STATE DEVELOPMENT, INFRASTRUCTURE AND INDUSTRY SUBCOMMITTEE

Members present:

Mr MJ Hart MP (Acting Chair)
Mr SA Holswich MP
Ms KN Millard MP
Ms J Trad MP

Staff present:

Dr K Munro (Research Director)
Ms M Telford (Principal Research Officer)
Ms M Westcott (Principal Research Officer)

PUBLIC HEARING—INQUIRY INTO THE ECONOMIC DEVELOPMENT BILL 2012

TRANSCRIPT OF PROCEEDINGS

FRIDAY, 9 NOVEMBER 2012

Brisbane

FRIDAY, 9 NOVEMBER 2012

Subommittee met at 9.12 am

ACTING CHAIR: I declare the public meeting for the committee's inquiry into the Economic Development Bill 2012 open. I thank you for your interest and your attendance here today. I would like to introduce the members of the subcommittee. My name is Michael Hart. I am the member for Burleigh and acting chair of the subcommittee. Other subcommittee member here today are Ms Kerry Millard, the member for Sandgate; Seath Holswich, the member for Pine Rivers; and Ms Jackie Trad, the member for South Brisbane.

The State Development, Infrastructure and Industry Committee is a committee of the Queensland parliament, and as such represents the parliament. It is an all-party committee which adopts a non-partisan approach to its proceedings. In relation to media coverage, the committee has resolved to allow television coverage and photography during the hearing. The committee has also agreed to the live broadcast of the hearing via the Parliamentary Service's website and to receivers throughout the parliamentary precinct.

The program for today is as follows: with regard to the Economic Development Bill and the MEDQ proposal, from nine till 9.30 we will have a briefing from the Department of State Development, Infrastructure and Planning and from 9.30 to 10 from the Local Government Association of Queensland. We will then move on to the changes to the Coordinator-General's powers in relation to the State Development and Public Works Organisation Act 1971. From 10 to 10.30 we will hear from the Queensland Resources Council and the Local Government Association of Queensland. We will break for a short period and then move to the Environmental Protection Act 1994. Between 11 and 11.30 we will have a briefing from the Department of Environment and Heritage Protection. From 11.30 to 12 we will hear from the Queensland Resources Council. From 12 to 12.30 we will hear from the Capricorn Conservation Council, the Environmental Defender's Office of North Queensland and Save the Reef. From 12.30 to one, we will hear from AgForce.

Although the committee is not swearing-in witnesses, I remind all witnesses that these meetings are a formal process of the parliament. As such, any person potentially misleading the committee is committing a serious offence. For the benefit of Hansard, I ask witnesses to identify themselves and the organisation they represent when they first speak and to speak clearly and at a reasonable pace. It is the committee's intention that a transcript of the briefing be published. Before you commence, I ask that your mobiles and pagers be switched off or turned to silent mode. I now call representatives from the Department of State Development, Infrastructure and Planning.

EADES, Mr David, Deputy Director-General, Major Projects Office, Department of State Development, Infrastructure and Planning

EAGLES, Mr Paul, Deputy Director-General, Planning, Department of State Development, Infrastructure and Planning

ACTING CHAIR: David, would you like to provide the subcommittee with background information regarding the Economic Development Bill's MEDQ proposal compared to current arrangements with the ULDA and other associated entities and powers? We will follow that with discussion and questions from the subcommittee.

Mr Eades: I thank the committee for the invitation to provide a briefing at this public hearing regarding the Economic Development Bill 2012. I would also like to introduce my colleague Mr Paul Eagles, Deputy Director-General, Planning in the Department of State Development, Infrastructure and Planning who will be assisting me with the briefing this morning. At the request of the committee, Paul and I will provide a briefing today on the MEDQ proposal compared to the current arrangements with the ULDA and other associated entities and powers.

The bill has at its core a re-emphasis on supporting, facilitating and fast-tracking economic development in this state rather than simply the development of land. As the Deputy Premier indicated in the House last Thursday, the bill refines and improves existing processes and it also better aligns them with the expectations of a range of stakeholders, particularly local government. It will also streamline the legislative framework and help reduce red tape.

If enacted, the bill will repeal the Industrial Development Act 1963 and the Urban Land Development Authority Act 2007 to establish a single economic development act from whence these organisations currently draw their powers. By integrating and modernising key provisions of these acts, the bill will enable particular developments to be fast tracked to meet the government's priorities for economic development and for development for community purposes. It contemplates the property and infrastructure development powers being used in circumstances of market failure, complexity or where local government or industry requests assistance of specialist skills rather than just focusing on land development.

There are three areas of difference between the Economic Development Bill and the Urban Land Development Authority Act which I will now discuss in some detail. Firstly, change and integration of the governance model: the Urban Land Development Authority, or ULDA, was established as a statutory authority with its own board, staff and financial arrangements tasked with the aim to plan, undertake, promote, coordinate and control the development of certain areas of land in Queensland for urban residential purposes. The policy decision of the government at that time was to establish an entity outside of government with a suite of powers and functions to achieve the purposes of the act.

The ULDA is subject to the Financial Administration and Audit Act 1977 and the Statutory Bodies Financial Arrangements Act 1982. Broadly, the powers and functions of the ULDA within urban development areas were as the planning authority with responsibility for the management and regulation of development, and the development agency with powers to deal commercially in land, coordinate and provide for infrastructure provision, enter into agreements or contracts, fix charges and work alone or in conjunction with other entities. The power to declare urban development areas and to make planning instruments resided with the minister. The application of these powers allowed for the Urban Land Development Authority to act as both planning authority and the developer within some urban development areas.

The ULDA was established as an autonomous, self-funding organisation independent of government except for the process of making declarations and planning instruments, and these could be done without reference to a local authority. The Economic Development Bill in contrast, if enacted, establishes a Minister for Economic Development Queensland, or MEDQ, as a corporation sole. Unlike the ULDA, the MEDQ will be managed from within government, will have the ability to deal commercially in land, property and infrastructure, and will have the responsibility for planning and development activities. However, the MEDQ will have a broader remit than the ULDA and one that has the potential to include other classes of infrastructure or buildings as well as land.

The model proposed by the bill recognises the synergies between the two entities—that is to say, the ULDA and the Minister for Industrial Development Queensland, or MIDQ. In contrast to the former model, the bill integrates these entities and there is activity to allow for improved operational efficiencies and an integrated approach to economic and community development. By locating the MEDQ within a government structure, there is a greater focus on delivering projects and not just planning for them. It offers greater transparency in delivery through the systems and processes required of a government agency.

The model will allow government to tightly focus planning and development on areas where it is needed to support the Queensland economy. Operationally, Economic Development Queensland, as a commercialised business unit of the Department of State Development, Infrastructure and Planning, will assume responsibility for bringing developments to market quickly under the guidance and direction of an Economic Development Board and the MEDQ. The Economic Development Board and Economic Development Queensland will exercise functions of the MEDQ under an instrument of delegation rather than through an autonomous decision-making model, as is the case currently with the ULDA.

Economic Development Queensland will continue the same fundamental commercial arrangements as the existing Property Services Group does, currently in the Department of State Development, Infrastructure and Planning, which is a government business unit. However, as stated earlier, it will also do so as an integrated entity. This offers greater opportunity to streamline planning processes, seamless activity, consistency and cohesion as the activity occurs within a single operating entity under the direction of one board and clearly with the mandate and direction of the responsible minister and in concert with local government.

The ULDA board was structured such that it was comprised of members of government agency including Treasury and the former Growth Management Queensland along with members chosen by the minister. The bill sets up an Economic Development Board structure that is more strategic in its composition comprising up to six members, with three specified members being the Director-General of the Department of State Development, Infrastructure and Planning, who will be the chair; the Director-General of the Department of the Premier and Cabinet; and the Under Treasurer of Queensland. Other members with specific expertise established in the bill may be appointed to the board by the Governor in Council.

Whilst the appointment of other members will be a matter for the Minister for Economic Development Queensland, it is understood that they are likely to be senior officers from within government. A new feature of the model proposed by the bill with no surrogate under the existing ULDA arrangements is the establishment of the Commonwealth Games Infrastructure Authority. The authority will be a board that assists the MEDQ in relation to the planning and development of the Gold Coast 2018 Commonwealth Games Village and potentially other venues required for the games. The games village development is, of course, a key development opportunity for the state.

The Commonwealth Games Infrastructure Board will report to the MEDQ and the Economic Development Board. This model will enable the functions and powers of MEDQ and the governance arrangements under the bill to be utilised for the purpose of planning and development of the Gold Coast 2018 Commonwealth Games Village and other venues if necessary. It is envisaged that the planning and development functions of MEDQ, for example, could be used to declare a priority development area, or PDA, for the purposes of fast-tracking planning and development of the site proposed for the games village.

The Commonwealth Games Infrastructure Authority will be comprised of the Director-General of the Department of State Development, Infrastructure and Planning, the Director-General of the Department of Tourism, Major Events, Small Business and the Commonwealth Games, the Chief Executive Officer of the Gold Coast City Council, and the chairperson of the Commonwealth Games Corporation and other members appointed by the Governor in Council who have the specific expertise established in the bill.

Secondly, the expanded purpose of the economic development act: the purpose of the ULDA Act was to plan, undertake, promote, coordinate and control the development of declared areas called urban development areas for urban purposes. The focus of the ULDA Act was on the provision of housing including housing for low to moderate income households. The urban development areas currently being managed by the ULDA all focus on the provision of housing including the infrastructure required to establish the development and in some larger urban development areas commercial development that is included as a focus for the residential area. By comparison, the purpose of the ED Bill is much broader, being to facilitate economic development and development for community purposes.

The remit of the Economic Development Board has been cast wide enough to allow for any project that can deliver economic benefit or development for community purposes to be facilitated, fast tracked and delivered. Some examples of the circumstances where MEDQ may act to achieve economic development and development for community purposes include opportunities to promote development where there is significant complexity on sites such as the Commonwealth Games Village or where the existing planning framework is inadequate because it is dated, where there is an emerging government priority or where a local authority requires the support of specialist skills of the state to achieve a particular development. Specific project examples may include projects that deliver precincts for specific economic and community outcomes, town centre projects to facilitate commercial rejuvenation, and redevelopment opportunities for tourism and marine based projects that deliver jobs, open up other commercial opportunities or stimulate economic multipliers.

Unlike the ULDA legislation, the bill further extends the scale and type of development envisaged by the ULDA Act and the ID Act, and creates a second category of declaration—that being provisional priority development areas. The declaration of these areas would apply in circumstances where there is an overriding economic or community need to start development quickly and where the proposed development is consistent with the local government's planning scheme. For these areas, the PPDA will have a provisional land use plan only and will expire after three years. It is envisaged that the declaration of PPDAs will occur where development that is proposed is consistent with community expectations and can be brought to market within that three-year time frame. Unlike the ULDA Act, the PPDA declaration will expire at the end of the period, ensuring planning for the area is then subsumed into the local planning instrument.

The ULDA Act allowed for limited local government involvement in declaration of urban development areas and the preparation of planning instruments. On occasions, urban development areas were declared without adequate consultation with local government or included provisions for the development that were substantially different from the surrounding local plan. Additionally, under the ULDA Act, local governments could not prepare land use plans, development schemes or by-laws within an urban development area.

When revoking development areas, the ULDA Act provided for the minister to make the planning instrument change to the local government planning scheme. The bill, by contrast, mandates that the MEDQ's functions include consulting with relevant local governments in planning for or developing land in PDAs. It specifically requires the MEDQ to consult with relevant local governments when proposing a priority development area and preparing a land use plan for the declaration of a PDA.

Furthermore, the bill allows for local government to be delegated the MEDQ functions of preparing a land use plan, development scheme or a by-law, and the capacity to decide development applications. Local governments may request an area to be declared a PDA and technically prepare the development instruments and manage and decide developments within the area itself.

The MEDQ will also have the ability to establish more formal consultation arrangements. Specifically, the bill provides for the MEDQ to establish local representative committees by discretion and on a case-by-case basis, providing a mechanism for local government engagement in planning and development assessment activities of the MEDQ in their area. Transition of the planning and development powers and activities of the ULDA to the MEDQ will help deliver the government's policy to wind back the operations of the current ULDA while ensuring maintenance of a streamlined, agile and effective planning development framework for priority projects.

In relation to consultation: the focus of consultation provisions to establish an economic development act was with government agencies, entities and statutory bodies, including central agencies such as the Department of the Premier and Cabinet, Queensland Treasury and Trade as well as the Property Services Group and the land development authority. This is pertinent, given the proposed new act integrates existing legislative and operational arrangements and fulfils the government's election commitments relating to the winding back of the Urban Land Development Authority and the commitment to drive economic growth. The public hearing today the and submission processes for the Economic Development Bill are welcomed by the Department of State Development, Infrastructure and Planning as a further element in this consultation process. We are looking forward to hearing the views of witnesses and submitters on the proposals contained in the bill.

In conclusion, in contrast to the ULDA Act and the ID Act, the Economic Development Bill will, if enacted: replace two organisations with one government business unit, removing a statutory authority; provide for reporting to a government orientated board rather than an independent board; provide for operations through a commercialised government business unit with direct reporting lines to government, rather than for operations to occur through a statutory authority with independence from government; provide for all finances to be controlled through the accounts of the Department of State Development, Infrastructure and Planning, rather than separate accounts; provide for policy decisions about competitive neutrality to be made by central agencies; deliver not only residential and industrial land but all classes of property for economic development and development for community purposes, not just for land supply; enable development in circumstances of market failure as opposed to development for commercial opportunism; actively engage local governments and require consultation with local governments, rather than developing plans in isolation from councils; align development with local government planning objectives wherever possible, rather than creating potential planning inconsistencies; and allow local governments to administer PDAs where appropriate, rather than operating in an arms-length relationship.

I thank the committee for the opportunity to provide a briefing today on the Economic Development Bill 2012. Through the chair, I ask if the committee has any questions for my department.

ACTING CHAIR: Thank you, Mr Eades. I think that has answered a lot of my questions. Could I just ask you to clarify the definition of economic development or development for community purposes. I understand you just gave us some examples in your presentation, but is there any technical reason as to why the legislation does not define the difference in those two?

Mr Eades: No. I think it is simply a broad-based definition and a broad-based series of land uses. I guess one of the difficulties is predicting what the bill may need to do to stimulate economic activity in the future. Whilst I support the need for some degree of definition, I believe it should not be something that would constrain the bill being used across a broad range of stimulus.

ACTING CHAIR: Can you tell us what happens with existing projects of state significance? Do they roll over into this new plan? Are they reassessed? What happens there?

Mr Eades: With your permission I might defer that question to my colleague, Mr Paul Eagles.

Mr Eagles: There are currently 17 urban development areas of that order. Some are well advanced, some are very young in their age. My understanding is that each one of those projects will be looked at case by case and it will be decided whether they will continue in terms of their life. Already there are a couple where the delegation powers of development assessment have been offered to the local authority, and there is trialling as a pilot project. Once that has been determined, it may very well be that other local governments go through a delegation process of powers. Some of the sites may be suitable for early revocation, some for medium-term revocation, some perhaps in the longer term. My understanding is that each urban development area would be looked at on a case-by-case basis.

