STATE DEVELOPMENT, INFRASTRUCTURE AND INDUSTRY COMMITTEE

Members present:

Mr DF Gibson MP (Chair)
Mr WS Byrne MP
Mr MJ Crandon MP
Mr MJ Hart MP
Mr R Katter MP
Ms KN Millard MP
Mr BC Young MP

Staff present:

Ms E Pasley (Research Director)
Ms M Telford (Principal Research Officer)
Ms M Westcott (Principal Research Officer)

PUBLIC BRIEFING—PLANNING AND DEVELOPMENT BILL 2014, PLANNING AND DEVELOPMENT (CONSEQUENTIAL) AND OTHER LEGISLATION AMENDMENT BILL 2014, PLANNING AND ENVIRONMENT COURT BILL 2014 AND PORTS BILL 2014

TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, 26 NOVEMBER 2014

Brisbane

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Committee met at 8.31 am

CHAIR: Good morning, everyone. I declare open the public briefing for the committee's examination of the following bills: the Planning and Development Bill 2014, the Planning and Development (Consequential) and Other Legislation Amendment Bill 2014, the Planning and Environment Court Bill 2014 and the Ports Bill 2014. I thank you all for your attendance here today. I am David Gibson, the member for Gympie and the chair of the committee. The other committee members here with me today are: Mr Bill Byrne, the deputy chair and the member for Rockhampton; Mr Michael Hart, the member for Burleigh; Mr Bruce Young, the member for Keppel; and Mr Michael Crandon, the member for Coomera. We will shortly be joined by Mr Rob Katter, the member for Mount Isa, and Ms Kerry Millard, the member for Sandgate.

The briefing is being broadcast live via the Parliamentary Service's website and a transcript will be made by parliamentary reporters and published on the committee's website. For the benefit of Hansard, can I please request that representatives speak clearly into the microphones. This briefing is a formal committee proceeding and as such all witnesses should be guided by schedules 3 and 8 of the standing orders, a copy of which has been provided to you. The aim of the briefing today is for the committee to gather preliminary information in relation to the bills. We will commence with the bills associated with the new planning framework and then move to the Ports Bill at approximately 9.45 am. I wish to make everyone aware that we may have to have a brief interruption in committee proceedings if non-government members are called away because we will not have a quorum to continue.

I now welcome representatives from the Department of State Development, Infrastructure and Planning who are here regarding the planning bills.

CADDIES, Mr Adam, Principal Project Officer, Office of the Coordinator-General, Department of State Development, Infrastructure and Planning

COUTTS, Mr James, Executive Director, Planning and Property Group, Department of State Development, Infrastructure and Planning

MISSO, Mr Dean, Director, Planning and Property Group, Department of State Development, Infrastructure and Planning

SMELTZER, Ms Kerry, Director, Office of the Coordinator-General, Department of State Development, Infrastructure and Planning

CHAIR: Thank you very much for being here. Would you care to make an opening statement, Mr Coutts?

Mr Coutts: Yes, thank you very much and good morning to the chair and to the members of the committee. We are really grateful for the opportunity to brief you this morning about the Planning and Development Bill, the Planning and Environment Court Bill—

CHAIR: I apologise. We were aware this was going to happen. We will just suspend proceedings for a brief moment until we have a non-government member return. I welcome Mr Rob Katter, the member for Mount Isa. The committee will now resume. You may continue.

Mr Coutts: As I said, we are very grateful for the opportunity to brief the committee this morning about the Planning and Development Bill, the Planning and Environment Court Bill and the Planning and Development (Consequential) and Other Legislation Amendment Bill, all dated 2014, noting that the Ports Bill will be the subject of a separate briefing shortly. If enacted, these bills will significantly reform Queensland's planning system, drive prosperity and lift the standard and transparency of planning, protecting and managing Queensland's environmental assets.

Mr Chair, with your permission, I will provide an overview of the key proposals in the bills and then, with the assistance of my colleagues, answer any questions the committee has about the bills. My colleague Sally Noonan will then provide an overview of the Ports Bill. Due to the significance of the planning bills, my overview is necessarily reasonably lengthy but, if at any point the committee would prefer that I seek your leave to have my remarks read into the record, please let me know.

