in the act.

In addition to the changes in penalties, the bill introduces a new enforcement tool called an enforceable undertaking. These are undertakings that are a flexible and cost-effective alternative which can be used where a better or overall regulatory outcome can be achieved. They are binding agreements between the administering authority and an alleged offender where the alleged offender agrees to take specified actions to make good on an identified matter. Enforceable undertakings for environmental offences are already used in other jurisdictions, including the Commonwealth and in New South Wales and Victoria.

The other amendments which commence on assent are primarily administrative and assist the efficient management of the activities regulated under the act. These include: allowing for a resubmission of an EIS after refusal; introducing a simple process for converting a licence activity to the standard conditions for that activity; introducing a simple deamalgamation process for environmental authorities; and simplifying the process for making an ERA standard.

For those amendments commencing by proclamation, which is clauses 109 to 142, the key feature of these is the restructure of the contaminated land provisions in chapter 7, part 8 of the EP Act. This restructure modernises and better integrates the contaminated land management provisions with the rest of the EP Act. For example, rather than having a separate notice to require the investigation of contaminated land, the existing environmental investigation tool will be used with a requirement for the recipient of a notice to provide a site investigation report to the administering authority.

The restructure was necessary to split the function of the department from the new mandatory function of an approved auditor in certifying contaminated land investigation documents. The amendments also clarify the purpose and content of those documents, which enables transparent certification by third-party auditors. The amendments also ensure better integration with the planning framework, with compliance permits under the Sustainable Planning Act specifically referenced in the new chapter. As part of the restructure and review of these provisions, we were also able to remove duplication and unnecessary red tape. For example, the bill removes the need for a person transporting contaminated soil to a waste facility to obtain a soil disposal permit. Instead, this will be replaced by the existing waste-tracking arrangements in subordinate legislation. The amendments also clarify the duty of a seller of contaminated land and the duty of a person notifying the administering authority about contaminated land matters.

Other amendments commencing by proclamation include streamlining the environmental authority application process where the applicant has carried out an EIS under the State Development and Public Works Organisation Act. This removes duplication and unnecessary red tape for those applicants.

The amendments to the Waste Reduction and Recycling Act are also split into amendments commencing on assent and those commencing by proclamation. Those commencing on assent are clauses 146 to 164. The amendments make a number of changes to demonstrate that a priority product statement can also be made for a priority waste. This is necessary because some priority areas are not easily classified as a product, for example green waste. The purpose of a priority statement is to encourage the optimal outcome for the management of waste and promote shared responsibility for the improved management of products and wastes broadly.

Those clauses commencing by proclamation are clauses 165 to 171. The key elements of these amendments are the replacement of chapter 8 of the waste act. This chapter currently provides the process for beneficial-use approvals. A number of improvements to the beneficial-use approval framework have been identified that will assist both the generators of waste to find new markets and the receivers to gain valuable resources for direct use or input into other processes. These improvements were identified through industry consultation and workshops facilitated by an independent consultant. The consultant identified common issues for improvement as part of its report and put forward recommendations for consideration. I do have here copies of that report for the committee, if you would like that.

As a result of the issues raised in the consultant's report, the department circulated a follow-up policy discussion paper and a series of workshops, and circulated that to the steering committee for the industry led waste strategy. As a result, the amendments in this bill were drafted and they replace the beneficial-use approvals with end-of-waste codes and end-of-waste approvals. This is to clearly indicate when a waste is no longer subject to waste management controls. These amendments will promote the recovery of useful waste materials and make them more readily available for circulation back into the economy.

The more waste can be used as a valuable resource, the better it is for the environment and for the Queensland economy, rather than being sent to landfill. The amendments introduce new processes that will incorporate industry involvement into the development of the waste codes. This is to ensure there is representation from both the industry generating the waste and the end user of the resource. The amendments will enable technical advisory panels to be established to assist in the development of end-of-waste codes. Those panels will provide expert advice to the department and help reduce administrative costs.