ACTING CHAIR: We are running a bit short of time so I will move to the other committee members. Ms Trad, do you have some questions?

Ms TRAD: Thank you, Mr Acting Chair. Just following on from that, Mr Eagles, I represent the area of South Brisbane which Woolloongabba is very much a part of, and Woolloongabba has been part of the ULDA planning process for some time. Are you saying that, with this particular patch of land, there is a question mark over who will take responsibility for its future development?

Mr Eagles: No, it is just one of the current urban development areas. There is no development activity on that site. The development scheme has been completed. The majority of that site is subject to planning by the cross-river rail, so in fact there is nothing being held up or not held up under the current state of affairs in terms of the ULDA's activities. It is a fairly simple site. It is almost all government land; there is a small amount of private land. That is one which could come up for discussions early in terms of whether it gets revoked or remains, but there is nothing happening on that site at this point.

Ms TRAD: Mr Eades, page 13 of the explanatory notes states—

The processes under the Bill are more streamlined than SPA and the Bill will therefore be to the benefit of developers, as well as the community generally, bringing development to the market in a timelier manner.

Has any consideration been given to the rights of a community or local government to oppose a particular development within a priority development area?

Mr Eades: Again, if I could, I will defer to Paul Eagles.

Mr Eagles: The bill brings in a majority of the provisions in relation to what you are talking to from the Urban Land Development Authority Act. In relation to consultation, the bill proposes the same level of consultation processes in terms of the preparation of the development scheme as the Urban Land Development Authority Act. In relation to the development application process, my understanding is that the same provisions in relation to consultation and/or submissions are retained as the Urban Land Development Authority Act. So in relation to those aspects, it is identical from my understanding to the previous act.

Ms TRAD: Just following on from that, Mr Eagles, there is no right of appeal, I understand. That is clearly stipulated in the explanatory notes under the fundamental legislative principles. So my understanding is that the new structure will extinguish the community's right to appeal decisions within the Land and Environment Court. Is that correct?

Mr Eagles: The Economic Development Bill carries forward exactly the same provisions I believe as the Urban Land Development Authority Act. The ULDA Act did not allow appeals unless for very limited circumstances in relation to conditions of nominated assessing authorities, so the bill is no different than the ULDA Act's provisions in this regard—that is my clear understanding.

Ms TRAD: I might refer you to page 12 of the explanatory notes where it actually does say it differs from the ULDA in that appeal rights are extinguished. So that is a concern from the explanatory notes under the fundamental legislative principles, Mr Eagles.

Mr Eagles: The member has raised a specific matter. I do not have those notes in front of me. I am certainly happy to come back to the committee in that regard but, as I repeat, my understanding quite clearly is that, in terms of the lack of appeal rights, it has the same appeal rights mechanism as the Urban Land Development Authority Act. I am happy to double check that and advise the committee if that is not correct.

ACTING CHAIR: So you will take that on notice?

Mr Eagles: Yes.

ACTING CHAIR: Thank you. Do you have a question, Mr Holswich?

Mr HOLSWICH: No.

ACTING CHAIR: Ms Trad, you may continue.

Ms TRAD: This bill allows the corporate sole of the Minister for Economic Development Queensland to amend a local government planning scheme in a priority development area, as you have already outlined. How is this justified, when it is said in the explanatory notes that the changes to priority development areas are about re-empowering local governments?

Mr Eagles: There are provisions in the bill—which are different in relation to the ULDA Act, which I believe would go to making that statement about empowering local government re-empowering—which require that prior to a PDA being declared there is consultation with the local government. That is spelt out. In terms of the revocation process of a priority development area, there are new provisions which allow for the local government to actually propose the planning scheme amendments which are not in the current ULDA Act. The ability for the delegation of plan making is a variation; it is an inclusion to the current act. The current act does not permit the delegation of plan-making powers to other bodies. It is specifically prohibited in the ULDA Act; in the bill, that is permitted. There is inclusion of the local representative committee provisions in the bill—they were not included in the current ULDA Act as well—so that is another mechanism for either the local government or local communities to be involved in a way that was not permitted in the ULDA Act. They are the sorts of things that I believe would sit behind that statement of empowering local government.

Ms TRAD: Those local committees are not mandatory though, are they, but that is not my question. My question is to you, Mr Eades, in relation to your statement that the establishment of the MEDQ actually allows for better transparency in terms of decision making. I have to say that that is a big claim considering that this bill seeks to abolish an independent statutory organisation responsible for planning and development in particular areas by conferring the powers to a minister of the crown and representatives of the government who are picked by the government to sit on the decision-making board. The question is this: I think the issue around transparency of decision making is a big claim considering these powers will now be conferred to the government of the day and the political party of the day.

ACTING CHAIR: Mr Eades, I will rule that question out of order. That is asking for an opinion. It is now time to move on. We are running quite late so the time for the briefing from the department has expired. I would like to thank you for your attendance today and for the briefing you have given us. I would now like to call on the representative from the Local Government Association to come forward and make a presentation.

HOFFMAN, Mr Greg, General Manager, Advocacy, Local Government Association of Queensland

ACTING CHAIR: Good morning. For the record, could I get you to state your name and the capacity in which you appear before the committee today, please?

Mr Hoffman: My name is Greg Hoffman. I am the General Manager, Advocacy, of the Local Government Association of Queensland.

ACTING CHAIR: Thank you. Can we make sure that your mobile phone is turned off or on to silent. Also, you just need to press the button on your microphone and make sure that you turn it off when you finish. Welcome and you have five minutes in which to make an opening statement to the committee to introduce your organisation and concisely summarise the main issues that you wish to raise, specifically in relation to matters relating to the Economic Development Bill. This will then be followed by questions and discussions led by the committee. Thank you.

Mr Hoffman: Thank you, Mr Chair, and committee members for the opportunity to appear before you today. The Local Government Association of Queensland is the peak body representing the 73 local governments in Queensland. As such, we are vitally concerned about legislation and the legislative processes that impact on local governments. We provided you with a submission late yesterday. Whilst we welcome the opportunity to make such a submission, I put on record our very real concern about the short time frame available to all interested parties to make their submissions.

In June of this year, the Local Government Association signed a Partners in Government Agreement with the state government which, among a number of things, indicated a commitment by the government to undertake timely, cooperative, proper and meaningful engagement on all policy, legislation strategy and program initiatives where local government has an interest, including in the early stages of policy formulation. Our disappointment is that, in relation to this particular bill and, specifically, in relation to the creation of the Minister for Economic Development Queensland, there was no such consultation. So our comments today are on our interpretation of the legislation, or the bill as we have read it and understand it. So whilst I will make comments, I will also be asking a number of questions in terms of seeking clarification.

Firstly, though, it is important to say that the Local Government Association supports in principle the existence of an organisation such as the Minister for Economic Development Queensland. Indeed, this position is consistent with a stance that we had in relation to the urban development authority. However, there are some significant caveats that apply to that support. In the LGAQ Queensland 2012 election local government policy plan we sought, among a number of things, a commitment that elected councillors will continue to have a determining role in the development assessment process and a legislative requirement that the ULDA not declare urban development areas without local government or local council's approval. In response to that, the LNP indicated in its local government empowerment policy that it would aim to empower Queensland communities with the responsibility for planning and development at the local level through decision making by local governments that are transparent and ultimately accountable to local people and, secondly—

We will, in full consultation with Local Government, fix the Sustainable Planning Act, wind back the Urban Land Development Authority, and work to mainstream identified appropriate planning powers back to Local Councils.

There can be little argument that the bill goes much further than the scope of the ULDA Act and the Industrial Development Act that it replaces. There are no specific definitions of economic development and development for community purposes, meaning that they can be interpreted broadly in line with the ordinary meaning of those words. As a result there is every possibility—and I believe as a result of the presentation by the department's representatives, an apparent intention—that developments currently assessed under the Sustainable Planning Act will be effectively called in under the economic development act. So the ULDA has been reconstituted with a broader remit seemingly at odds with the government's empowering Queensland local government policy.

I do note, though, the explanations given by the departmental representatives, who sought to clarify in a number of respects the interaction with local governments in the operation of the MEDQ, and that is welcomed. However, for the record I need to identify two particular issues of importance to local government in the operations of the MEDQ, firstly, the nature and timing of engagement of local councils prior to the declaration of a priority development area; and, secondly, the terms and conditions of approving a PDA and their implications, particularly financial for councils when responsibility for the area is handed back to councils. These issues are raised, because they are the two particular concerns that have been at the centre of the more contentious urban development areas under the operations of the ULDA, aspects of which are still to be satisfactorily resolved—and I note in particular Yarrabilba and Flagstone and Caloundra South.

Councils are committed to working with the state government to facilitate and support improvements to the state's planning and development legislation and we have welcomed the consultation and outcomes to date on the ongoing review of the Sustainable Planning Act. However, satisfactorily addressing the issues identified above are of vital concern. Councils seek a meaningful engagement in the determination of PDAs and an equitable structure funding framework that does not include cost shifting to the wider community and ratepayers.

The bill identifies the role of provisional priority development areas to bring developments to market quickly in line with councils' planning schemes. But I would seek clarification as to exactly what that means. Does it not only mean the land use plan as it currently applies or does it extend to the broader questions of timing and delivery and the cost of infrastructure identified in the local government's priority infrastructure plan or other plans that are relevant to that particular area and, importantly, the council's infrastructure charges resolution?

Also, we seek clarification regarding the underlying purpose of the provisional PDA and assurance from the state government on how and in what instances they will be used. Some clarification was given today by the departmental officers. However, you can appreciate from our perspective that the more of them there are, the greater the concern. To overcome this concern, local governments should not only be consulted on the establishment and declaration of a PDA but also agreements sought. This is a position we long held in relation to the declaration of UDAs under the Urban Land Development Authority.

I will conclude my opening remarks by highlighting that within the bill there are a number of references to infrastructure agreements, to special rates and charges and broadly to infrastructure that the MEDQ will, in fact, negotiate, develop and put in place with the proponents of matters that come before it. Whilst I acknowledge the explanations given that there will be greater consultation with local governments on the planning processes that relate to PDAs, the bottom line consideration for us is what are the cost implications of the PDA and the development that is involved? As highlighted earlier, the experiences to date in relation to the Urban Land Development Authority and the costing arrangements for the proponents and the impacts of those arrangements on local governments have been the source of considerable concern and, I say, tension between councils and the state government. It is imperative that the implications of the decisions made to support particular developments in PDA on the wider community and a local government's financial position is not overlooked. The handing back of a development once complete under a PDA and the legal obligations to maintain and support that development and infrastructure will come at a cost. It is absolutely essential that the implications of that cost are fully appreciated in the determination of the PDA and the conditions under which it is approved. These potential impacts will impact on councils' asset management obligations, their rating arrangements and, potentially, their long-term financial sustainability. As such, they must be consulted and agreement reached on these key elements of a PDA. Thank you, Mr Chairman.

ACTING CHAIR: Thank you, Mr Hoffman. We will now move on to questions from the committee. I will commence that. You mentioned that you would like to see local governments have some sort of input right at the start of the government making these declarations. How do you see the timing and what sort of conditions would you like the government to be discussing with you before they go ahead and make that sort of declaration?

Mr Hoffman: In answering that question, let me indicate first off that there are a number of UDA areas in Queensland at the moment that are fully supported by the local governments in which they operate and there is a very close and productive working relationship between the councils and the ULDA. That has arisen because the councils in many instances were the parties that approached the ULDA to see what could be achieved in relation to solving a particular problem. It is noted that the MEDQ intends to operate similarly, facilitating support where circumstances require. Where the relationship or the operation of the ULDA has not been as successful is where the government has of its own volition declared the UDA or, of it could, as it is able under this proposed bill, to declare a PDA. Therein lies the starting point for a difficult relationship for the reasons that I have outlined and which I do not need to repeat.

Obviously, if it is the government's intention to declare a PDA, it has reasons for so doing and those reasons should be fully and openly shared with the local government given that, in effect, that development is removed from the planning processes that local government is responsible for. So to answer your question specifically, what are the issues that are most significant and should be addressed in the consideration of the declaration of a PDA is not only what the development proposed happens to be and the extent to which it would align with or potentially push to the margins or beyond the broad intentions of the local planning scheme but also a very early discussion around the potential cost implications. Agreement can by and large be reached on the planning issues. It is the cost implications of the development of the PDA that is at the heart of local governments' concerns.

ACTING CHAIR: I notice in part 19 of your submission you mention that the councils under the existing law cannot apply for an additional special charge on a development site under the ULDA act to recover infrastructure cost shortfalls. Can you expand on that as far as what sort of shortfalls might we be talking about and what would you like to do to change that situation?

Mr Hoffman: Under the current Urban Land Development Authority Act, and as similarly proposed in the Economic Development Bill, Economic Development Queensland would have rating powers, rating powers that are identical to the rating powers that local governments have, and it can exercise those powers in the determination of rating arrangements. The legal advice we have is that beyond the exercise of those rating powers, which are discrete to the area, the PDA, councils have no rating powers on the hand back of the area to the local government that would relate to infrastructure specifically agreed to under the PDA. In other words, the approval processes and the rating arrangements put in place for the PDA under the Economic Development Act is the complete package of special rating arrangements. That is not to say that council's general rating would not apply to that area. However, if there was a shortfall in the costs to the local government of the provision of the infrastructure provided for through the approval

that existed for the PDA, then local governments do not have a special rating power to seek to recover the difference. So it is dependent upon the rating arrangements entered into by MEDQ as to whether they adequately recover the costs for local governments.

I am happy to provide the legal advice that we obtained when this discussion first arose under the ULDA act, but the rating powers in this act are the same. So, effectively, councils are dependent upon agreement being reached with the MEDQ and obviously the proponents of the development as to what the rating arrangements are because on hand back that is the extent to which council's rating powers can be used to address the cost implications of the infrastructure for that particular development.

I trust I have explained it for you. The legal opinion will clarify that more fully. I highlight this because this has been the most contentious part of the current discussions involving the Yarrabilba and Flagstone UDAs under the Urban Land Development Act.

ACTING CHAIR: Just to clarify, you are talking about unexpected infrastructure or infrastructure that would be part of that development right upfront?