CHAIR: How lengthy is 'reasonably lengthy'?

Mr Coutts: Probably 15 minutes.

CHAIR: I would like us to have a fair bit of time for questions.

Mr Coutts: So maybe I will speed through this. I will cut it short.

CHAIR: Speed through the key components and we would then be happy to table that to have the benefit of the full detail.

Mr Coutts: By all means. So the planning bills propose to repeal the current Sustainable Planning Act and establish a new planning act and a new court act that will simplify plan-making arrangements, streamline the development assessment system, improve dispute resolution arrangements and largely restructure planning legislation by removing superfluous procedures and redundant detail and other provisions.

The planning bills incorporate reforms that have been prepared over the course of a consultation process that commenced in 2013. An extensive analysis of the performance of the planning system produced substantial improvements over the existing legislative framework. The bills seek to deliver clearer and more streamlined planning schemes and drive faster and better development assessment processes by local government. So key in the planning and development bills is the intention to simplify plan-making arrangements to reduce the complexity of state instruments and to establish more suitable processes for plan making and infrastructure designation; to streamline the development assessment system by simplifying the categories of development, public notification requirements, decision rules and appeal rights; and also to ensure appropriate dispute resolution mechanisms are available that are affordable, timely and fit for purpose. In the process much of the procedural and prescriptive detail and obsolete and redundant provisions have been removed from the legislation.

The proposed new planning framework builds on the effective aspects of the current system and is the next logical step after recent reforms to establish the now well-regarded State Assessment and Referral Agency and the new State Planning Policy. The state will continue to have an integrated development assessment system that will deal with state, regional and local matters. Fundamental aspects including sound plan making, development assessment and a dispute resolution process will also remain.

Unlike the Sustainable Planning Act, which I will refer to as SPA hereafter—I think people are familiar with that term—which confuses the elements of the system with the values and outcomes that the system looks to achieve, the planning bill focuses on the elements of the system itself. The outcomes they seek to achieve are now clearly and strongly expressed in that State Planning Policy that I referred to. As a result, the proposed legislation is simpler and much easier to use than SPA. The planning bills reflect a deliberate decision to produce clear principles based legislation with the removal of many of the detailed process requirements that are currently there. Where they are required, those requirements will be placed either in regulation or in other subordinate instruments. Some will no longer be mandated but simply become guidance. However, this will not mean more regulation or subordinate legislation. A key objective when drafting the bills was to move away, where appropriate, from the use of prescriptive legislative requirements in favour of clearly expressed principles and the provision of quality practical guides, material and support.

The planning bills' purpose promotes the term 'prosperity', the achievement of which includes balancing community wellbeing, economic growth and environmental protection. Achieving this balance is a basic principle of the proposed system, but the bill states explicitly that ecologically sustainable development is the means to attaining Queensland's prosperity. The planning bills make essential improvements to the requirements for planning. They reduce the number of state planning instruments by removing state planning regulatory provisions, or SPRPs as we have come to know them, and by moving away from the standard planning scheme provisions, currently known as the Queensland planning provisions, QPP. Removing these instruments addresses concerns about the nature of the current hierarchy of the state's instruments which many find complex and sometimes conflicting. There are some matters in the current SPRPs and Queensland planning provisions that will transfer into the regulation to ensure state interests remain paramount. These

will not be lost but will be incorporated in the regulation which is currently being produced. At the local level, the planning bills will introduce more flexibility for local governments when making and amending their schemes and remove the compulsion for schemes to utilise particular wording or style elements contained in the QPP.

A significant feature of the bill is the reshaping and renaming of categories of assessment. The bill proposes three simplified categories—accepted, assessable and prohibited development, with categories for assessable development falling into standard or merit. These categories are coupled with simpler, more straightforward decision rules based on policies, not documents. These changes are designed to give confidence to local governments to reduce levels of assessment and tailor them to the circumstances, provide more predictable development outcomes and appropriately manage risk. The improved categories of assessment are supported by other improvements to the system to facilitate greater predictability and improve handling of development assessment—for example, better enabling the consideration of changes to applications and approvals, managing owners' consent in a more appropriate manner, restructuring and consolidating ministerial powers, and increasing the currency period for a material-change-of-use approval to six years to, I guess, reflect what is now a prevailing fiscal environment in which most developments operate.