For end-of-waste approvals, applications must be accompanied by a report prepared by a person with suitable industry expertise. The report will provide more technical information about the waste and a proposed resource use to assist the assessment of applications. This new framework complements other regulatory frameworks. For example, an environmentally relevant activity under the Environmental Protection Act is usually conditioned to require the management of waste produced as part of carrying out the activity, for example, the management of high-hazard dams that contain waste on a mining lease. The end-of-waste framework determines when a waste becomes a resource for further use, including the product standards for the use of that resource.

Turning to the Environmental Offsets Act, the bill amends this act to clarify and strengthen the intent of the act, which is to avoid duplication of offset requirements across and within jurisdictions. The amendments also rectify minor drafting errors and omissions. Since the commencement of the act on 1 July 2014, industry groups such as the Property Council of Australia and the Urban Development Institute of Australia have requested that provisions in the act dealing with the removal of duplication be further clarified and strengthened. The proposed amendments respond to those requests. While no consultation was undertaken on these specific amendments, the amendments do not adversely impact industry, the community or government because they better explain the operation of the existing provisions and strengthen the removal of duplication for matters already subject to offset requirements.

The bill amends the Nature Conservation Act to provide for ministerial authority to require that councils prepare a statement of management intent for as-of-right activities involving protected wildlife to ensure councils remain accountable for their management actions. This delivers on the final component of the wider revised flying fox risk management framework that was introduced in November 2013.

The bill also amends the Biological Control Act to streamline the process for declaring organisms as agents for biological control. This amendment to broaden the definition of the entity responsible for this process will remove the need for future act amendments where the title of that entity changes. It will also allow for the declaration process at the release of an agent to control the mother-of-millions weed to be completed.

A number of clauses in the bill amend other acts within the portfolio to remove duplication in the protection from liability for state employees. These amendments are consequential to the amendments made in March 2014 to the Public Service Act to provide broader legislative immunity from civil liability for state employees.

CHAIR: Thank you very much, Laurie. Can I ask you to table the document that you mentioned?

Mr Hodgman: Sure.

CHAIR: Does everyone agree to table it? Thank you. I will start with a couple of questions. Under the Nature Conservation Act, you talked about the non-lethal for controlling flying fox colonies. I have noticed that quite a few councils are already doing that. Will this give them more responsibility? How are they doing it now?

Mr Hodgman: I might pass you over to Wade Oestreich, our departmental representative for that matter.

Mr Oestreich: Thank you, Laurie, and thank you, Chair. This provision creates the ability for the minister to require a council, should it be considered necessary, to develop a statement of management intent—in other words, a statement about how they intend to manage flying foxes in their local government areas. It does not mean that they will necessary have to. We have worked with councils. EHP has worked with councils to promote the development of the statements of management intent because they have benefits not only for the community, because they explain how the councils intend to go about managing flying foxes in their local areas so that the community can understand, but also it helps councils to draw a line around where they will exercise those activities under the authority that they have been given and where they will not. This is about giving the minister the ability, where a council may not have developed a statement of management intent but the minister believes it is in the public interest that the council should, to require the council to develop that statement to explain to the community how they intend to manage flying foxes.

CHAIR: Thank you very much. The bill amends the Coastal Protection and Management Act, the Wet Tropics World Heritage Protection and Management Act and the Civil Liability Act. Some of those are fairly recent acts, although the Public Service Act and Civil Liability Act have been around for a while. It is just some clarity that needs to be put around some of the liability that was not covered in the previous bills?

Ms Watkins: These amendments basically ensure there is no duplication between the Public Service Act and the liability provisions in those Acts, for example the Coastal Act. At the moment, the liability provisions in the Coastal Act, the Wet Tropics Act et cetera cover a range of people including state employees, but the liability provisions are a little bit different from the Public Service Act. Since the Public Service Act now covers the field for state employees, this simply removes duplication for state employees.

CHAIR: So it is removing a bit of red tape?

Ms Watkins: Exactly.

Ms TRAD: Good morning. Mr Hodgman, in relation to the amendments to the Environmental Offsets Act, you talked about the intent but you did not talk about what they actually were. Could you explain what the amendments are?

Mr Hodgman: Yes. I will just pass you on to Scott Buchanan for that matter.