Mr Hoffman: It is the development upfront. As I indicated in my submission and in my remarks, councils have infrastructure charging schedules. They are constrained by the capped charges that are currently in place. The councils involved, Logan City Council and Sunshine Coast Regional Council, have not been successful in being able to recover those charges in what is currently proposed for the UDA areas involved. It is a lesser infrastructure charge that will be paid to them upfront. However, in relation to Flagstone and Yarrabilba, I am aware that agreement has been reached, or is near being reached, as to a special rating arrangement that will apply to properties within that area to help offset the difference between the infrastructure charge the councils sought to recover and that which they will be approved to be paid under the UDA arrangement. The difference then is recovered by way of a special rate over a 30-year period on the properties that are developed in that area. It effectively saves a cost upfront, but it transfers that cost to a period of time. That arrangement, in a financial sense, can achieve the right balance in terms of the financial outcome, albeit with a level of complexity which has not otherwise existed, but if it does not provide the right balance and the financial outcome from a local government's perspective, our advice is that the councils do not have the power themselves to further rate to recover that difference. They can simply levy their normal rates for the operation of services provided in that area, but not in relation to the infrastructure provided for the development in the first place.

ACTING CHAIR: Thank you for that. Without going into specifics, can you give us a practical explanation of something that might be applicable to what we have just been talking about? Are we talking about an extra bridge? What is it?

Mr Hoffman: The essential infrastructure to any development, whether it is urban development but for that matter any commercial industrial development, is the provision of adequate water supply and sewerage services, road networks in particular and drainage arrangements. There are, of course, other issues of amenity that enable a developed area to be occupied in a liveable and comfortable fashion. But the most important part and the most expensive element of infrastructure provision relates to water, sewerage, roads and drainage and it is in regards to that essential infrastructure that I make the comments I have just made.

ACTING CHAIR: I will move on to the committee members now. Member for Pine Rivers?

Mr HOLSWICH: My contribution is not so much a question to Mr Hoffman, but more a suggestion for the committee. Having read the submission and heard what Mr Hoffman has had to say this morning, I now have more questions for the departmental staff in relation to some clarification. I am wondering whether as a committee we could ask them to come back or make further submissions to clarify some of the points that are raised here.

ACTING CHAIR: I am sure the department is watching and they will answer those questions that you have put. We will move on to the member for South Brisbane.

Ms TRAD: Given the lack of time that is left available—thank you very much Mr Hoffman for your contribution and your submissions—you said you made very pertinent notes in relation to the consultation and time frame around this. I would like to know whether the LGAQ was at all involved in the drafting of this bill; whether there was early consultation exposure.

Mr Hoffman: Not in relation to the bill specifically. My comments are particularly related to the MEDQ elements. We have been involved in discussions concerning the amendments to the State Development and Public Works Organisation Act and our submission acknowledges that. That has been taking place for some time. Those discussions are reflected in the bill, though in relation to other aspects of the bill, no, we have not been consulted.

ACTING CHAIR: The time allocated for the briefing from the LGAQ on this matter has now expired. Thank you for your attendance today. We will move on to matters relating to amendments to the State Development and Public Works Organisation Act 1971 and changes to the Coordinator-General's powers. I now call on a representative from the Queensland Resources Council to join Mr Hoffman of the LGAQ.

BARGER, Mr Andrew, Director of Resources Policy, Queensland Resources Council

ACTING CHAIR: Welcome. You have five minutes to make an opening statement to the committee to introduce your organisation and concisely summarise the main issues you wish to raise specifically in relation to matters regarding amendments to the State Development and Public Works Organisation Act 1971 that propose changes to the Coordinator-General's powers. This will then be followed by questions and discussions led by the committee.

Mr Barger: Thank you for the opportunity to address the committee this morning. The Queensland Resources Council is the peak industry body. We are a non-government organisation and we represent mining and energy companies with an operational interest in Queensland. We are a broad organisation. Our membership covers the full spectrum from exploration through production across the full range of commodities. I think it is fair to say that there is an awful lot of industry interest in this bill. There has been a lot of work done in terms of engaging with the Coordinator-General and his department around the streamlining intentions that are manifested in the bill. The headline of the QRC submission with respect to these aspects of the bill that you are looking at today will have two elements: there will be overarching support for the streamlining agenda, we see the direction as positive and important; but I guess some concern around the pace at which the legislation has been developed, the limited opportunities for consultation and some of the important details that perhaps have not been fully considered in that fast track process. Ironically on the one hand we will be talking about the importance of streamlining but calling out some of our concerns around the actual details as drafted.

Our general view is that as a rule, because legislation is such a blunt instrument, once you hardwire things into black letter law it is very difficult to work with. Skimping on consultation or compressing the time for comment is a false economy, particularly with this legislation where there has been a lot of discussion with industry, both individual proponents and through their industry association, with the Coordinator-General about the intention to streamline the process to try to make it faster to get to a decision, to clarify the intention of what information is needed to make a decision and how you might do that in a better way, but the legislative change to give effect to a lot of those discussions has sort of dropped from above with a loud thump. I have some sympathy for the committee in that you will hear an awful lot of people crying time poor today. I do not envy your task of trying to straddle all the different legislative amendments that are in this bill; the way they reach into a whole lot of other important legislation and amendment processes. You have your work cut out for you.

Our submission, which we will finetune and get to you this afternoon, will really make comments about four very specific issues that arise in the drafting of the bill under that overarching support for the streamlining agenda. We will also make a couple of suggestions where we think there is scope for some additional amendment, which had been suggested during the consultation stage and we think is probably worth considering again. I will skip quickly through those to give a flavour of the industry's thinking because I am conscious you have not had the benefit of having a submission and being able to digest how we are seeing the bill.

The first specific comment we have is around section 285, the changes to the prefeasibility process. We completely understand the intention here in terms of setting up a filter or a gateway process at the front of an important, complex, resource intensive Coordinator-General process to try to redirect projects that are not perhaps viable or perhaps are not worthy of the effort. But we have some concerns about how that intent has been given effect, particularly through the choice of title. Prefeasibility has a very particular financial context in the resources industry. A prefeasibility study is a formal economic study with an awful lot of confidential information in it. There is a lot of concern within the industry that providing that information upfront is going to be very difficult.

So our submission will talk about what content the Coordinator-General might need in order to make a decision about the viability of the process, suggest that prefeasibility is perhaps the wrong label and suggest some different filters—and they will be from a resource perspective—in terms of how you might be able to differentiate the projects that have a real chance of proceeding.

The second section that I wanted to talk about was section 298. That is the section that talks about project changes and the Coordinator-General's ability to request information on a change of scope during the project. Again, we think the intention diverges from the way the drafting has been given effect. We can understand that during the review and assessment process the Coordinator-General will have a natural interest in whether the process has changed and need an ability to trigger information around that. The way that has currently been drafted, as we read it, that has been left open ended and will extend well into the life of a project that might run for 40 or 50 years. Under different circumstances, with a different Coordinator-General, with a different administration to comply with that intent you could have this endless deluge of minutiae coming back to the Coordinator-General as the project is evolving dealing with managerial issues which really should sit within the environmental authority rather than reaching back to that initial assessment process under the Coordinator-General.

The third topic that I want to talk about really quickly is section 310 which deals with the new concept of a private infrastructure facility. There are two concerns here. The first one is that the way the process has been drafted it only seems to recognise the Coordinator-General EIS process. So the only path through to this private infrastructure facility, as drafted, is through the Coordinator-General process. Whereas we can see a range of circumstances where a project may well come through other similar

assessment processes, through other EIS processes, and then realise that there is a need for this type of private infrastructure facility. Again, we will be suggesting some tweaks to the drafting that might broaden the scope of that and make the changes to this new PIF instrument operate a bit more smoothly.

The other concern that has been expressed is because that decision around the infrastructure facility occurs after the EIS, if that becomes an overly sequential process that may well work counter to the intent of the legislation in terms of streamlining and running processes in parallel. So, again, we will express some concerns around how that might operate in practice.

The fourth and final specific issue relates to section 76 and the Coordinator-General's ability to prescribe projects. Understand that there is some enthusiasm within the Coordinator-General's office to apply those provisions. Broadly the industry supports those. As they are currently drafted, we see those focusing very much on the Sustainable Planning Act projects and not on some of the other broader approval processes that would be of interest to resource projects. Again, we will look at some of the drafting within the Sustainable Planning Act and suggest that that be made consistent.

They are the four specific nits that I wanted to pick around the drafting of the current legislation. Very quickly and in closing, the suggestion we had was some amendments that would sit around section 35 that would allow the Coordinator-General to amend his report. Once the report had been handed down, if it emerged that there had been a clerical error or by agreement with the proponent it was realised that conditions that had been applied were no longer appropriate or had been subsumed in some other instrument then that could be amended. Again, we have some drafting suggestions around that.

That is a bit of quick whip around what will be a more detail QRC submission on the Coordinator-General's act. To round it out, the streamlining reforms are really important and really essential for the economic development of Queensland. The projects that go through Coordinator-General processes are inherently large, complex and important. So it is really important that those streamlining reforms are developed with sufficient attention to detail to make sure that they bite as they are intended to. I think I will call stumps there.

ACTING CHAIR: Andrew, is your intention to put in a submission outlining all of these points? Will you able to do that by the cut off time of 5 pm today?

Mr Barger: It may be very close to 5 pm this afternoon, but we will get in a submission which will set out those arguments in a bit more detail and provide a bit of context.

ACTING CHAIR: Mr Hoffman, would you like to make a statement on this bit of the legislation.

Mr Hoffman: The development of the state's mineral and gas resources is an issue of significant importance to local communities. These developments happen at the local level. Across the state today there could well be in the order of several hundred application processes at play within government that do involve local governments through EIS related processes or other engagements.

Local governments in the resources area by and large support the development of the resources sector. However, they are vitally concerned to ensure that the impacts of that development are fully assessed and considered in the granting of those approvals and that appropriate action is taken at that point to ensure that the issues of concern to local governments are addressed. It is far better to have in scope those issues of concern when a proposal is being assessed than to seek to rectify the problems after the event for having failed to take them on board in the first place.

In relation to the particular amendments proposed to the EIS provisions under the State Development and Public Works Organisation Act, the association is supportive of what is proposed. The endeavour to streamline those processes will enable the resources of local government, stretched as they are, to deal with the many hundreds of matters across their tables in a more effective and efficient way. We note in particular the intention to create a generic terms of reference as a starting point for the EIS. We believe this is a positive move as it focuses the attention of not only the proponents but ensures that the relevant matters to local communities are to be addressed. I say that in the context of our representations and that of the affected councils to government, in particular the Coordinator-General, in this regard. In other words, identifying those issues which by their nature are inherently relevant to an EIS process from a local government level.

To date, sadly, that has not necessarily been the case. If the terms of reference are flawed or deficient, I say, in the consideration of issues impacting at local government and local community level then the process is of itself devalued. We see the move to create a generic terms of reference and to engage local government in the identification of any issues of specific relevance to be to the advantage of all parties in that it ensures from the commencement of the process the issues that local councils would want assessed are in fact being considered. I will leave my remarks at that.

ACTING CHAIR: Thank you, Mr Hoffman. We will move onto questions from the committee. Andrew, I think one of your concerns is that this legislation requires proponents to have completed commercial negotiations with landholders along with any necessary negotiations with regard to native title before the IFS commences. Can you expand on that? What other direction can the government go in with regard to speeding up the process involved while still making sure that these things happen in a smooth way?

Mr Barger: Thank you for the question. The issue of timing of the process of considering the EIS versus considering the infrastructure facility of significance or the PIF, as it will become, is a difficult one in some senses. I guess the spirit of the bill generally about streamlining and doing things in parallel is largely to sort of say where there is not a natural sequence that the decisions have to be made in, where an output from this decision informs the next one, try to do things in parallel to reduce the amount of time taken. One of the things that we would suggest is that to the greatest extent possible the decisions around the PIF be made as part of the EIS assessment.

Your question is right. What is different about that process is that if it is a bit of linear infrastructure, in particular, it involves interests of a whole range of landholders and perhaps native title owners and in some cases there will also be interests in terms of environmental outcomes from the land that is traversed. The difficulty with the process is striking that balance correctly so that you are not necessarily shoehorning people into a process that leads to something with a mandated ending and compulsory acquisition without the opportunity to have proper engagement.

I just sound a word of caution that necessarily running through the full EIS process before then commencing that process might just be elongating the total time taken. It may well be that in some cases you could have those processes overlapping to a greater extent.

ACTING CHAIR: Is there any one part of the process that you see value in performing before the EIS is granted?

Mr Barger: The intent of the amendment is to try to minimise the impact on landowners and to provide a greater degree of certainty so that you do not necessarily have projects running around, going out to landowners and conducting preliminary negotiations based on a reasonably undeveloped understanding of where their infrastructure might sit. The reason for that is that if you are looking at a corridor that is perhaps three kilometres wide rather than 150 metres wide you are necessarily going to touch more landholders. If you have perhaps five or six routes that are being assessed rather than two, again you are multiplying the number of people you have deal with and potentially for those people creating some uncertainty about what their future might hold.

I think the intention of getting the project reasonably developed, running through the EIS process so that the thinking around those infrastructure processes has started to crystalise is the right one. I think the negotiations around infrastructure are always going to come towards the end of that EIS process. I guess the question is whether it needs to be a distinct subsequent step or whether it could overlap a little bit more.

Mr HOLSWICH: Mr Barger, I have a question on your comments about section 310 and the Coordinator-General's EIS process. You talked about potential other avenues that you would like to see included regarding the EIS process. Are you able to expand on what those other avenues are?

Mr Barger: I will just flip through my draft submission to get the right bit. At the moment the consideration of the PIF can only occur after a Coordinator-General process. What we would say is that at a minimum you would probably also want to say that an EIS that occurred under the Environmental Protection Act or an EIS that occurred under the Sustainable Development Act would also be a sufficient trigger for that PIF assessment process so that you do not have a project which has gone down a particular approval path suddenly realising that an avenue was precluded because it had not used an EIS under a particular piece of legislation.

There is some drafting that currently sits within the Sustainable Planning Act under section 207 that sets out some of the matters that the minister can give regard to in terms of other assessment processes. I think that drafting would probably sit fairly comfortably in this context: if the committee was minded to recommend that the scope be broadened so that it was not a Coordinator-General EIS but an EIS process under some of those other legislative heads of power then that drafting is probably largely translatable. Did that answer your question?

Mr HOLSWICH: Yes.

Ms MILLARD: This is a question for Mr Andrew Barger. You have been talking about different components of the legislation. I think one thing that is quite vital in this state and in this country is manufacturing. Where do you think that falls with regard to this legislation? Do you think that that is something that the QRC should have a lot more involvement with with regard to the percentage of all projects and all works?

Mr Barger: In terms of manufacturing in Queensland, my understanding—and I would probably caveat it reasonably heavily—is that the way the Bureau of Statistics classifies manufacturing is that quite a lot of our membership activity statistically sits within manufacturing. So once you start transforming ores, refining, smelting you very quickly move, in the ABS world, out of mining and into manufacturing. I am not sure, off the top of my head, whether something similar applies to gas—that is, if at some point in the movement from coal seam gas through LNG if the LNG facility is included in manufacturing. I would not be surprised given the way they have drawn their boundaries.