The Planning and Development Bill also deals with a range of miscellaneous matters such as carrying forward SPA's urban encroachment arrangements. Critically, it provides for clear transitional arrangements to ensure that matters that were valid at the repeal of SPA will remain so under the new legislation.

The successful implementation of the framework has been a key consideration shaping the bill. Considerable effort has been dedicated to understanding how ideas will work on the ground and assisting councils, practitioners and industry transition to the new framework. There is an emphasis on extensive training and guidance and to potentially fast-track processes to drive better practices and behavioural approaches. Work will continue on these processes such as development assessment arrangements, infrastructure designation and modifying schemes prior to the commencement of the bill which is proposed to be made by proclamation to allow sufficient time for transition to its provisions.

I will touch briefly now on the dispute resolution arrangements. The significant change is to establish the Planning and Environment Court in its own stand-alone act. It is a specialist court whose jurisdiction extends past SPA to relate to 29 different acts. The court bill includes technical changes to provide an overriding philosophy for the court, redraft alternative dispute resolution provisions and strengthen and expand the ADR registrar powers. It also includes introducing security of cost to remove any doubt about whether it can apply to the court and improve the establishment work with the building and development dispute resolution committees including to rename it as the 'development tribunal' to raise its profile and use as a speedy and productive alternative to court action for a range of technical matters. These are all sensible changes with appropriate checks and balances to ensure expeditious, low-cost proceedings and save judicial time and the demand on the court's resources.

Just briefly touching on the consequential amendments, that bill makes amendments to update SPA terminology and references in other acts to the new arrangements and consolidates planning functions in the planning portfolio. Amendments are also being made to the Environmental Protection Act and the State Development Public Works Organisation Act to facilitate projects in a state development area and streamline the environmental authority process for all coordinated projects evaluated by the Coordinator-General.

I will just briefly outline in concluding the conversation about the consultation process. We have had extensive consultation since the announcement of the production of the act in June 2013. That consultation included conversations and meetings and presentations to peak bodies, specialist focus groups comprising prominent and well-respected legal and planning professionals from both the private and public sectors, and a range of other practitioners and obviously many, many conversations with particular local governments. We arranged a monthly stakeholder forum, which was established after the inaugural annual Queensland Planning Forum held in March 2013. All the significant policy issues we have incorporated into this bill were raised in that monthly forum and then worked through again at the annual forum held in March this year.

Forum members included AgForce, Australian Institute of Building Surveyors, Council of Mayors for South-East Queensland, Environmental Defenders Office, Housing Industry Association, Local Government Association of Queensland, Planning Institute of Australia, Property Council of Brisbane

Australia, Queensland Chamber of Commerce, Queensland Environmental Law Association, Queensland Law Society, Queensland Master Builders Association, Queensland Resources Council, Shopping Centre Council and Urban Development Institute of Australia. In addition, a consultation period of eight weeks was held on a draft of both bills—the Planning and Development Bill and the Planning and Environment Court Bill—in August and September this year. This consultation included information feedback sessions across Queensland. The time frame for this consultation recognised the period needed and necessitated by internal processes of organisations and councils to process their feedback. All councils and industry groups were invited to attend regional sessions held across the state which included practitioners and the chapters of peak bodies.

Throughout the public comment period key representatives from the department engaged with over 1,700 people across the state. More than 40 briefings and presentations were hosted by the department for industry, local government and community groups to drive a broad understanding of the main elements of the draft bills. Several of the briefings were recorded and made available on the department's website for viewing, and that has been a particularly successful initiative and has got the message out there very widely. A two-day intensive session was held with a select group of councils, and practitioners were engaged in preparing the planning schemes to work through in detail the practical application of the bill's arrangements and their schemes. This work has informed the bill and the transition arrangements and remains ongoing.

CHAIR: We might tease that out in some of the questions. Is there anything final that you would like to mention?