Mr Buchanan: Thank you for the question. The intent of the legislation has always been to remove duplication between the different jurisdictions, being local government, state government and the Commonwealth, for the same matter that is being impacted. The proposed amendments further clarify that that is the case, particularly section 15, which sets out more fully what is the evidence required that another jurisdiction has made a consideration of that matter. Therefore, if the Commonwealth makes a decision then the state and the local government will not make a call on that matter. Further, new part 6A recognises the timeliness of a decision. If local government or the state make a decision and put a condition on before the Commonwealth has considered it and then the Commonwealth comes along later and makes a call, the condition from the lower jurisdiction would fall away.

Ms TRAD: Thank you, Mr Buchanan. Following on from there, is there a criteria for the higher standard being met in relation to the offset?

Mr Buchanan: It is not about the higher standard; it is about the process that is being developed. All levels of government have a level of expertise in these areas and this is reflecting that. I must indicate, too, that there are a lot of similarities in the principles that the different

jurisdictions apply, so it is not about the level of decision; it is the scrutiny that is applied. If the Commonwealth applies the scrutiny that exists under its legislation, then the act is saying that the two next jurisdictions accept that.

Mr TROUT: Further to the chair's first question with regard to flying fox colonies and the jurisdiction of the minister, is that specific to flying foxes or is it for any animal control?

Mr Oestreich: At the moment, the only application for this provision would be flying foxes. It is a head of power that gives the minister the authority to require a statement of management intent wherever councils are exercising an as-of-right authority that the state may have given them in dealing with protected wildlife. For example, in the flying fox situation the state made laws that provided that council could deal with flying fox roosts as they saw fit within designated urban areas without the need for a permit or authority. Should there be other situations in the future where that is provided for, this head of power would allow the minister to concomitantly require a statement of management intent. Where the councils were exercising an authority, an ability to do things under the Nature Conservation Act with protected wildlife that they did not require a permit or authority to do, the minister could require the statement of management intent to explain to the community how they intend to go about that.

CHAIR: As a supplementary to that, for instance if white cockatoos were roosting in a certain area and creating havoc, they could manage that roost virtually in the same way?

Mr Oestreich: At the moment the council would require a permit to deal with white cockatoos. As such, because a permit is required and they are not exercising a standing authority, this provision would not apply. If the state provided, for example, that local governments could manage white cockatoos as they saw fit without a permit or authority, then this provision would then potentially apply, giving the minister the ability to say, 'All right, council, you have a standing authority to go ahead and do this, but I would like you to explain to your community how and when you intend to go about doing this.'

Mr COX: In relation to the amendments to the contaminated land provisions of the Environmental Protection Act 1994 to simplify requirements of the management of contaminated land, one question I would ask is about reducing some red tape and requiring mandatory certification. Is it about reducing red tape and trying to get some commonality around the certificates, or are certificates going to cause more red tape if they are mandatory, if that makes sense?

Ms Watkins: The amendments are twofold. Part 1 is about reducing, not so much the regulatory burden, but duplication within the Act itself. A typical example of that is that, under the existing chapter 7, part 8, the department can require a site investigation for contaminated land. Also under the other provisions of the Environmental Protection Act, the department can require another type of site investigation called an environmental investigation. The two investigations are very similar in the nature of what you actually do. The only difference is that, for contaminated land, at the end of the process the proponent is required to develop, prepare and lodge a site investigation report. By integrating that requirement into the rest of the Act, it makes it a little bit less confusing about which tools are for which purpose. The other component is the mandatory certification of contaminated land reports. That is by an auditor. The decision regulatory impact statement went through the costs and benefits of that particular proposal and put up three options. Option 2 was the option that has been enshrined in the legislation, which is mandatory certification.

Mr COX: The bill also moves the provision regarding the requirement for a soil disposal permit for transportation. It will now come under subordinate legislation, if I understand this correctly. Obviously there are still safeguards there, otherwise we would not be proposing this. I guess the question also is: why were there permits in the first place?

Ms Watkins: The waste-tracking system is relatively new compared to the Contaminated Land Act 1991, which was lifted out of the 1991 repealed act and into the Environmental Protection Act in about 2001 without a huge amount of change to the contaminated land provisions. So soil disposal permits have been around for a long time. They certainly precede waste tracking. Transportation and those kinds of issues are actually determined by whether a waste is a trackable waste, a regulated waste or an unregulated waste. It is better in terms of overlaps to use the existing provisions for all types of waste tracking rather than treating contaminated soil differently.