I suspect your question is less about esoteric statistical divisions and more around what the knock on benefit is from resource projects. If one of Greg's members, a local government area, has some new resource project coming to town, what is the benefit for that community in terms of jobs in manufacturing and in services. I would have to say that increasingly as both project assessments become more

sophisticated and as organisations like QRC get better at reaching over our members' shoulders for information, we are getting a clearer and clearer picture of just how deeply those resource projects are immersed in their local economy.

We have an annual process whereby members provide their invoicing data and we can aggregate it up. You can actually jump on to a website and put in a postcode and get an indication of how much resource spending goes into that postcode. One of the things that has been quite stark with that is the extent to which the resource expansion over the last five or six years has driven an awful lot of activity around Mackay and around Townsville in manufacturing and in reasonably high-skill, high-tech industries. There has been a real explosion in small companies growing into medium size companies and new players coming in to provide those markets.

One of the roles of an industry association is by helping to bring some of those linkages into focus it helps to provide a bit of context around what you will see sometimes in the press around: why are we not building bespoke LNG plants from the start here in Queensland, why are we bringing modules in, where are the local jobs, training and business opportunities? Once you start to see some of the range of activities, the knock on benefits that come out of those resource projects it is quite startling the range and diversity of manufacturing opportunities.

As Queensland starts to develop its regional planning process, I think what we will see is increasingly that the future of manufacturing is tied, particularly in regional area, to two of the three big regional industries. You will see resources driving an awful lot of manufacturing activity. You will see agriculture driving an awful lot of manufacturing activity. It really probably only is tourism which is the other big regional industry that perhaps does not have that depth of linkages.

Ms TRAD: Mr Hoffman, in relation to section 293 there does not seem to be a legislative compulsion on the Coordinator-General to negotiate terms of reference over an EIS where local government is a significant player in the development. Do you have any comments in relation to that?

Mr Hoffman: It is of concern to us. We have for quite some time argued, as I indicated earlier, that the process should commence with an appreciation of the likely impacts as perceived at a local level and that should be assessed. Whilst the legislation does not go to that extent as we might prefer, we are placing faith in an improved process which builds a generic set of EIS requirements that we hope to influence at that point to ensure those issues of concern for us are addressed. It is in that approach that we would seek to have our concerns addressed.

I also note, though, that where the Coordinator-General believes the generic set needs to be varied we would ask that local governments are consulted and asked the question as to whether there are any particular issues of concern for them. Whilst the legislation as proposed does not lock it in, we believe there are touch points at which we could be involved to ensure those issues get addressed. That is our aspiration.

ACTING CHAIR: Thank you gentlemen. That has been most informative. The committee appreciates your time. Mr Hoffman, I understand that a representative of the LGAQ may not be available this afternoon but you want to make a statement on the proposed amendments to the Environmental Protection Act. The subcommittee has agreed it that. Would you like to make a brief statement on that now?

Mr Hoffman: I appreciate you agreeing to me making this statement at this time. Our submission identifies the particular issues of interest to local government should temporary emission licences be granted under the Environmental Protection Act as proposed. Obviously from a local government perspective, our major concern is in relation to urban water supply and local governments' responsibility under the Water Act 2000 and the Water Supply (Safety and Reliability) Act 2008.

What we would seek in the granting of this temporary licence is that, albeit within a very tight time frame, there be an absolute guarantee of consultation with local governments as to what is proposed and when so that they can in fact identify any significant issues that should be involved in the granting of the approval. We are asking for guaranteed consultation so that our input to the conditioning can be provided to ensure the protection of essential urban water supplies. Obviously, the release then needs to be adequately monitored to ensure that it does not breach the conditions that have been granted and, where needs be, controls applied and releases stopped if the circumstances of an approval are not able to be achieved.

All of that is our suggestion because the downstream impacts could be very real on urban water supplies. The last thing the community would want nor tolerate is if urban water supplies were affected to the extent that they were no longer potable or rendered useless for an extended period of time. I think that would be obvious, but I feel it important to put it on the record that they are very vital concerns in the consideration of how this system might operate.

ACTING CHAIR: They are very sensible suggestions, Mr Hoffman. I am sure the department has taken note of that and we have as well.

Ms TRAD: Mr Hoffman, I share your concerns in relation to consultation around the issuing of temporary emissions licences. However, I do have to ask you: in your opinion, do you think that 24 hours is sufficient time in order to allow reasonable input from local government around the conditioning of any alteration to emissions licences?

Mr Hoffman: No doubt it will be a stretch to do it. But in acknowledging an imperative on one side we are simply saying that the imperatives on the other side need to be addressed. Twenty-four hours is extremely tight, I would have to say that. It may well vary. Obviously, if a release is proposed within a very short distance of an intake to an urban water supply or, for that matter, any water supply but in our case an urban water supply then the issues become even starker and the considerations far more significant. The further the distance the less likely the impact. I say that from a general practical perspective as opposed to a scientific view. The timing is very short, I acknowledge that.

ACTING CHAIR: Thank you, gentlemen. The time allocated for the briefing from the Queensland Resource Council and the Local Government Association of Queensland has now expired. Can I thank you for your attendance today.

Proceedings suspended from 10.45 am to 11.05 am

ACTING CHAIR: I now call on the representative of the Department of Environment and Heritage Protection.

NICHOLS, Ms Elisa, Executive Director, Reform and Innovation, Department of Environment and Heritage Protection

ACTING CHAIR: Welcome. Could you please provide the committee with background information on the proposed amendments to the Environmental Protection Act 1994 and how those amendments differ from the current situation? This will then be followed by questions and discussion from the committee.

Ms Nichols: The amendments to the Environmental Protection Act are contained in Chapter 8, Part 2 of the Economic Development Bill and they implement certain recommendations of the Queensland Floods Commission of Inquiry. These recommendations were made largely in response to the management of flooding in mines, particularly in the Fitzroy Basin. The flood events of 2009 and 2011 highlighted a number of issues and gaps in the tools that currently exist under the Environmental Protection Act that are available for handling emergency events. Mine sites are regulated under an environmental authority, so it is a licensed system which includes conditions on how to manage, store and release water into the environment.

At the time of the floods, the environmental authorities did not contain appropriate conditions to deal with the huge amounts of water that were coming through the system. I note that this has since been rectified in part through the implementation of model water conditions for mines in the Fitzroy Basin, which was a joint project between the department and industry to make sure that environmental authorities are up to scratch for any future events.

The emergency direction powers, as they are currently drafted in the Environmental Protection Act, allow an authorised officer of the department to direct a release of contaminants in an emergency. However, 'emergency' is very limited in its definition and it has historically been used in genuine serious emergency situations such as when a dam wall threatens to collapse and a release is necessary to reduce the pressure on the wall. This kind of situation did not really exist for most of the mines despite the fact that there was a lot of water building up in the system.

The other tools that are available under the current Environmental Protection Act include seeking an amendment to the conditions of the environmental authority or obtaining what is called a transitional environmental program, which is essentially a program designed to transition from one environmental standard to another. Both of these processes are designed more to address ongoing situations rather than to respond quickly in an emergency. Neither tool was the most effective response, but in the absence of other tools the former Department of Environment and Resource Management used the transitional environmental program to allow for releases. However, those programs have significant decision-making criteria associated with them and, accordingly, decisions take a considerable amount of time to make.

The Commission of Inquiry questioned whether, firstly, the transitional environmental program could be used for the purpose that we put it to and, secondly, criticised the complexity of the decision-making requirements and the timeliness of decisions particularly in emergency flood events. One of the outcomes was that some of the windows were missed where the flows in the systems were high enough to release water without causing environmental harm. So there has been a build-up of water into the pits—partly contributed to by that, not entirely of course.

To this end, the inquiry recommended amendments be made to the Environmental Protection Act to clarify the purpose of the transitional environmental program, if it was decided that that is in fact the best tool for use in flood situations and to make the decision criteria more simple. The inquiry also made recommendations relating to the use of emergency directions. Relevant to this bill, the inquiry recommended that the emergency powers in the Environmental Protection Act be clarified and simplified to include a definition of 'emergency' and to make sure emergency directions could be made orally.

We analysed the options including looking at whether or not the transitional environmental program was the suitable tool. The decision was made that it is suitable for what it is currently designed for at the moment, which is transitioning to an environmental standard over a longer period of time, and there was a regulatory gap which the new temporary emissions licence is designed to fill in between those transitional environmental programs and the emergency direction powers. This tool directly implements those recommendations because refined decision criteria are set and there is a quick turnaround time for decisions to allow for quick decisions in emergency situations.

Although the inquiry's recommendations were specifically related to flooding, the tool itself has been designed to respond to any type of emergency event into the future, and that will allow the lessons that we learnt from the floods to be applied in other types of emergency situations. So it might potentially be used in fire situations or cyclones or some other unforeseen event.

The amendments will ensure that the government has the right tools to respond. To be clear, these amendments are not designed to deal with the legacy water that is still in the mines as a result of the floods. They are not retrospectively applied. I note that the Deputy Premier and Minister for Environment and Heritage Protection issued a media release yesterday about the steps that are being taken to address that issue.

I will now go through some of the key features of the temporary emissions licence. The licence effectively permits a temporary relaxation or modification of the existing conditions of an environmental authority to respond to what we are calling an emergent event. The reason we are using the term 'emergent event' is to separate it from the definition of 'emergency', which is still extremely tight in the Environmental Protection Act, and to allow for situations, for example, where there is a Bureau of Meteorology prediction that there is going to be a large cyclone coming across. An operator might be able to apply pre-emptively to release water in case the cyclone hits and the pits fill up with water, as an example.

An emergent event is defined as an event or series of events either natural or caused by sabotage that was not foreseen when the particular conditions were imposed on the environmental authority. When we issue environmental authorities, we are supposed to consider the sorts of things that might come up, and that might be flooding on the site. That is now a requirement in the Environmental Protection Regulation as of today also in response to a flood inquiry recommendation and other effects like that. Ideally, we are conditioning environmental authorities to be able to respond flexibly should something unforeseen arise, but things will always happen where we have not foreseen the consequences. In recognition of its status as an emergency tool, the decision must be made within 24 hours. As I mentioned, it can be granted in anticipation of an emergent event or as part of the response phase after the emergency has passed. This would allow an operator to apply, as I said, if there is a prediction of a cyclone in the region or something similar.

The decision-making criteria are necessarily more limited than for an amendment to a licence or a transitional environment program but much more extensive than are required for an emergency direction. Notably, the criteria still include the consideration of the extent of the impacts of the emergent event, the resilience and values of the receiving environment and the likelihood of environmental harm or that the release will adversely impact the health, safety and wellbeing of another person. These criteria are considered essential to ensure the ultimate protection of the environment and human health and safety.

To further ensure this protection, the tool is fully flexible, which means if something happens that was not foreseen—and that may occur because of the quick time frames and the limited decision making—it can be cancelled and suspended immediately without any prior notice to the decision maker. If, for example, there was a noticeable effect on drinking water quality, it could immediately be stopped and the impact minimised as a result of that or it could be amended or changed in some way.

As another safeguard, the grant of the temporary emissions licence triggers the department to be able to review existing operating conditions and to update those conditions, so the conditions of the environmental authority, where it is necessary or desirable. What we intend on doing in those circumstances is to review the conditions and make sure that they are able to respond to emergency events. It is a similar exercise that we went through with the Fitzroy model water conditions where we realised the conditions were not suitable for this kind of event. They have since been worked on with the mining companies and have been amended. So it is a trigger to be able to do that. Ideally, this would be a cooperative exercise with the affected business, but the power allows the department to amend the environmental authority without the agreement of the operator, which may be necessary if an operator is a recalcitrant. So it is a stopgap, but that is generally not something we tend to do unless we are finding resistance from the operators.

The power to amend also reflects the agreed position between the department and industry that appropriate conditions on an environmental authority are the best way to manage emergency events where possible. As I mentioned earlier, the bill also improves the emergency direction powers by expanding the definition of 'emergency' to include where human health or safety is threatened. At the moment it is limited only to where serious or material environmental harm has been, or is likely to be, caused. It also ensures that departmental officers can give the directions orally, which may be essential in a really critical emergency situation to allow for immediate action. They are the amendments in a nutshell. The department has prepared a table that demonstrates the use of different tools for managing an emergency response. With your leave, I will table that for the committee's assistance.

ACTING CHAIR: I will ask the committee for leave to table that document. Yes, that is so ordered.

Ms Nichols: This table describes the different range of tools that are available under the EP Act as it currently stands and once the new powers are in place. The first is your assessment of new environmentally relevant activities so they are activities that require a licence. It is designed for long-term management of risk and it involves full assessment against all the standard criteria and regulatory requirements. It is triggered by a new activity commencing. There is limited flexibility. Once they are approved, it can be quite a process to get them amended and it can require ongoing monitoring and reporting. Amendment of those documents is similarly dealt with against a full standard criteria and all the regulatory requirements, and that can be triggered either at the request of the operator or by the department in certain circumstances. Again, there is limited flexibility.

Transitional environmental programs, as I explained earlier, are about transitioning to a standard. That can be as a result of noncompliance or it could be where, for example, a sewerage treatment plant wants to put in new equipment and needs to be able to take something offline for a period of time while the new system goes in, so their emissions might be slightly higher during that period. Again, that has full assessment against all the standard criteria and regulatory requirements. It can be for licensed and unlicensed activities.

The new temporary licence is in the middle. It has a limited decision criteria, it is quick decisions. It is triggered by an emergent event. It is a fully flexible tool and it can require monitoring and reporting also. Emergency powers, again, have even a more limited decision criteria and are triggered by a threat of serious or material harm, and that includes a threat to human health and safety. They are also fully flexible and can require monitoring and reporting. With the addition of this new tool, we will actually have a range of tools to be able to deal with a full range of situations under the Environmental Protection Act. I am happy to take any questions now.

ACTING CHAIR: Thank you for that. We will move to questions and I will start with authorising officers. How many authorising officers will there be and who are they likely to be—not names but positions?

Ms Nichols: All of our current authorised officers under the Environmental Protection Act will automatically be able to issue those powers. I cannot answer how many exactly the department has. It tends to be our regional, on-the-ground staff who are out working with the companies on a regular basis as well as the more senior staff who supervise those regional staff.

ACTING CHAIR: The LGAQ were not able to be here now so they gave a statement before we broke. They had a concern that 24 hours notice was quite short. Their concern is that a stream might be put into a river upstream of a water supply. What is the department anticipating the process will be to notify local government authorities that this process is taking place so they can have their own monitoring in place or cut off the input to their water supply or whatever they may need to do? What sort of monitoring will take place by the department?

Ms Nichols: The monitoring will be on a case-by-case basis. It will depend on the nature of the activity. In most areas, there is already government-run in-stream monitoring of where there are these sorts of activities that discharge into systems. That is certainly the case in the Fitzroy. The Department of Natural Resources and Mines monitors electrical conductivity and various other parameters in the relevant areas around that. In addition, the mines also already have existing monitoring as part of their environmental authority requirements, and most major environmentally relevant activities do if they discharge into watercourses already. So those systems are already in place, and they will be required to utilise those systems to monitor that.