Mr Coutts: The only other thing I would mention is that there was an information paper also circulated on the proposed content of the regulation because it has been one of the more interesting and controversial elements. Just by way of quantifying the response received, we received 224 submissions from that draft consultation—sets of bills—and that has informed our ongoing refinement. I am happy to go through any of the amendments that were made as a consequence.

CHAIR: Excellent. You were very thorough. Is there anything that you did not cover that you would like to have tabled?

Mr Coutts: No, I am fine with that. I am happy to make the full copy of that available if that would be of benefit.

CHAIR: Is leave granted for that to be tabled? Leave is granted. I might start the questioning. I had the great pleasure of cutting my teeth in opposition on SPA and trying to understand IPA before SPA. I am certainly looking with great interest at the changes that have occurred between SPA and this. I want to pick up on some of the things you mentioned so we are very clear as a committee. We are now looking at three particular bills on the planning side of things: a consequential amendment bill, then the Planning and Environment Court Bill and then the planning bill itself. You have given us an overview of the consultation. At what point in the department's consultation was the view taken that there would be three bills as opposed to one? Was it always about consulting on planning reform and then we came to, based on that advice, three bills or was that presented at the beginning of the consultation period and that has been moulded through that process?

Mr Coutts: It is the former, even though it has been an outcome of the process of consultation. At the present time, for instance, the court's arrangements are set up in the Sustainable Planning Act. Both through our monthly forums and more particularly our focus groups—Dean Misso runs the focus group in relation to the dispute resolution arrangements—there was a strong view that the court would benefit from having its own separate piece of legislation to establish it as a distinct entity in the system. That was not originally proposed by us; it was a reactionary response to commentary that came forward from practitioners in the system—from those in government, local government and the legal profession. That was an outcome of the consultation process. I think the decision to have a separate consequential bill is a simple acknowledgement of how far-reaching over a period of time SPA has become and the number of references that exist throughout. Bills and then consequentially the acts that occur can be substantially bulked out, for want of a better term—

CHAIR: 'Bloated' is the term I like to use.

Mr Coutts:—bloated, yes, which at the end of the day does not assist people's understanding of the content of the main component of the bill. They tend to always be referred to separately by those who are running applications through the system that preceded the introduction

of the new legislation. They were always turning to that particular part. So a decision was made to have that as a separate element so it was very, very clear and could be a distinct but related component. I think that is quite important.

CHAIR: I am sure in a few years the university planning students will be thanking you for it should the bill pass.

Mr Coutts: Interestingly, in the feedback we have received through a number of the sessions we have held, one of the more common remarks is that, unlike the Sustainable Planning Act, this current bill is actually easy to read—not that it is a narrative; it is not like a novel, but you can read it and get the sense of how you are progressing through and where you are in the system. In a number of instances when we have had questions that actually relate to the operation of SPA, we have checked how the new bill would operate should the same question be asked and in almost every instance it is much easier to find the answer to your question referring to the new bill than it is to the current provisions of SPA. In a number of instances where I have had questions, I have given up and rung somebody and said, 'Where do I find this in SPA?' I turn straight to what I needed to find in the new bill. So we have had quite a bit of commentary from not just laypeople who appreciate the ease of interpretation but actually from practitioners to say, 'Look, our job is complicated enough as it is. If the act is complicated on top of that, it certainly does not help the way in which we do our business.' So that has been greatly appreciated so far.

CHAIR: Just staying with the consultation phase, and then I will open it to further questions. At what point during the process did you present draft discussion bills for the various stakeholders to comment on and what changes have resulted from those draft bills that are now in the bills that are presented before the House?

Mr Coutts: Depending on the groups we were talking to, we were presenting elements of the draft bills. So in dispute resolution focus groups we were providing early or preliminary drafts of material so we could get their reactionary response to the way it was shaping up. From recollection, that was quite early this year—

Mr Misso: April.

Mr Coutts: April.

CHAIR: April this year they started to see—

Mr Misso: As early as April.

CHAIR: From what you are saying, just so the committee is very clear, they were elements of the draft bill but not the complete 'here is our proposed bill from clause 1 to clause 400'?