Mr COX: I am just simplifying that for people who are in that situation. I understand it is a bit more of a general way of dealing with it now.

Ms Watkins: Yes, it is a system that waste transporters are across and a system that receivers of waste are across.

Mrs MADDERN: My area of interest is in the waste reduction and recycling section. I would really appreciate it if someone could expand on that a bit more. I found it interesting. Does the waste that you are talking about under contaminated land then fit under this waste reduction and recycling? Does it fit into those categories there as well?

Mr Hodgman: The contaminated land is a slightly different matter. The waste amendments are about improving the beneficial-use framework, which is a process we have to—normally a waste would be regulated in certain circumstances, but there are situations where a waste might be able to be converted to some other valuable use. But because of the requirements applying to the management of waste, it is still subject to that regulatory framework. This is a mechanism for assessing the waste and saying, 'Yes, this is safe and able to be used for a specific use. Therefore, the waste regulation arrangements do not apply to that because it is being used for a useful purpose in a safe manner.' So contaminated land is a little bit different because it applies to specific sites where there has been activity that might have contaminated that site and it has a mechanism for dealing with the contamination on that site to fit the proposed use that is desired for that site.

CHAIR: On environmental offsets, if you are going to look at the levels of government to be involved, what would be the driver for the Commonwealth to make a decision subsequent to the state's decision?

Mr Buchanan: The Commonwealth will get involved when it is a controlled action under the Environment Protection and Biodiversity Conservation Act. That will be on matters that they have listed as matters of national environmental significance and where they deem, under the controlled action, that it is a significant impact on those matters.

CHAIR: That is like the port matters that have been talked about recently in the media—that sort of size development?

Mr Buchanan: That is right. It is usually large type developments, but they can get involved in smaller developments. Generally, the Commonwealth deals with the larger development type activities.

CHAIR: They really do not have any enforcement people on the ground. Do they mostly use the state people for enforcement or oversight of these sorts of projects?

Mr Buchanan: No, they have their own enforcement. There will be conditions under their authorisation so compliance is done under that act.

CHAIR: But do they actually have Environmental Protection Agency people on the ground—that is what I am saying—or do they refer that to you to enforce?

Mr Buchanan: I do not know the answer to that question, to tell you the truth.

Mr Hodgman: They do have their own compliance staff. I think most of them would be based in Canberra. They certainly were a few years ago. They do have their own compliance function in the department for the EPBC Act.

CHAIR: It is a very nice environment in Canberra, of course.

Mr TROUT: With regard to the amendment relating to waste reduction and recycling, is waste still measured or recorded in any shape or form in our dump situations?

Mr Hodgman: It depends on what kind of waste it is I think is the answer. There is certainly waste that is trackable waste that has to be reported and the transport of that waste must be reported. There are certain reporting requirements for various activities that might be licensed or regulated in some way. We do have a system of reporting more broadly on landfills.

Mr TROUT: Is that measured in cubic metres or tonnes?

Mr Hodgman: I am not sure of the exact detail, but I believe that reporting is required on the type of waste and the volume of waste, yes.

CHAIR: Would you like to give us an answer to that on notice?

Mr Hodgman: Sure.

Mr COSTIGAN: Thanks, Mr Oestreich, for your comments about the sulphur crested cockatoo, which is a bit of problem in certain communities I represent. I appreciate you answering the question from our chairman. I am not sure who this should be directed to—maybe Mr Hodgman. Suffice it to say, these reforms complement the Waste Avoidance and Resource Productivity Strategy, which I note is being driven by industry. When will that strategy actually be finalised?

Mr Hodgman: I might have to come back to you on that. It is in train obviously at the moment and there is a process going on. I believe it may be December this year, but I have to actually confirm that for you.

Mr COSTIGAN: So there is a possibility at the moment that it may not be finalised until the new year? It is a work in progress, is it?

Mr Hodgman: That is correct. I might get back to you on that with a more accurate answer.

Mrs MADDERN: Following on from the waste part of it, you are talking about waste that changes from being waste to a commodity or another product that is saleable. Who makes the decision that that waste now can be utilised for another purpose and on what basis do they make that decision under these amendments?