The department is developing guidelines that will provide more detail around what is appropriate and what type of circumstance to help our decision makers to make those decisions quite quickly. Similarly, notification of local governments will also be included into that guidance material, particularly if there is a potential for a downstream impact of drinking water. It will depend again on the particular site and situations.

Because the temporary emissions licence is only available for a currently licensed activity, there is already on file an extremely complex and detailed amount of information about the environment in which they are operating because they have had to supply that to even get their authority in the first place. So that background information is already there and we think that will help us in being able to make quick decisions as a result. So 24 hours is tight, but it is an emergency tool. An emergency direction can be made on the spot without even waiting for any period of time.

ACTING CHAIR: You mentioned before that orders could be made orally. Will there be a backup process for that? How will that oral order be recorded for future reference should there be an issue?

Ms Nichols: Temporary emissions licences cannot be issued orally. They will be done in writing. Emergency directions can be but they must be followed up with a written emergency direction too. That is important for the chain of evidence resulting from this.

ACTING CHAIR: Is there a time frame for that to happen?

Ms Nichols: I am sorry but I do not have that on me. I will find out and let you know.

ACTING CHAIR: Can you take that on notice for us?

Ms Nichols: Yes.

Ms MILLARD: According to the Queensland Floods Commission of Inquiry, there is a remaining issue of large volumes of water that are still in some mines from flood events from previous years. This possibly increases the toxicity of the water the longer it is there. Will this bill enable that issue to be addressed?

Ms Nichols: No. This bill is not designed to deal with that existing problem from the previous floods. There was a media release yesterday. There are pilot projects in place to help the mines release some of that water. It is being done via amendments to the environmental authority because it is an ongoing problem now; it is not really an emergent event in response to that. This does not apply retrospectively so it will not deal with that current problem. This is to put us in a good place should there be a future situation of a similar nature.

Ms TRAD: I note that the Hart report after the Ensham mine water release stated that public consultation around any variances to environmental conditions was an absolute necessity. What public consultations have been had around these changes?

Ms Nichols: Public consultation has been fairly limited in relation to this, but I do note that the Floods Commission of Inquiry report was released in draft and the public was involved in putting in comments in relation to that.

Ms TRAD: The Floods Commission of Inquiry did not recommend specific changes to environmental conditions but was more about recommendations in relation to the capture of floodwater and mines, so I do not think the Floods Commission of Inquiry is the template for public consultation around the changes to environmental conditions. My second question is in relation to unforeseen circumstances. I draw your attention to page 113 of the explanatory notes and the definition of what is an emergent event is not very strong in this section. It states—

The relevant conditions are those which the applicant seeks to relax or modify with the temporary emissions licence. An 'emergent event' may be natural, such as a flood or bushfire, or caused by sabotage.

Ms Nichols, I put it to you that the relaxed definition in the explanatory notes and the financial impacts on the applicant if the licence is not issued makes for a very open process of actually applying for an environmental alteration to the environmental conditions under these proposed changes.

Ms Nichols: It is a more relaxed process, yes, than amending an environmental authority or emitting a transitional environmental program. The reason for that is very much that it is designed to be an emergency tool. It is designed to run for a very short period of time. Financial considerations are actually in the standard criteria, which are applied in every single decision under the Environmental Protection Act currently and have been since its inception, so that is not actually a new thing. What we have done is draw the major criteria and the important criteria out to be able to have a flexible tool.

Mr HOLSWICH: I want to move on a bit further from that last question from the member for South Brisbane and also the question from the member for Sandgate. A number of the submissions talk about these definitions of emergent events, emergencies and events which are not foreseen. You have already mentioned that this will not deal with the existing water that is in pits and it is not meant to be retrospective. A concern that has been brought up in a couple of the submissions relates to what safeguards there are to ensure that the gradual build-up over time that happens from this point forward is not at some stage down the track classified as an unforeseen event.

Ms Nichols: Conditions of environmental authorities actually deal with water management now, so people should be keeping their water at certain levels so these sorts of things do not happen. As I said about the particular Fitzroy situation, water management conditions have now been inserted in a large number of the mines and that process is going to manage that. Also, the issue of a temporary emissions licence does not prevent the department from taking compliance action if it should turn out that the reason this has become a massive situation and the dam is going over the top is because the operators have been in noncompliance. So even though we have issued one of these licences, we could still take prosecution action or some type of other action against the operator.

Ms TRAD: Ms Nichols, I refer you to page 8 of the explanatory notes where it states that the guidelines are yet to be prepared that will set out the type of information required from proponents who are seeking a relaxation of conditions on environmental permits. How can this bill be considered in isolation from these guidelines which are yet to be made available and recommended by the Floods Commission of Inquiry?

Ms Nichols: The guidelines are under preparation and they will be consulted on with affected industry groups and they will be ready for the commencement. That is a normal process in the development of legislation.

Ms TRAD: So the guidelines are under preparation currently and you will consult with industry. What about the community?

Ms Nichols: We can look at doing that. That has not been a plan to date though.

Ms TRAD: So there are no plans to consult the community on the guidelines to date? You have plans to consult industry but not the community?

Ms Nichols: Because they relate specifically to licensed operators and they are our major stakeholder in this space. We have realised as a result of the media around this and some of the submissions that the community is interested and we can look at consultation as a result.

ACTING CHAIR: There has been a view expressed to us that this is a less stringent approach to planning. Given that a temporary emissions licence might be granted in an emergency situation, how do we know that a mining company, for instance, will not do the wrong thing and think, 'In an emergency, this will get fixed for me'? How do we put in place something to avoid that from happening?

Ms Nichols: That comes back to our ongoing compliance work that we do with companies to make sure they are in compliance with their environmental authorities. That work is a regular feature, particularly around these sort of mine sites and large risk sites that we regulate. So we should be able to tell from time to time whether people are not in compliance and we can manage that at the time if we discover, for example, dams are filled above the levels that they are supposed to under their environmental authority. So we can issue a variety of different enforcement actions to deal with those issues.

Ms TRAD: Ms Nichols, you said that this legislation is not intended to be applied retrospectively. Where does it say that in the legislation or the explanatory notes?

Ms Nichols: It does not have to say that. Legislation only ever applies prospectively unless it specifically applies retrospectively.

Ms TRAD: Ms Nichols, can I ask you to explain at section 357B of the bill where it lists an example of application in response to an emergent event and it talks about.

... as part of a flood response after flood waters have receded

What is the time frame around the post-flood event that this flexible alteration of environmental conditions can be used?

Ms Nichols: There is no time frame in there. It might take a while to review the particular set of circumstances to see what has caused the build-up and whether or not the environmental authority needs to be amended. We do not have to do it within six weeks or anything like that; we can look at it over time and work to make sure that the ongoing management of that particular site is appropriate.

Ms TRAD: So the floodwaters have receded. Somebody has a temporary emissions permit to release because of an emergent unforeseen event. The floodwaters have receded. Presumably, they can still be releasing water?'

Ms Nichols: No, the temporary emissions licence will be issued for a set period of time and it will depend very much on the particular event. They are intended to be operating for only a number of days or at the most months, but the kind of conditions that will go on them will include relating to the level of flow that is in the system. They are not intended to suddenly allow for massive releases into a dry system. That is not considered to be appropriate from an environmental perspective. So the same sorts conditions that happen now in relation to releases—and those sorts of mine sites already have release conditions on their licences that allow them to release in certain flow conditions. So a similar sort of thing would apply in this circumstance.

ACTING CHAIR: Given that one particular mine might apply for a transitional environmental program in a particular catchment area, would it be safe to assume then that most other mines in that area would also be in the same position and that they should all be granted the same release at the same time?

Ms Nichols: We did look at that issue, because it was mentioned in the commission of inquiry's report. But that is not quite the case, because each mine will be in quite a separate position depending on its own water management on site, depending on what particular tributary is flooding at the time. There could be circumstances, and certainly that did happen where there was a large scale problem, but most often each mine will need to assess its own situation or whatever industry we are looking at at the time. For that reason, it is an application based thing rather than giving a sweeping approval across all. But at the same time, if, say, two mines have made an application for a temporary emissions licence and then a third mine comes in, that might be a trigger for us to amend the first two, because the amount of releases of water coming into the system might not be able to cater for the third mine to also release. So we might reduce the releases that the first two mines have been allowed to have to make sure that the environment is protected. That is one of the reasons for the full flexibility of the tool—to be able to manage the situation as and how it develops.

Ms TRAD: Thank you. I would like to go back to a question that the chair asked a little while ago in terms of the administering authority. If I recall correctly, you are saying, Ms Nichols, that people in the field have the capacity to issue temporary emission permits within 24 hours due to an unforeseen event. Given that there is the cumulative management strategy that has been put in place, given that there is a whole-of-region perspective in relation to salinity and in the Fitzroy River basin, can you advise what sort of cumulative or coordinated approach is going to be put in place to ensure that the temporary emissions permits do not on a cumulative level result in major toxic inflows into the Fitzroy basin?

Ms Nichols: Just to clarify, when I said people in the field I did not necessarily mean physically in the field; I meant our regional officers who go into the field. In somewhere like the Fitzroy, we are talking about one region. So we are talking about single supervisors over the same group of people. So there is a coordinated way that those things can be looked at. Also, cumulative impact is one of the decision-making criteria in here. So we are going to be considering those things.

One of the strategies that has been talked of with the Fitzroy in particular, because so much work has been done in that space, is being able to virtually pre-assess what the system can take and the work that has been done really lets us know what the system can take so that decisions can be made. As I said, the temporary emissions licence, if one has already been issued, can be moved and change and shifted to make sure that those levels are not breached.

ACTING CHAIR: Thank you, Ms Nichols. The time allocated for the briefing from the Department of Environment and Heritage Protection has now expired. Thank you for your attendance here today. I now call for a representative from the Queensland Resources Council.

BOWIE, Ms Leanne, Bowie Law, acting on behalf of Queensland Resources Council

ACTING CHAIR: This session will focus on matters relating to the proposed amendments to the Environmental Protection Act 1994. My name is Michael Hart, deputy chair of the committee and with me I have Kerry Millard, the member for Sandgate; Ms Jackie Trad, the member for South Brisbane; and Mr Seath Holswich, the member for Pine Rivers. Can I ask you to turn your mobile phone off or turn it to silent. When you need to speak, if you press the button on the desk there you will get a red light on your microphone and when you finish just turn it off, otherwise it cuts out some of the other microphones. For the record, can I please have you state your name and the capacity in which you appear before the committee today?

Ms Bowie: My name is Leanne Bowie. I am a service member and lawyer for the Queensland Resources Council and I was involved in representing the QRC during the Queensland floods inquiry.

ACTING CHAIR: Thank you, Leanne. You have five minutes in which to make an opening statement to summarise the main issues that you wish to raise in relation to the proposed amendments to the Environmental Protection Act 1994. This will then be followed by questions and discussions led by the committee. Please begin.

Ms Bowie: Thank you, Mr Acting Chair. The representative from EHP has already given some summary of the background for the TEL and emergency directions provisions of the Environmental Protection Act amendment provisions. As mentioned, the Deputy Premier had indicated in his introduction of the bill to parliament that the amendments are intended to implement recommendations of the Commissioner for the flood inquiry. Those recommendations were contained in the mining chapter, chapter 13 of the final report.

However, EHP and the government were concerned to ensure that these provisions were not framed in such a way that they were specific to mining; they are general to other industries. At the time of the flood inquiry, there were a number of issues for the mining industry. One was that the conditions under which they had operated in the lead-up to the Queensland floods of 2010-11 had had some drafting issues, which had led to some difficulties in preparation for the floods. The second issue was that there were procedural issues or difficulties with the statutory framework for TEPs, which were the mechanisms used during the Queensland floods for 2010-11. A third issue was the way to deal with future disasters of a similar scale or different types of disasters. The final one was legacy water that remained in mines.

The issue of how to deal with difficulties with the conditions had to some extent already been addressed by the time that the Commissioner's final report was handed down. The Commissioner's recommendation to deal with those issues and for the former DERM to assist mines with achieving the amended conditions is actually set out in section 13.7 of the recommendations.

The issue of how to deal with future similar disasters was partly addressed by the Commissioner in relation to her discussion of emergency directions and partly by leaving an option open to the government whether they would amend the existing provisions of the TEPs or whether they would adopt a different regulatory mechanism. The TELs are that different mechanism.

The issue about legacy water was something that EHP consulted with industry about quite soon after the flood inquiry report had been handed down. The industry recommended that it be dealt with through conditions and on a site by site basis depending on the quality of the water and the different practical options for dealing with it. That process has largely already been underway.

QRC was consulted during the EHP's working out of the regulatory mechanism. QRC did see a draft of those sections of the bill before it went to parliament. There are a couple of issues with consultation. One is that we would have liked to have seen other stakeholders consulted to a greater degree because it would have avoided some of the concern that has occurred afterwards. The second is that some of the key recommendations by QRC actually did not end up being reflected in the legislation. We only found out about that after the bill had gone to parliament.

The key issue that was raised and has not been dealt with is the definition of 'emergent event'. QRC's submission was actually very similar to the Queensland Conservation Council's on that issue: that emergent events should not be linked to lack of foresight, lack of planning, and particularly in relation to dealing with the Queensland floods, the fact that 2010-11 was expected to be a heavy wet season was, in fact, envisaged by QRC many months before it occurred and was raised with the government back before it occurred. If TELs are linked to lack of foresight that would obviously have an unintended consequence in terms of planning. We also did not like the term 'emergent event'. We realise that it was intended to deal with the distinction from emergencies and that it relates to trying to anticipate events. Unfortunately it has led to confusion with the term 'emergency' which is a different issue. We have actually seen that confusion arise in the explanatory notes and even in the Deputy Premier's speech introducing the bill to parliament.

While, in summary, QRC welcomes the use of an alternative regulatory mechanism to deal with a category of events that are not in the midst of an emergency, reflecting the inquiry Commissioner's recommendation that there needed to be a way of dealing with releases that are not actually for the purpose of changing environmental standards as is the case with TEPs, there are still a number of drafting issues with the bill which we have previously raised with EHP and which we would still like to see addressed. As I mentioned, the key one is de-linking lack of foresight from TELs and perhaps coming up with a better term than 'emergent event'.

The second one was that in relation to emergency directions there has never been a provision in the act, and there still is not, that provides for emergency directions clearly to override relevant conditions of an environmental authority or development conditions or a TEP which would lead anyone who is facing an emergency to be in a difficult position applying for an emergency direction or seeking an emergency direction. This contrasts with the situation with TELs and TEPs.

We had a concern about the link also between the requirement that the conditions to be overridden were ones relating to release of a contaminant, because we can see lots of situations where it may not necessarily be appropriate or necessary to release a contaminant, but perhaps procedural conditions might need to be overridden. As an example, difficulty of access to monitoring points or flow gauges, that kind of thing, which might occur during a flood event. It would be an unintended consequence surely if companies had to apply to override release conditions merely in order to deal with those kinds of procedural issues which may be related to health and safety.