Mr Coutts: I think at some point in time between April and the release of the full consultation version the focus groups were given copies of the complete bill, because we did bring the two groups together. One was on plan making and development assessment and the other one was on dispute resolution procedures. In endeavouring to get each group to understand how their two elements related, from memory it would have been about the middle of the year that they would have seen the first preliminary version of how those elements that only hitherto were seen as separate would be stitched together to make sure that the elements flowed. Obviously if you are in plan making and development assessment you are interested in the consequences of decisions you make. So you, therefore, do want to see how that would be dealt with through dispute resolution and vice versa. If you are in the dispute resolution area, you are very keen to see how the act sets up the way schemes should be structured and the development assessment processes that apply so you can be better informed about your decisions on the dispute resolution arrangement or at least their understanding of the matter.

All of those were always distributed on an in-confidence basis to that focus group. We were very deliberate in ensuring that we had a very wide representation in that focus group. As I said, we had practitioners who were daily dealing with the system, but also we had members of local government, other state agencies and industry groups to make sure we had a blend of views. We quite unashamedly selected the people who we knew from their reputation and their experience could give us the great benefit, and we had hundreds of years worth of experience in that room to oversee and to pore over every element. From recollection, we did have a full-day workshop. I think it was around April or May this year where we went through clause by clause to draw out the concerns of practitioners about the operation of the bills. As we found in the course of that conversation, it is as much what somebody else says that pricks people's understanding of it or actually prompts them to ask a question on another element and to tease it out. So for us it was not a case of us telling them how we thought it ought to work; it was us listening to them, putting forward ideas and listening to their response and reaction to whether that would work.

I might add that in the process we have been at pains to say that our effort was never to turn the system on its head. Nobody is going to thank us for that. However, we were setting about examining every single piece of the legislation. In fact, it is like one of those photographs you see where somebody pulls a car apart and it is thousands and thousands of constituent parts. We were doing that with every single element to examine it, test it, see whether it still needed to be in there or it was actually an optional extra or whether its function needed to carry on but in a different way. We then reassembled it quite deliberately to look like the car we started with so that the system did not feel as though it was being turned on its head for the sake of it. There is quite a lot that has been fundamentally reviewed but with the outcome that it does not feel as though the world has been shaken to bits in the process. That was a quite a deliberate endeavour, and using the focus groups in that way was very valuable.

CHAIR: Thank you for that. The last part of my question was: is there anything contained within these bills that was not considered within those draft versions that were put through? It may well be something from Parliamentary Counsel that came through or something at the last minute that 'we need to include this and we haven't had the time'. So it would be something new that has not been part of that very extensive consultation process you just explained to us.

Mr CRANDON: Surprise.

CHAIR: I am not using that word.

Mr Coutts: The vast majority of the changes have occurred since the consultation draft was released in response to the comments we received. There would be myriad minor and text changes that respond to the need to make it clearer in its expression. Some of the changes were a consequence of what somebody said but not, 'That's a good idea, let's do that.' It is just that it became clear that in asking that question and reaching that conclusion they were misinterpreting what the legislation said. When somebody can misinterpret it you say, 'They are misinterpreting this. We need to revise the wording.' It did not mean we change it to the way they thought we wanted to; it is just that we made it clearer to prevent that sort of misinterpretation. I do have an outline of some of the key things that we changed between the consultation draft and the draft that has been tabled if that is of—

CHAIR: If we could receive that, it would be of benefit to the committee, yes.

Mr Coutts: I will probably have it in a form at the moment that is bit more shorthand. So we can provide that—

CHAIR: You can email that to us. That would be of benefit to us. So there were no provisions that were not discussed at all? Mr Misso, you had a look on your face that tells me you want to tell me something.

Mr Misso: There have been a few changes as a result of the communication between our department and the Chief Judge of the District Court. They related to uniformity of relief between the Magistrates Court and the Planning and Environment Court. So we have made those additions. We have also made an addition to the way in which appellants or defendants comply with orders in both the Magistrates Court and the Planning and Environment Court. They are now consistent regardless of which court you go to.