Mr Hodgman: I will pass you to Tamara Miller for that one.

Ms Miller: The bill includes new provisions for the establishment of a technical advisory panel, and the draft codes will be developed by those technical advisory panels. Those technical advisory panels may comprise a number of representatives including waste generators, resource receivers and any other stakeholder that has a relevant interest in the development of that code. The terms of reference around how those codes come together and the function of the technical advisory panel are going to be determined in further consultation in regulation.

CHAIR: As a supplementary to that, there is always an issue with waste tyres and people renting a block of land, filling it up with tyres and then walking away from it and all that sort of thing. Of course some waste tyres are recycled. How would that be looked at? You can recycle a certain amount, but it is probably cheaper just to leave them on a block on the ground and let someone else worry about it. Is there regulation in this that will cover that?

Mr Hodgman: The storage of waste tyres is no longer regulated under the EP Act. That is because the risks associated with storage are really about matters that are not dealt with under the Environmental Protection Act. Things like fire risk and health risks—for example, mosquitos breeding in water that is captured—are actually matters that are dealt with through local government, the fire service or the health department. For that reason they were actually removed from the Environmental Protection Act because usually the risks associated with them are not actually about environmental risks.

Mrs MADDERN: Back on to the waste, I note the green paper states 'removes market impediments associated with the management of waste'. Could you indicate to us what those market impediments might be and how they might be removed, please?

Ms Miller: Currently there is a series of regulatory controls that relate to the management of waste in Queensland. These might include tracking of waste and there might be conditions of disposal that come into play. There are costs associated with those management controls and, as such, when a waste is no longer a waste it is no longer under those waste management controls. That is the impediment that would be removed from declassifying waste.

Mr COX: I have just a quick question in regard to some of the consultation on this bill. Again, I see that there has been quite a lot in some areas and in other areas not so much. In relation to environmental offsets there has been no consultation. Am I right in presuming that, being a pretty new bill, this is just a tidy-up? Since it came out in July, this is just a tidy-up? There has been feedback and these are just minor amendments. It is not to do with some varying issue that mean the offsets are not working; it is really about the fact that the processes need tweaking a bit? Would I be right in saying that?

Mr Buchanan: Yes, that is correct. It is tweaking as a result of feedback that we have had talking and continuing to work with industry.

Mr COX: Hence the feedback has been directly from those who have been affected? So there was really no need to have major consultation on that amendment?

Mr Buchanan: That is right. There have not been any real impacts. It is just questions that have been raised.

Ms TRAD: Thank you for tabling this report. I am wondering whether there were terms of reference for SKM in relation to conducting this review that can be tabled?

Ms Miller: Yes, I think so.

CHAIR: So you will table those on notice?

Ms Miller: Yes.

Ms TRAD: I have another question in relation to the amendments to the Nature Conservation Act and that is in relation to the statement of the management intent. Can I please get some advice about what the policy imperative is behind this amendment?

Mr Oestreich: The policy intent behind this is about transparency and accountability. Where local governments are being given the ability to act without approval from the state in dealing with native wildlife that is protected by the state, the intention here is that the statements of management intent are an accountability and a transparency mechanism that can be linked to that ability to act without the need to apply and to gain approval.

Ms TRAD: Thank you. I understand the intent. Is there an imperative? Is there an issue in relation to how some councils are discharging this process that the government is concerned about which means that these legislative changes, the introduction of statements of management intent, are necessary?

CHAIR: I think you are starting to stray into the area of not actually questioning about the legislation. You are starting to stray into the ministerial line of question the intent behind the minister's point. That is what you are trying to ask, isn't it?

Ms TRAD: Thank you, Chair. I think I am entitled to ask what their policy imperative is as opposed to the policy intent. I am asking whether or not there is an issue in relation to the management of flying foxes that requires a statement of management intent.

Mr Oestreich: The driver has been one of good policy rather than one of necessarily responding to issues. We have not become aware of any issues that would necessitate the use of this ministerial power. However, we believed—the government believed—it was an appropriate counterbalance to the ability to act independently and without approval to have a mechanism in place whereby those actions need to be explained to the community or may need to be explained to the community.