The next issue was that the provisions about overriding conditions do now include overriding of conditions of TEPs but not the TEP itself, which I think is a drafting error in that TEPs can be approved with or without conditions and in most cases the majority of requirements are contained within the TEP itself rather than in conditions.

There are a couple of issues I should perhaps mention that arose during the consultation process. There was some discussion between QRC and EHP about whether the 24-hour period would be sufficient for EHP in particular to be able to consider the relevant criteria. There can be quite complex situations where there are possible cumulative impacts. EHP considered that the level of data that they have available now compared with the situation back in 2010 is quite different. So just looking at the issue of mine flooding, the type of situation that arose that the flood inquiry Commissioner was considering, they considered that they would be in a different position now. The cumulative impact one was, however, one that they did not think could necessarily be looked at within 24 hours and that is why they included the provision about being able to impose amendments after a TEL had already been granted so as to be able to scale back a TEL issued to the first company in order to cater to the second company that applied. We think that is a fairly reasonable compromise.

QRC will be providing a written submission setting out some of those issues, together with some very minor issues. Thank you, Mr Chair. If you want to go to questions now?

ACTING CHAIR: With regard to your submission, you will have that submission to us by 5 pm this afternoon?

Ms Bowie: Yes, Mr Chair. In fact, that part of the submission is already ready.

ACTING CHAIR: Excellent. Are you able to table that now?

Ms Bowie: I could table it as a draft now if that would assist.

ACTING CHAIR: That is okay, we can wait until 5 pm. We will move to questions now. I will start the process. You mentioned that possibly there might be procedural issues that might be able to be changed rather than a dumping of waste, for want of other words. Can you give us an example of procedural issues that may be relevant to that particular instance?

Ms Bowie: During the 2010-11 flood an issue which came up fairly frequently was that existing monitoring points or other equipment that was referred to in environmental authority conditions had been washed away or were under a couple of metres of water so they could not be accessed for normal monitoring or reporting purposes. In some of the changed conditions for mines, there are now specific provisions dealing with the situation where it is unsafe to access monitoring points, but that is not the case for everyone. It is an obvious example of a type of procedural or monitoring issue which could perhaps be addressed by temporary conditions which relocate a monitoring point for reporting purposes.

ACTING CHAIR: How would the government be made aware of those particular procedural things that might be able to be ordered under a temporary order?

Ms Bowie: I suggest that it should be a kind of application that could be made to EHP for a TEL that they should be able to override conditions relating to, for example, monitoring or reporting by replacing them with other requirements so each one would just be considered on its merits.

ACTING CHAIR: I will call the member for Sandgate for a question.

Ms MILLARD: Thank you for attending today. Earlier in your speech you were talking about the drafting issues leading up to the 2010-11 floods. I know we are on a limited time frame, but can you elaborate on that?

Ms Bowie: One of the key issues that had been raised by QRC in 2010, and was finally dealt with in amendments to the model conditions in 2011, was the need for the drafting of the conditions to clearly distinguish between mine affected water and other water such as clean stormwater. It is very important for mines to be able to separate out clean water so that you do not have an entire catchment's worth of water pouring into a mine dam and then coming out of the release point all mixed up. The more that you could

separate it out the better and that was not the case under the 2009 version of the conditions. There were many, many examples, but a good example is that the 2009 version of conditions, although they dealt with the ability for mines to be able to provide water to neighbours for beneficial re-use—so this is generally good quality mine water; not all of it is highly saline—restricted those provisions to adjacent owners which was kind of silly if, for example, you had a grazier who was operating on the mine site or perhaps somebody who was across a road. The changes to those conditions to allow more flexibility for mines to provide good quality water to graziers and farmers and, indeed, local governments has made a big difference with some mines being able to reduce their total storage of water in the lead-up to the next wet season.

Ms TRAD: Thank you, Ms Bowie, for your testimony. It was very informative. I have just a couple of issues, please. Firstly, I will start with consultation. You said that the Queensland Resources Council was given sections of this bill in advance in order to comment on it, but not all of the suggestions were incorporated into the bill that was tabled. When did the Queensland Resources Council first get the amendments for consultation?

Ms Bowie: I am sorry, I do not have that information in front of me, but it would have been perhaps a month ago.

Ms TRAD: In relation to your statements regarding the lack of planning or foresight not being one of the contributing factors for issuing temporary emissions permits for an unforeseen emergent event, can you extrapolate on that, please?

Ms Bowie: Yes. Taking the 2010-11 Queensland flood as an obvious example, because the regulatory mechanism was supposed to address that situation, QRC had raised with the former government repeatedly that they anticipated a heavy wet season. There is plenty of documentary evidence, which is part of statements that ended up before the flood inquiry, showing just how much that event was anticipated by industry and, indeed, the extent to which it had not been addressed in changes to the types of changes to conditions that QRC was looking for and which finally occurred in 2011. That is an obvious example where, if TELs were going to be the answer to the question, there would be a disincentive to raise the problem in the first place if that evidence was going to prevent the industry from being issued with TELs. So that is a classic example.

More normally, the situation is that at the EIS stage or in any kind of application for a project the normal process is that the proponents should be modelling for a variety of different events which might be at low risk of occurring but nevertheless they would cause a high hazard if they did occur. Normal conditions do not normally cover those kinds of very low risk of occurring events, but it is very important to be modelling for them upfront so that all the information should be there. So you have normal conditions, which do not deal with that emergency—maybe it is a bushfire or cyclone or something like that—but all the evidence is there that the proponent has modelled, considered, prepared; they have infrastructure to deal with it. They would not be able to get a TEL whereas a company that has not prepared—there is no evidence that they have modelled for it—would be able to get a TEL. So that is why the reference to lack of foresight is just naive.

ACTING CHAIR: Thank you, Leanne. The member for Pine Rivers, please?

Mr HOLSWICH: You talked about some of the QRC recommendations that did not make it into the bill and one of them was around the term 'emergent event'. I note a number of submissions talk about that particular term. You mentioned that that term possibly was not the best one for that situation. Were there a range of options that the QRC had recommended rather than that term?

Ms Bowie: Yes, we suggested the term 'applicable event' or something similarly neutral and then just define whatever you mean by it, rather than picking something that sounds kind of similar to an emergency, which people are going to get mixed up with.

Ms TRAD: Thank you for your explanation around the planning and foresight around emergent events. How will this bill stop, I guess, rewarding a lack of planning and a lack of modelling by companies and not rewarding those that have obviously done the modelling and the work and have the infrastructure on site? How will this bill stop the unfair or unbalanced current position?

Ms Bowie: I would have to say that unless that provision is amended to remove the lack of foresight link, the obvious unintended consequence would be to lead to poorer planning and particularly poorer evidence of planning.

ACTING CHAIR: Thank you, Leanne. The time allocated for the briefing from the Queensland Resources Council has now expired. Thank you for your attendance here today.

CONNORS, Dr Libby, Representative, Save the Reef

McCABE, Mr Michael, Coordinator, Capricorn Conservation Council

PEARLMAN, Mr Patrick, Principal Solicitor, Environmental Defenders Office of Northern Queensland

ACTING CHAIR: Good afternoon all. We have with us today representatives of the Capricorn Conservation Council and the Environmental Defenders Office of Northern Queensland. We have on the phone Mr Pearlman from the Environmental Defenders Office. Welcome to you all. Although the committee is not swearing in witnesses, I remind all witnesses that these meetings are a formal process of the parliament. As such, any person intentionally misleading the committee is committing a serious offence. For the benefit of Hansard, I ask witnesses to identify themselves—especially you, Mr Pearlman—and the organisations they represent when they first speak and speak clearly and at a reasonable pace.

It is the committee's intention that the transcript of these briefings be published. I also remind witnesses present today to press the button on your desk to activate the microphones before speaking and to press the button once again when you have finished speaking to de-activate the microphone. For the record, could you please in turn state your name and capacity in which you appear before the committee. We will start with you, Mr Pearlman.

Mr Pearlman: Thank you very much. I am appearing on behalf of the Environmental Defenders Office of Northern Queensland. I have also been asked to act as a representative for the Environmental Defenders Office of Queensland, which is a separate organisation based in Brisbane. For the committee members' convenience, the Environmental Defenders Office of Queensland serves the public as a community legal centre for the area south of Sarina. My office performs a similar function within Queensland north of Sarina.

ACTING CHAIR: Thank you, Mr Pearlman.

Mr McCabe: I am the coordinator of the Capricorn Conservation Council. I am also a member, in that capacity, of the Fitzroy Water Quality Advisory Group and of the Central Queensland Mine Rehabilitation group.

Dr Connors: I am representing Save the Reef. We are a group that has only recently been established to campaign on reef matters. Our membership includes a water quality scientist and a medical doctor who is a specialist in environmental medicine. We are particularly concerned about the pending UNESCO assessment and the dire situation developing in Gladstone and the southern Barrier Reef.

ACTING CHAIR: Good. Thank you and welcome. We will give you each five minutes in which to make an opening statement to the committee to introduce your organisation—and you have mostly done that—and concisely summarise the main issues that you wish to raise in relation to this bill. This will then be followed by questions and a discussion led by the committee. Mr Pearlman, we will start with you.

Mr Pearlman: Thank you very much, Mr Chairman. I think it is fair to say that, first, we have several broad general concerns. Obviously, the first is the very compressed time frame within which the public and stakeholders have had an opportunity to review the provisions of the proposed bill. Obviously, we have had a week. The explanatory notes for the bill are 152 pages. The bill itself is 245 pages long. There are a number of significant proposals contained within the bill, not the least of which is the enactment of the new piece of legislation, the Economic Development Bill, but also substantial revisions and amendments to what we believe are very significant statutes, namely, the Environmental Protection Act 1994 and the State Development and Public Works Organisation Act 1971.

We would urge that greater time be permitted for the public to consult on such significant pieces of legislation. The other general comment that we offer is that there has really been greatly attenuated public consultation in the preparation of the bill. We note that, for the most part, consultation occurred within the agencies with respect to most of the pieces of legislation that are affected by the bill. But in particular with respect to the proposed amendments to the Environmental Protection Act, the consultation, from what we can gather from the explanatory notes, appeared to have occurred exclusively with members of the business and industrial sectors. There does not appear to have been any consultation with local stakeholders, with environmental and conservation groups et cetera. We would have preferred to have seen greater consultation occur before the bill was tabled and obviously referred to the committee. We do fully understand the committee is under a very tight time frame as well in having to report back to the House by 22 November.

I would simply note those issues and ask the committee to take those on board as general concerns. With respect to the specific provisions, I think it is fair to say that, in large part, I have looked at the written submissions of the Queensland Conservation Council as well as the Capricorn Conservation Council. Broadly speaking, we share the same concerns with respect to the temporary emissions licence provisions—namely, the broadening of the scope within which those TELs may be granted, really to extend beyond what would commonly be understood to be an emergency and rather to extend to potentially financial considerations rather than imminent risk to human health of the environment. We think that that is something that needs to be pulled back.

Likewise, the criteria for decision set forth in new section 357D appears to allow for concerns regarding the financial impact upon the holder of an environmental authority to trump environmental and health concerns. We likewise have difficulty with the 24-hour response time and how that would be implemented—for example, in the situation where an application for a TEL was lodged on a weekend or on a Friday and had to be acted upon over the weekend.

We also have a number of concerns with regard to the public availability of applications or actions upon TELs. There does not appear to be any requirement for applications to be on a register or for the public to receive any notification or even for members of the affected community that might be downstream or in the local environment and likely to be affected by the relaxation or modification of conditions to be notified that those conditions are being relaxed or to have any access to the reasons that those conditions have been relaxed.

Finally, the proposed bill does not appear to provide for anything greater than the minimal judiciary review appeal rights for members of the public. We believe, given the significance of matters that are addressed in the TEL provisions, that greater opportunities for the public and local affected communities to appeal and have their concerns heard need to be guaranteed.

We, frankly, have not had sufficient time to review all the provisions of the amendments to the SDPWO Act, but there are a couple of items that we do have concerns about. Firstly, we question the need to provide the Coordinator-General with discretion, which appears to be unfettered, to waive or reduce fees payable under section 35(c) of the act. As I understand it, those fees are typically a little bit less than a $1,000 at present in schedule 1. We question why there is a need to waive or reduce such a fairly minimal fee where environmental conditions may be ultimately changed.

The amendment to section 27 removes considerations of environmental impacts from the mandatory criteria that the Coordinator-General must take into account in making a decision. We would want to see environmental conditions or environmental impacts returned as well as the other sections' impacts on relevant infrastructure. The employment opportunities, the level of investment necessary for the proponent to carry out the project and the strategic significance, we think those should all be obligatory criteria that the Coordinator-General must take into account in making a decision rather than moving them as proposed to subsection 2 and making them, if you will, discretionary criteria.

In general, in concluding, we really cannot support the bill as it has been proposed, specifically with regard to concerns around the amendments to the Environmental Protection Act and the SDPWO Act. We would urge the committee to pass those recommendations back to the House. I think that concludes my opening comments.

ACTING CHAIR: Thank you, Mr Pearlman. We will move on to Mr McCabe. Would you like to make an opening statement?

Mr McCabe: Thank you. Due to the short time frame and volunteers drafting this submission over the last 48 hours, I would like to submit, as I did electronically, a subsequent copy which corrects some of the 'emergent event' versus 'emergency' typos in the original submission that was also submitted electronically.

ACTING CHAIR: It is the wish of the committee to table that submission.

Mr McCabe: In addition to the points raised which refer to our concerns about section 357 and the definition of 'emergent events' and 'emergencies', our overall feeling is that many of these things are covered anyway in existing legislation. We feel it is unnecessary.

In the last 48 hours we have talked to coal seam gas companies about the water in the river. We have talked to the Deputy Premier and Minister Powell about the legacy issues in the Isaac catchment and others. In addition to what we have said in our submission, we are arguing that there is always insufficient knowledge about the ecology of the river.

We do acknowledge that the coalmines have started to put work through a group called ACARP in terms of actually understanding some of the ecology from mine water. The Fitzroy Basin has many legacy issues of land clearing, agricultural chemicals, loss of riparian connectivity over many years which are barely understood.

While the whole of catchment approach is a good way to look at this—and that was the basis of our submission to UNESCO; that we fail to look at whole of catchment issues in terms of the Great Barrier Reef and other effects—we think there needs to be considerably more research and monitoring, including into whatever comes of this legislation. We do not know what we are doing and we never have enough effort in terms of the monitoring capacity.

Someone mentioned earlier—I think it was the Queensland Resources Council—that many of the gauges have been washed away. The monitoring staff I know could not get to most of their sites over the last year because of the massive flooding events. We saw record floods in several rivers well above hydrologists' expectations of maximum possible levels. So we do not actually understand our system very well.