We have also added or, should I say, increased the maximum penalties associated with offences under the Planning and Development Bill. We have done that for a number of reasons. Those increased penalties are a result of the fact that they have not been changed since IPA, which was—it is not consistent with our current Queensland statute book in relation to similar offences and other acts. It is more commensurate, I suppose, with other jurisdictions dealing with similar offences. So we have raised those to 4,500 penalty units and that is a maximum. Obviously it depends on the circumstances of the case.

CHAIR: For the benefit of the committee, what was the maximum number of penalty units previously?

Mr Misso: It was originally 1,665 penalty units.

CHAIR: That is a substantial increase.

Mr Misso: It is nearly threefold. In relation to the 4,500, it is almost akin to similar types of offences we see in the Regional Planning Interests Act and also the Environmental Protection Act. There is a wilful component in those acts, which is 6,250 penalty units, so it is less than that. In relation to the New South Wales planning process that is occurring at the moment, they have a three-tier system. We are lining up with their middle tier. In relation to other jurisdictions, we feel that where we are is about right, and those are available for consultation through that process to evolve.

CHAIR: Are there any other new elements? So they are new in the Planning and Environment Court Bill. Is there anything new in the planning bill that was not discussed?

Mr Coutts: Looking through the list that we had assembled here of the changes, the vast majority, as I said, come in direct response to comments made. But one that I note here has emerged as a result of dealings with certain councils in relation to their management of matters through their schemes, obviously, if they come up and we have the option to attend to those. There is a provision relating now to the immunity for local governments from liability where a ministerial direction is made to make or amend a local planning instrument. That is specifically in relation to matters such as sea level rise, where a council has chosen to adopt a certain approach. This provides the capacity for the council to have immunity where the minister directs them to do certain things. So that is an outcome of processes that have been underway since the consultation period but not a direct outcome of a comment made during that period.

Mr CRANDON: You mentioned that focus group. What sort of people were involved in the focus group from the council of mayors perspective?

Mr Coutts: It was the executive director, Peter Olah, and one of their policy officers. They were usually the people who attended. So it was not a representation at a political level. Having said that, at key phases we have provided the opportunity for the council of mayors, in terms of the group itself, to be briefed about the content of legislative changes. So there was no political representation on our forum; it was usually handled through the executive level of the council of mayors. I have personally responded to invitations to present to their infrastructure and planning committee about this and other matters where there is both bureaucratic and political representation. So they have had the benefit of those briefings.

Mr CRANDON: I am the member for Coomera. Believe me, we have issues in Coomera around development and the contentious nature of the different readings of various aspects—

CHAIR: We are looking at the bill, though. Clearly, you are not going to raise local issues?

Mr CRANDON: We always try to get Coomera into the conversation somewhere.

CHAIR: Once in *Hansard* is enough; twice is too many times.

Mr CRANDON: Exit 54 is also an issue, but we will not draw on that.

CHAIR: No, we will speak about the bill.

Mr CRANDON: But coming back to the bill—

CHAIR: Thank you.

Mr CRANDON:—and coming back to the contentious nature of the development process, would you say that you have consensus from those groups, including the council of mayors, in relation to the bill or have you got everybody offside so you reckon you have it right? Where do you think you are with the broader community? Unfortunately, it seems like an 'us and them' sometimes in the development process, which is a shame. But where do you think you are at in relation to that?

Mr Coutts: I can appreciate your question about what seems like an 'us and them' situation. I can say with all honesty that in some of the recent legislative amendments, such as around infrastructure charges, it was very much an 'us and them' situation. This one has been different. Whether that is because of the nature of the topic or the extensive process of consultation, or indeed the way in which that process has been conducted, where all parties have had a chance to hear each other's views, the difference is that—and it is always difficult to characterise anything in a sweeping statement, but I will endeavour to do so—the overwhelming view is of acceptance and so strong as I could characterise it as support. Industry is welcoming of the approach that is reflected in this bill, the clarity of wording and the related work that we are doing behind the scenes or in addition to that.