Ms TRAD: So just to be clear, the government—the department—does not know of any issues that are key drivers in relation to this amendment?

Mr Oestreich: I think the only response that I can give is around what was the genesis of this provision, and the genesis of the provision was as the twin to the independence of councils being able to act without authority.

Mr COSTIGAN: I just want to come back to the so-called end-of-waste codes and end-of-waste approvals. Could anyone here today explain to me how they will differ from the previous arrangements?

Ms Miller: The difference is that it has responded to a number of issues that have been raised by industry. So, to understand the difference, probably a brief overview of the issues might help with that. Primarily there was a lot of ambiguity with the current process as to when waste ceases to be waste. There was not clarity around whether the process was approving the activity or the resource and there was not much clarity and guidance around when those end points would be derived. So, in response to that, the bill now introduces very much an industry stakeholder led process which incorporates the technical expertise of those who operate in the marketplace and those who might understand the environmental limits in a much more considered way.

Mr COSTIGAN: As a supplementary to that, going forward there will be a lot more clarity and certainty here? In the past, to be blunt, would it be fair to say that those in industry found it rather confusing?

Ms Miller: Yes. For example, there may be product specifications that the waste has to meet in order for it to become a resource. There may be environmental limits that the resource has to be within. There may be any other manner of specifications but they will be determined by the market and by the stakeholders who are on the technical advisory panels.

Mrs MADDERN: Following on with waste management, again in the explanatory notes priorities are identified by publishing a priority product statement. I am interested to know who develops that priority product statement, what the basis is for it and what the changes are under these amendments.

Ms Watkins: The priority product statement is a mechanism that is in the legislation. In terms of how they are developed, they would be developed in consultation with industry as per usual with most issues in our legislation. The main difference between what exists in the Waste Reduction and Recycling Act and what these changes do is that they change it from being a 'priority product statement' to a 'priority statement'. It pretty much just removes the word 'product'. But the reason behind that is that a priority could also be a waste—for example, green waste—rather than an actual product. Does that answer your question?

Mrs MADDERN: Yes. It is a bit complicated.

CHAIR: I have a couple of questions on the beneficial use and that sort of thing. I have a small recycler in the Lockyer, Anuha, which collects local waste and recycles that. But at times—probably in the last few years—it has had trouble getting rid of some paper waste because the price of recycling paper has collapsed. So in terms of the beneficial use part of it then, how does this legislation handle that, where, even though there can be beneficial use, you cannot dispose of the product?

Mr Hodgman: I think in that case—and I stand to be corrected—paper waste would not be a waste that is normally regulated in a way similar to some other waste that potentially has environmental implications or harm.

CHAIR: Let's use lead batteries for instance, then. Do you know what I mean?

Mr Hodgman: Yes, exactly. But this process really only applies to waste that would otherwise be regulated. So, in the case of paper waste, that is really a matter for the market to determine what other uses or what opportunities there might be for that kind of material. But it would not necessarily need approval, I believe, under this framework, because it is only waste that would be otherwise regulated.

CHAIR: In terms of maintaining environmental standards, have the technical advisory panels any sort of regulatory role in maintaining those standards or are they there to give advice about what should be done with tyres or batteries or whatever it is?

Ms Miller: The technical advisory panel is appointed by the chief executive and its role is to develop a draft code for the chief executive for public consultation. The chief executive can refer to the technical advisory panel at any point in time to ensure that the draft code meets the criteria that has been established for the development of end-of-waste codes.

CHAIR: So, in theory, it is just an expert advisory panel that will give advice to government on difficult issues.

Ms Miller: Yes.

CHAIR: I am sure as this inquiry progresses we will definitely be talking to the department again. We will have some public hearings and we will get you to come in and listen to some of the comments that are made by the public as well. Thank you very much. That brings this briefing to a close. I thank officers for their assistance today. The draft transcript of the meeting today will be available on our website soon after it is completed by the parliamentary reporters. For any questions taken on notice, or any additional information you wish to provide to clarify your answers today, we will need your responses by the close of business on Monday, 22 September. I remind everyone that the closing date for written submissions is Monday, 29 September. I declare the public briefing closed. Thank you very much.

Committee adjourned at 11.54 am