The other issue is: what do we mean by emergency and emergent? Even though we are talking about a future event, the current mining practice allows retention of final voids. We have the massive Mount Morgan mine with highly acidic mine water is sitting on the Dee River. It has been there for many

years. Post mining in Central Queensland, there will be hundreds of final voids in mines. In the acknowledgement of some of the companies, under the current conditions or any conditions that may be there forever and get worse because there is no capacity to manage or treat that.

We have been talking with gas companies who are required to reverse osmosis treat any water they discharge into, say, the Dawson River. While we have other concerns about that whole matter, we would expect that new practices for mines should be undertaken to prevent the emergencies and emergent issues. We would agree with previous speakers that the amendments need somewhat more drafting and a great deal more consultation.

ACTING CHAIR: Dr Connors, would you like to make an opening address?

Dr Connors: Thank you. We would also like to table a submission because I will not have time to talk to it completely now.

ACTING CHAIR: It is the wish of the committee to table the submission.

Dr Connors: Our submission firstly outlines the history of environmental harm that has been caused by Central Queensland mine discharges into the Fitzroy River system. We then discussed the intent of the Queensland Floods Commission of Inquiry recommendations and how this bill fails to meet the standards set by those recommendations. Lastly, we have included some comments on the reputational risks which we think this bill presents for the mining sector and for the Queensland government because it has been rushed. We believe that there are sections that are very ill-considered.

I will quickly talk about the Ensham coalmine which flooded and overflowed in September 2008. We have actually had successive floods in Central Queensland over the past three summers. It was only the 2010-11 floods that really gathered the interest of the entire state. We have details about the consequences of that coalmine flooding. In terms of human health impacts, I think it is really important to note that the result was really poor quality drinking water. Some 100,000 people in Rockhampton and several townships in the Fitzroy Basin depend on that river system for their drinking water. The water from the coalmines was so highly saline that people who were on dialysis actually had problems. Rockhampton Base Hospital had problems with the calcification of their disinfecting instruments. There have been really serious consequences already from allowing mine discharges into the Fitzroy River system.

What happened after that flooding and what was mentioned in the Queensland Floods Commission of Inquiry? The Queensland government commissioned Professor Barry Hart to report on that event and come up with a way forward. What he stressed and what the Queensland Floods Commission of Inquiry stressed is that we should not be allowing these discharges until we have long-term scientific studies of the effects on the riverine ecosystems and on Keppel Bay and the Great Barrier Reef. Those long-term studies have still not been conducted.

One of the points made in the recommendations from the Floods Commission of Inquiry was that neither the Great Barrier Reef Marine Park Authority nor the Queensland state government had taken responsibility to actually test for the effects of sediment, heavy metals and salt discharge from the Central Queensland mines. I think that is a really important point that has been overlooked. One of the most important recommendations of the Queensland Floods Commission of Inquiry has not even been considered. I will not repeat the points that both Michael and Patrick have made about the definitions of an emergent event, except to note that the Floods Commission of Inquiry was very specific that that should refer to before or during a flood not an indefinite period after.

We also have grave concerns about the restrictive time frame. When it comes to the criteria for a decision—and that is new section 357D. The flood commission of inquiry was very clear about the wording, 'if' the Queensland government was going to allow mine discharges. It does not seem to have ever been considered that perhaps the Queensland government should not allow mines to discharge their polluted water into our riverways at all. Yet that was very clearly open in the recommendation of the flood report—that it did put that in as a criteria, that 'if' the Queensland government is going to allow this to happen then it must do it within very strict parameters. The worry about these amendments to the Environmental Protection Act is that they are too loose and too broad and too general.

One last clause that I want to just quickly talk about, though, is the new section 357D(b), where it has become a requirement of the regulators, whether they be officers from the mines department or officers from the Department of Environment and Heritage Protection, that they must take into account the financial impacts of the mine company that applied for the release. That is not a responsibility of the Queensland government; that is a responsibility of the shareholders and the board of the mining companies. The responsibility of the Queensland government is to the common interest of all Queenslanders living and of future generations and our responsibilities to the international community to take care of the Great Barrier Reef, which is a World Heritage property. It is completely unreasonable to expect an environmental officer, who, as we heard from the environment department's submission here this morning, could be a quite junior member in a regional office to make a decision within 24 hours on the basis of the profitability of a mining company worried about how much water it is holding in its dams. It is quite repugnant to environmental legislation, because that is not the responsibility of a state government, which is commissioned to care for the environment for all Queenslanders.

I want to quickly make some other comments in response to the Department of Environment and Heritage Protection presentation here this morning and to the Queensland Resources Council, both of which made the point—certainly the Queensland Resources Council made the point. It is not reasonable to

approve coalmines, or any mines, and then say a flood or a drought is some kind of emergency situation. These are normal operational matters if you are going to operate a mine in Queensland. So the whole notion that somehow we have to suspend all of our environmental conditions because they did not foresee a flood, this has to be written into their original conditions. The fact is that we pride ourselves on being a First World country. The mining industry constantly boasts of its world's best practice. It is not true. Mines in Wyoming in the United States must return their mines to the original contours of the land. We are sitting here discussing this problem because we have approved coalmines that are allowed to leave massive voids.

Our submission here this morning has not had time—because we were only given less than a week's notice, unlike the Queensland Resources Council—to talk about the impacts on river systems such as the Condamine River, but I would remind this government of a point made by a conservative federal senator, Bill Heffernan, that salt is the enemy of the farmer. We are going to allow huge salty pools of water in the Condamine flood plain and in the Fitzroy River basin. We have already had experience in this state of the problems that this causes. We have not had time to talk about the Lady Annie Mine in the Mount Isa region, which did indeed put huge amounts of highly acidic water down the Thomson-Cooper basin. We have in our written statement included some of the effects of what happened when Ensham mine flooded in the Fitzroy. Save the Reef chose to focus on Ensham because Fitzroy, of course, is so crucial to the southern Great Barrier Reef and our great concern is, of course, the Great Barrier Reef.

But I think there is one other really important point and I do not think that the Department of Environment and Heritage Protection has really taken it into account and that is we have just gone through the floods commission and even after the floods commission report there were threats of suing the dam engineers. We are now going to say to some junior environmental officer in regional Rockhampton or regional Mount Isa, 'You have responsibility to allow huge volumes of water to be added to our flood flow.' I do not think that environment officer realises that they could be raising flood levels, because these are huge volumes of water that the mines are leaving in these massive voids. They should never have been given approval in the first place to mine, given that we know that these voids contain waters that are then contaminated and polluting.

If I might quickly make some concluding points: Save the Reef is gravely concerned about the way in which this bill has interpreted the recommendations of the flood commission of inquiry so loosely and in a way that benefits only one user of Queensland waterways, the mining industry. The current wording of this bill has the potential to socialise the costs, especially the degraded environmental effects of mining operations, to all Queenslanders while the profits of private mining interests are protected and elevated as government priorities above our common good. It also shows a disturbing lack of understanding of the interaction of Queensland's coastal river systems with the declining health of the Great Barrier Reef.

This is not responsible legislation. It shows a complete disregard for the urgent need to dramatically turn around the health of the Great Barrier Reef, which a scientific assessment published on 1 October 2012 indicated is in severe crisis, with 50 per cent loss of coral cover in the last 27 years. The aims of environmental legislation is to protect precious natural resources for all Queenslanders, including those involved in farming, fishing, tourism and consumers of town water. Amendments which distort this intent to favour one industry above all others is irresponsible governance. Thank you.

ACTING CHAIR: Thank you, Dr Connors. You are obviously very passionate about the reef. So thank you for that. We will now move to questions from the committee. I will start that process. I will ask all of you in turn. Yesterday, the Deputy Premier made an announcement about a salinity trading scheme for the Fitzroy River. Does that begin to address any of the concerns that you might have with respect to this bill in any way? Mr McCabe?

Mr McCabe: I will speak—

Ms TRAD: Can I just ask on a point of order. This is not part of the bill. Are we allowed to discuss it? Are you saying as chair we are allowed to discuss the trading permit? Are you allowing a discussion on it?

ACTING CHAIR: I am just asking whether that alleviates any of the concerns that they have. I think that is a reasonable question.

Ms TRAD: Great.

Mr McCabe: I will endeavour to answer that. I was at the briefing yesterday of the Fitzroy Water Quality Advisory Group. During the course of the meeting the Deputy Premier did announce the discussion of salinity trading, similar to what may occur in the Hunter River. By the end of the discussion we were talking about pollution trading, because we are not just talking about salinity with the mine water; we are talking about a whole range of other heavy metals, other contaminations et cetera.

In principle, a polluter-pays principle is fine. The indication is that the Hunter may have improved its water discharges as a result of it, but I think that is very much a wait and see. This is a bit of a future dream. The acknowledgement from some of the experts in the room was that the Fitzroy and many of our other Queensland rivers—for example, the Hunter is only as large as the Nogoa, on which is the Fairbairn Dam—is somewhat larger, more complex and, therefore, there would need to be a lot of research done. But the principle of polluter pays is fine. As to whether it can improve things, I would agree with the point of the other speakers—that the issue should be prevented in the first place or the activity not permitted.

Mr Pearlman: If I—

ACTING CHAIR: Sorry, Mr Pearlman—

Mr Pearlman: My apologies, it is difficult sometimes to monitor exactly who is going to be going next or when they finish—

ACTING CHAIR: Mr Pearlman—

Mr Pearlman: I have not even had an opportunity to review the Deputy Premier's proposal, but I would echo Michael's comments that any emissions or, if you will, pollution trading scheme requires a great deal more knowledge and information than I think the state possesses with regard to existent water quality in the river catchments throughout Queensland without understanding the impacts of pollutants void upon the reef system, and I think it may have. I would hardly give a definitive response to your question, with all due respect, but I do not think that we could give any kind of definitive response to the notion of a trading scheme. We are talking about the health of river systems, the health of communities that rely on those systems, the health of economies that are dependent on maintaining good water quality. I think we would have to understand to a much greater depth and extent than we currently do the existent health of the river systems.

It is certainly something that we would take on board and take advantage of the opportunity to make comment about, but I do not think the Environmental Defender Offices are in any kind of position to make a comment or offer suggestions that it might resolve some of the concerns about salinity or other pollutant loads that are already being contributed to the water systems.

ACTING CHAIR: Thank you, Mr Pearlman. Just for clarification, I will call you to make a response. We will give you every opportunity to respond to every general question. If there is one specifically to you, you will know about that. Just before we proceed, can I just clarify that what we are discussing here is this particular legislation. We will not be going off on a tangent and talking about something else. The question was has the Deputy Premier's announcement yesterday eased your concern about this particular legislation? That is the question. So let us not get distracted by anything else. Dr Connors?

Dr Connors: I am afraid I did not hear the announcement, but I endorse what Patrick and Michael have both said. We are going to have so much salinity in this state I cannot see an effective scheme ever operating. The coal seam gas industry is drawing up huge amounts and, of course, the Central Queensland coalfields are also indirectly producing huge amounts of contaminated salts. So it is going to be one of the big environmental problems that this state is facing.

ACTING CHAIR: We will move on to the other members.

Ms MILLARD: The department has advised that TELs will be time limited, which means that they could not be used to deal with the large backlogs of water in a mine despite proposed section 357B saying that an application could be made after floodwaters have receded. Do you see that this is enough to prevent TELs being granted to allow the release of backlogs of water? If so, would it apply retrospectively?

ACTING CHAIR: Mr Pearlman, do you want to respond?

Mr Pearlman: Do we see that, if you will, conditional language addressing the concerns about backlog? Offhand, I would say that our concerns will probably not be alleviated by those statements. The concern is at what point will an emergent event arise that, if you will, is contributed to by the existing backlog of water that is currently present in the open-cut mines that we are talking about.

There are going to be future wet seasons. There will be future floods. Those are understood and well-known climatic events that occur in Queensland. This year, or next year, a TEL may not incorporate, if you will, current stocks of water that are on site, but in three years time or in four years time certainly it is conceivable that the existing backlog of water that is located in an open-cut mine could end up being a contributing factor to the application for a TEL. So the short answer is that I do not believe that that clarification alleviates the concerns that have been expressed by our organisation or the other organisations here today.

ACTING CHAIR: Thank you, Mr Pearlman. I am mindful of the time. I do not want to cut this session short, but can we keep our answers as brief as possible. I want to make sure that the other members get a chance to ask a question.

Mr McCabe: I have a brief comment on that. The existence of 350,000 megalitres of water creates an environment where emergent and emergencies are on the cusp, anyway. In regard to the question about the changes to the environmental authorities—I am sorry, I have forgotten what I was going to say.

Dr Connors: I did listen intently to the presentation by the Department of Environment and Heritage Protection and I noted that she did say that the time frame was intended to be days or months after an event. The wording is just too open. It gives immense flexibility. It means at any point they could proceed and say, 'We are correct within the letter of the law.' So, no, we are still very concerned about the wording proposed.

ACTING CHAIR: Mr McCabe?

Mr McCabe: What I was going to say was that with the Fitzroy flood, the wet season commenced in September 2010. The river remained in flood really until at least May and has never ceased. We had the equivalent of one Wivenhoe Dam per day flow through and around Rockhampton and throughout. I have mentioned the two previous record floods. So the flood itself went for seven or eight months and is continuing. The continuing effects are the massively recharged aquifers that are still causing an additional load. So the emergency event is really still present a year or 18 months after the flood.

ACTING CHAIR: Thank you. A question from the member for South Brisbane?

Ms TRAD: Thank you, Mr Chair. I am interested, Mr McCabe, in your assessment that a lot of the monitoring equipment was washed away during the flood. I am interested to know whether or not from your perspective that equipment has been replaced and whether or not the environment per se of the large catchment area can deal with the immediate granting, or the 24-hour granting, of the temporary emissions licence as well as being in a position to undertake a trial of huge releases of mine water that the Deputy Premier announced yesterday as part of a trial.

Mr McCabe: The reports from hydrologists at the Fitzroy Water Quality Advisory Group—I cannot remember the number, but there are half a dozen staff covering a massive area of Queensland, there are 700 or 800 gauging stations, which forever need constant monitoring, they also are required in addition to those electronic automatic monitoring to do additional dip sampling monitoring and they physically do not have the time and the capacity and the resources or the physical capability in floods to get out to those sites. I am not sure of the extent of the replacement. I have a photograph of one in the Dee River that is washed under a bridge—in the lovely blue Dee River. So we would argue always that there needs to be much greater capacity for the agency to have that knowledge, to have that ability. They do not have enough resources, we believe, to fully understand the consequences.

Ms TRAD: Thank you, Mr Chair. Dr Connors, you mention the Hart report and I have looked at it—I have to admit not in great detail—but there is a significant component that is allocated to proper consultation around changes to environmental conditions for any sort of pollutant release. I am interested to know whether or not from your perspective there has been adequate public consultation, particularly with those people in the Fitzroy catchment, particularly Rockhampton-Yeppoon, around what these legislative changes will mean to their water.