Local government is stuck. We have more varying views, ranging from broad acceptance and support and expressed support for many of the provisions of the bill. We have a couple of local governments that have come out quite strongly and argued against the changes, but those local governments—and we have been quite sure to check that this is the case with the Local Government Association—do not reflect a broad and general view of consensus among local governments in general.

Mr CRANDON: Is the Gold Coast City Council one of those?

Mr Coutts: No.

Mr CRANDON: Thank God for that.

Mr Coutts: I might add that we are very conscious that for this bill, should it become an act, to have its greatest effect requires an ever-increasing effort on behalf of our agency to provide the appropriate training and support to local government to give it effect.

In my introductory remarks I made the point that we are seeking to have the act commence by proclamation. We envisage probably at least a six-month period for us to spend the time to have local governments make the adjustments they need. I think in the past, while some planning acts have been well intentioned, their downfall was almost at the time of implementation. They were switched on so quickly that there was no opportunity for people to make the appropriate adjustments.

Our endeavour here is to give councils ample time to look at how their schemes work, to transition those in a successful way and, more importantly, from the point where the rubber hits the road, which is the development assessment, that their systems can be adjusted accordingly. We even have that issue with adjusting our systems around the State Assessment and Referral Agency. Systems are fantastic and when you use them you go, 'Wow. That was simple and easy.' People forget the amount of time that it takes to get those systems to be that simple and easy. Most of the larger councils now have quite sophisticated information and technology systems, which will need to be adjusted to operate under the new act. So we are investing an awful lot of time and energy with them.

CHAIR: Can I just pick up on something that you said there. You talked about DAs. Will there remain an opportunity for a developer to have a DA assessed under a previous planning scheme?

Mr Coutts: Yes.

CHAIR: Okay.

Mr Coutts: And that is part of every transitional provision—

CHAIR: A provision in that place. It is for the developer to choose whether they wish to go under the previous planning scheme or under the current?

Mr Coutts: The developer submits an application to have their application considered under the superseded scheme. The most common reason a developer would do that is that the previous scheme might have provided them with an opportunity that the new scheme does not. I do not think anything in this act will result in that particular outcome. It will be more an individual outcome of a scheme that will cause that. In fact, this act will probably encourage lower levels of assessment and suchlike. But where a developer sees their use rights being curtailed under the new scheme, should a council say, 'No, we are going to go under our new scheme,' the matter is then subject to a compensation claim should that be proven.

CHAIR: Okay. In regard to transitional arrangements and the time for council, one of the things that I think was very strong in SPA that brought about cultural change within councils was deemed approvals. Is that remaining? Are there any changes to those elements?

Mr Coutts: It is remaining and it is in the bill now as it currently stands. There have been suggestions about broadening the opportunities for deemed approvals. That is something that we would be quite happy to consider through the committee process. To characterise how deemed approvals currently work, they are a very significant incentive for a council to consider an application. I will speak candidly here and say that they are most heavily used by council officers to draw that matter to the attention of the council to say, 'If we do not deal with this matter the applicant can force a deemed approval.' That does not happen as often as you would think in terms of an applicant forcing a deemed approval, the main reason being that, under a forced arrangement like that, the council has only 10 days to produce the conditions and the rushed nature of those conditions can obviously often take more time to sort out than had they waited for a decision with better conditions. So it is there as a very significant incentive and it works very effectively in a system.

There have been questions about why we would not expand that further. Our considerations on that would be with the new assessment stream—so standard and merit and the move away from the term 'impact'. But under a standard assessment, it is very much tick, tick, tick or, 'You don't comply.' 'What do you need to comply?' So under this act it makes it clear that there is a presumption in favour of an approval. It does not mean that you cannot refuse it if the application does not meet all of those standards, but there is a presumption in favour of approval. They are much easier to force a deemed approval on, because it should really all tick those boxes.

The merit assessment is a presumption in favour of policy. Invariably, it is where the matters push policy and councils sometimes have quite a difficult decision to make whether it either fits generally with the policy or can be made to do so. That time frame sometimes does drag on. The

system allows for breaks, but there are obviously instances where that does not occur. To force a decision under those circumstances is quite a challenge, but it is something that we are quite prepared to contemplate should that suggestion come forward.