Dr Connors: I do not believe there has been anywhere near enough. I only became aware of the proposed amendments through a media report on the weekend and then I contacted other environment groups who told me that we had until yesterday to make a submission. So there has not even been time for all of the environment movement to talk to one another about these impacts, let alone to talk to the public. Of course, because we are talking about river systems that flow to the Great Barrier Reef, the public consultation really should be international. The Great Barrier Reef is a World Heritage area and the Queensland government has responsibility for managing that World Heritage area. I have been in contact with environment groups based in the United States who are very concerned about what is happening here. International anxiety is growing about management of the reef and we have been given less than a week to try to talk to people about some of the negative consequences of these proposed changes, which on paper look fine. It is only if you have read the flood commission of inquiry report that you realise that this is not an accurate reflection of the intent of the flood commission report.

ACTING CHAIR: Thank you, Dr Connors. Given that we are talking in some instances about emergencies and massive floods that are unexpected, would you have any alternative to the release of waste into our rivers? Can you think of anything else that we could do to fix that problem? This will be probably the last question. Keep it short, please.

Dr Connors: That is a consideration that the mining industry should have been reflecting upon for the past 20 or 30 years. We have really had this huge expansion since the 1980s. But if you were required to, as some parts of the United States require by legislation, return your mine site to the original contours of the land, then that would mean also having to deal with your water and you may have to consider measures such as the coal seam gas industry considering a reverse osmosis but, in fact, there has been huge problems in the United States with using reverse osmosis to treat methane bed gas, as they call it in the US, which is the same as our coal seam gas. So I do not know that the industry has really yet got solutions. But it was very clear in the flood commission that they said, 'If this happens, it should happen before or during and within set parameters,' and not be as open ended as this legislation suggests.

Mr McCabe: If I could add, too, that the briefings that we had from a coal seam gas company is that they are required to discharge very highly treated reverse osmosis treated water into the Dawson River before they are allowed to get a permit. While we have some concerns about changing whatever the natural flows mean nowadays, we believe—and we put this to Minister Powell yesterday—that future mine approvals should have water treatment to that standard before they are allowed to put a mine in a flood plain that will flood at some point in the future

ACTING CHAIR: Thank you. Mr Pearlman, would you like to make any statement on that, very briefly?

Mr Pearlman: Certainly. The question is still regarding alternate proposals? First would be, for example, certainly taking into account in terms of any penalties that may be assessed for noncompliance with environmental authority conditions, you could certainly take a look at mitigating factors in reducing any penalties that flow from noncompliance. There are certainly programs I am familiar with in the United States that establish funds, if you will, to assist members of industry to bring their sites into greater compliance—things such as what is called the Superfund in the United States to provide for the clean-up and remediation of abandoned hazardous waste sites, which could be looked at as a potential example. I think another proposal would be looking at changing some of the bonding requirements that may be required of mining companies to account for, if you will, unforeseen circumstances that arise and provide funding sufficient to deal with any problems that may arise as a result of flooding or unintentional or

unexpected discharges. I think those would be worthy of scrutiny by parliament rather than looking at, if you will, giving a pass to broadly defined emergent events that conceptually are going to occur very frequently and are going to seriously degrade the quality of water systems in Central Queensland.

ACTING CHAIR: Thank you, Mr Pearlman. The time allocated for this session has now expired. Thank you for your attendance here today and I now call for representatives from Agforce Queensland.

Mr Pearlman: Thank you very much.

MILLER, Mr Dale, senior policy adviser, AgForce Queensland

HEWITT, Ms Lauren, general manager, policy, AgForce Queensland

ACTING CHAIR: For the record, could you please state your name and the capacity in which you appear before the committee.

Ms Hewitt: Lauren Hewitt, manager of policy for AgForce Queensland.

Mr Miller: Dale Miller, senior policy adviser, AgForce Queensland.

ACTING CHAIR: Thank you. This is just a reminder if you press your button the red light will come on to speak. It is very important that you turn it off, because some of these cut off other microphones in the chamber. That is why there is multiple pressing of the button. You have five minutes in which to make an opening statement to the committee to introduce your organisation and concisely summarise the main issues that you wish to raise in relation to this bill. This will then be followed by questions and a discussion led by the committee. If you would like to make an opening statement?

Ms Hewitt: I thank the committee for inviting us to appear today. We will go through some of the particular amendments which we have concerns about. We became aware of the Economic Development Bill last Monday through a parliamentary committee alert and, secondly, through an invite to appear at this hearing. We understand that there was a discussion paper that preceded the Economic Development Bill. However, we were not party to those discussions and we have discussed that particular meeting with a range of people who are noted as being there and they do not have much of a recollection about the discussion paper. So we would like that noted.

As a key stakeholder and water group user in the area, we are concerned about the bill. We believe that it has lacked some process and consultation on it and we will go through today what we believe to be the key concerns that we have, not knowing the detail that sits behind it—in particular, the discussion paper and any operational procedures which DEHP, I imagine, would have to accompany this bill. Obviously, one of the details that is missing is the risk based framework that we believe would accompany this regulation once it is in place. Normally, mines operate on a risk based process. Their EAs are granted on a risk based process, as are decisions on site. We believe that this detail must be there and part of the discussion paper. However, without being able to see it, we are not familiar with what is going on there. There are a range of criteria that are obviously specified as part of the legislation and the applicant having to provide but, again, without seeing that it is very difficult just from those rudimentary overviews to understand how indeed someone makes an objective decision rather than a subjective one.

One of the other areas of concern that we have is with the automatic EA amendment. Certainly, we do not want to be granting the TELs every year and we recognise that, if one is granted, then there is a need to go back to the situation and address why and put in place circumstances. However, we would be concerned if the automatic EA was to lead merely to an increase in the discharge of contaminant elements in that original EA. Dale Miller will go through some more of the concerns.

AgForce, just for the record, is not opposed to the bill. We are very concerned about the consultation that has gone on, the time frames that have not allowed us to consider it and the fact that we have not been able to see even the discussion paper or have more discussions from the department about how they will be making these decisions in practice.

Mr Miller: Thanks, Lauren. AgForce is very concerned about the impact of the discharge from mines of salts, sediments and other contaminants or toxins, including metals and the impact that they will have on the natural environment, which forms the basis of the health and livelihoods of primary producers and others downstream from these sites. In that context, we would certainly like to see that appropriate emergency preparedness measures form part of the implementation processes as a first priority.

In terms of the pre-emptive TELs, that they should be contingent on, I guess, an adequate demonstration of some of those preparedness events, the Flood Commission of Inquiry highlighted that access to seasonal forecasts was a key issue in terms of being able to manage an emergency like a flood. They also recommended, and we would like to see, installation and management of water infrastructure in terms of that emergency and, more broadly, in terms of other emergencies that are likely to be seen, that appropriate steps have been taken by those mines to deal with that. Another element would be that the department is involved with ongoing risk assessment and site inspections around these preparedness elements and also that there is an appropriate monitoring of downstream impacts from any particular release.

Just in terms of following up, the definition of ‘emergent events’ is currently too open to interpretation. It outlines that they may be natural, flood, bushfires or caused by sabotage and the test of ‘not foreseen’ currently is too loose. We have concern that might encompass events that could potentially be foreseen where adequate mitigation measures could have been taken but were not. I guess, for example, following the events of the 2009, 2010 and 2011 floods, that similar flooding events should now not be seen as an emergent event, but would be capable of being foreseen.

In terms of the actual release of mine water under a TEL, we would certainly like to see that that is done in such a way as to ensure adequate mixing and a reduction of any contaminant levels into a safe framework and a safe band that will ensure that there will be no negative impacts on other water users, including primary producers, immediately below the site of release and that does extend to some consideration of the settling out of contaminants.

In terms of dealing with legacy issues in deciding an application, we would like to see that there is a focus on limiting of retention of water in mine pits and there is a flexible system which the TEL does deliver, but that is also combined with adequate consideration in terms of pre-emergent elements of treatment of water that is held within those pits, or some combination of both of those.

The timeliness in terms of the 24 hours for a decision is of concern in terms of being able to make an adequate determination of the potential impacts on other water users, in our case particularly primary producers within that area. We have seen the call for emergency events to include the economic impacts on mine operators of the retention of water. We would like to see that extended to appropriate consideration of the economic impacts of release on downstream water users and primary producers.

I think that covers most of the dot points that we would like to raise, again reiterating that we have had a short period to review the bill and consider the impacts. As a result, we have not had time to consult fully and completely with potentially affected members in those regions. Certainly, we are concerned with the way that the bill is currently worded, that the impacts on primary producers could be significant. We would encourage a conservative approach that appropriately considers the interests of all stakeholders in the catchment. We understand that there needs to be a system of managing uncontrollable mine waste discharge in a proactive way. We just request that we also consider the interests of other stakeholders within the catchment when that is being done.

ACTING CHAIR: Thank you. We will now move to questions from the committee. Dale, you mentioned the TELs taking into account the economic effect on farmers downstream. How would you measure that or how would you get an idea of what economic impact might come about from those discharges?

Mr Miller: I think that is quite challenging given the 24-hour turnaround time that is being proposed, unless it is in the context of a pre-emergent event, so that you can predict what is coming and do some appropriate studies and get appropriate data around what those impacts might be. I think the onus would be on the mine operators to have accurate records and monitoring of the sorts of contaminants contained within their mine water, so that there is a sense or an understanding of what potential impacts could flow from that. If those preparedness measures are in place, that would act to mitigate some of those impacts. In terms of putting an economic cost on it, that is quite difficult in that sort of time frame.

ACTING CHAIR: I would have to agree with that. You mentioned that you would like to see appropriate steps taken in the mines before they got to the stage of requiring a discharge. What would you suggest those appropriate steps are?

Mr Miller: I was in Rockhampton yesterday when the Deputy Premier made the announcement about the pilot study. I think given solid monitoring and consideration of point impacts on landholders near those points of discharge, that is one way by which additional information can be developed over time to help inform the process and how those releases might be managed in the future, the issue being that an emergency can be broader than just a flood event. With sabotage, et cetera, it can be quite difficult to foresee how that might occur and the sorts of impacts that might flow. In that case, I think there needs to be a clearer definition of what those steps might be and that the mines take those sorts of feasibility and foresight type approaches to dealing with those potential issues.

Mr HOLSWICH: You mentioned the phrase ‘emergent events’ and that has been mentioned by a few people this morning. I will ask you the same question that I have asked previously of other attendees. How would AgForce suggest changing that phrasing to make it more acceptable?

Ms Hewitt: To be honest, I am not sure how we would change the phrase. As it is, we have not had any discussion with the department about how they would implement it, so exactly what the emergent event is, we are unsure. Obviously, the Flood Commission of Inquiry did go through and made statements on a range of emergent events that they had seen in the past. As to whether some of those would constitute those events, I do not know, but I think they are the discussions we need to have with the department and with the other downstream water users.

Ms TRAD: Thank you very much for attending today. Earlier during the day, I asked the departmental officer why guidelines in relation to the relaxation of environmental conditions did not accompany this bill so that fulsome consideration could be given to what instances, in fact, these sorts of relaxations would be applied to. They said that they were under consideration, that they had earmarked consultation with the resource industry. Is the development of those guidelines something that AgForce sees as essential in terms of the work that you do and consulting with primary producers?

Ms Hewitt: Most definitely. During a flood event in particular, the other water users who are very busy are our primary producers. They are busy because they are water harvesting to get the water out of the streams, into their off-stream storages. When you are talking about discharging into a water course, it

is pretty vital to make sure that those guys are not harvesting back contaminants that are being discharged upstream. In direct response to your question, definitely it is these sorts of consultations that AgForce exists for and would like to have comment on. We are a huge stakeholder in the area, with the water harvesters, with the people who live there, with stock and domestic access and availability of that to stream. We would expect to be consulted as part of this, ordinarily.

ACTING CHAIR: Just expanding on that last question, the Local Government Authority was here earlier this morning. They were concerned about the 24-hour time frame and how they would be notified of an impending release as far as that affects their water supply. I imagine you would have the same concerns. What sort of process could the government put in place to notify water users downstream from your sector that there has been a release occurring?

Mr Miller: I think another element to that issue is the combined influence of a number of TELs being approved at the one time and how that might get managed at a catchment level basis. In response to your question, the releases will determine the extent to which people need to be notified and, in terms of the expected impacts that will come from that in making the determination that a TEL should be approved in the first place, needs to be cognisant and take a conservative approach to the fact that there may be a range of other mine operators that will seek a TEL under a similar event. In terms of getting the information out to producers that might be affected by that release, I think there are opportunities through an emergency type approach, so where there is text messages or other automated systems through the radio, et cetera, that those releases might be made, particularly if there are concerns that those impacts will be broad and widespread and significant.

Ms TRAD: We heard from the Queensland Resources Council before that in their preliminary discussions with government in relation to this bill, the Department of Environment and Heritage Protection suggested that in the 24-hour time frame the accumulative effect of a number of TEPs could not really be assessed adequately. Given that and given that there is an overriding clause about altering a TEP, depending on what happens post release, if there was the suggestion that a number of TEPs have been issued, they could not assess adequately the accumulative effect of the combined TEPs and there was significant discharges into flooded water that had increased the salinity level, what impact would that have on primary producers in the region?

Ms Hewitt: Obviously it might be significant for someone who is downstream just shortly from those point-source discharges. People particularly who have a water licence and are water harvesting, as I said, back into their dam storages, they have limited ability to get rid of it. They will be affected by the same issues that the mine has, in as much as when it dries and evaporates the chemicals will be essentially concentrated. They will have stock that have direct access to a lot of these areas. We do not know what their withholding constraints are in terms of stock, in terms of what the chemicals are. Potentially the impacts are significant and, yes, I guess in our written submission, which we will lodge today, we have suggested that where you cannot consider what the accumulative effects are of multiple TEPs being issued, then they should not be issued.

Mr HOLSWICH: We are talking a lot about that 24-hour time frame and the general consensus from people here this morning is that that is too short. In terms of order of magnitude of what time frame would be acceptable, keeping in mind that we are talking about emergency situations, what would be your suggestion? Are you suggesting maybe a 36-hour or a three-day time frame? What would be more acceptable?

Mr Miller: I think the key principle is the amount of time that it takes to get the information together that is required to make a reasonable assessment of the impacts from a particular release. I guess we would be concerned to set an arbitrary time on it on that basis.

Ms TRAD: Ms Hewitt, you said that you are not necessarily opposed to the bill. Do you support it in its current form? Does AgForce?

Ms Hewitt: No, we do not support it in its current form. We cannot support it without the addition of that information that we have not seen.

ACTING CHAIR: Any further questions? No. The time allocated for this session has now expired. I would like to thank you for your attendance here today. I believe that the committee has gathered some valuable information that will assist us in our inquiry into the Economic Development Bill 2012. I thank the parliamentary staff who have assisted us here today during this meeting. I have a final motion. I move that pursuant to section 50(2)(a) of the Parliament of Queensland Act 2001, the committee authorises the publication of public evidence given here before it this day. All in favour? It is carried. I now declare the hearing closed.

Committee adjourned at 1.17 pm