CHAIR: Okay. Thanks.

Mr KATTER: I think you have answered part of my question already, but I will just ask a more specific question. I will preface it by saying that I am from a regional area. I have spent a bit of time in council. From my experience there were a lot of poor outcomes in council in terms of planning. We went through a period of a housing shortage. You would have stuff knocked back on technicalities all the time. I think a lot of it came back to the competency of the people giving advice. It is always hard to get competency in remote areas in the field of planning.

I will just give a quick example. I was doing some flats myself. There was a building code. I had to put these enormous skylights in the flats. As you can imagine, everyone is Mount Isa has an aversion to heat and those skylights have been permanently sealed up ever since. It was in a state-wide building code that you needed so much natural lighting. It was costly and unnecessary. That is an example that a lot of things that apply across-the-board are not relevant or suitable to remote or regional areas. They can get misinterpreted by officers at a base level and they pass it on to councillors. I think it gets really messy and dysfunctional at remote and regional levels with planning. I would argue that it is not as necessary.

I have picked up on some things that you have set to address. Most of what you are talking about seems to be a bit more higher level, but I would be interested if you felt that you were addressing those sorts of issues or whether these changes would address those sorts of issues that I am talking about. A lot of that stuff that can be quite effective and constructive for metropolitan and coastal areas where it is easier to achieve and obtain those skill sets, but in remote areas you may not get that same level of competency and resources. It is a different dynamic in the building area. We do not have large scale developments around there; they are usually one-off things. So I would be interested to hear your comments. What sort of advocacy was there during that consultation period from remote and regional areas?

Mr Coutts: Just in relation to that latter question, we were quite intent on ensuring we did get quite broad views around the legislation. Our department's regional services managers make a point of having regular planning forums—and I have attended a number of those in Western Downs and Central Queensland et cetera—to go out and talk about the legislation and hear exactly the examples from officers that they are concerned about.

Some of those go to—and I will not call it competency, because these people are trained and, in many cases, are quite experienced planners; it is more capacity. There are not many of them and many of them are dealing with a circumstance where the council does not have the resources internally to produce a planning scheme and will engage a consultant. Consultants, however well meaning, will generally apply the approach that they have most recently used, which will often be not a council of a similar kind; it will be a populous coastal council. They translate these scheme provisions to a remote area, not really having any inkling that the people in there do not have the capacity to assess an application against this long list of criteria.

I would say straight out that this bill does not directly address those matters other than to say it is putting in place the basis for more streamlined processes. But as I mentioned before, the department has been very clearly of the view that legislation is only one part. It is a very important part of having a good planning system, but the key elements of the planning system that go beyond that are the support and guidance we prepare about good planning scheme content and how we tailor that content to exactly the sort of council you are talking about—codes that are effective and work in that location that are more particular. Instead of a multitude of different codes, can we collapse those down into simpler codes that are more easily implemented?

Just while we have been sitting here now, we have posted on the website a raft of other documents that illustrate the thinking and additional work that we have been doing around transitioning schemes, what is involved in making planning schemes, the development assessment rules and a whole package of information, including a draft of the regulation that would match with this bill knowing that that will probably change as the bill—

CHAIR: I am glad you mentioned that, because we want to tease that out just a little bit.

Mr Coutts: We are very conscious of exactly the sorts of issues you talk about. This is not a criticism of councils, but it is simply an observation. In coming up to speed with the planning system that was envisaged maybe a decade and a half ago now, many of them have struggled to

understand how the system ought to be used. I would go into a scheme and often say, 'Look, the strategic intent is fine, but you would swear that the development provisions are working against delivering that rather than working in favour of it.' Codes are set up with performance outcomes, which is what you want to achieve, and then acceptable outcomes, which is how you get that, and I have seen a number of codes with nothing in that right-hand column. So an assessment offer is saying, 'We want this, but we have not said how you get there,' and so it creates a situation of uncertainty (a) for an applicant and (b) for an assessment planner who is trying to work out whether the application does comply.

A big effort that we are putting in at the present time is to work with councils to come up with codes that are meaningful. If you want to achieve that performance outcome, do not leave somebody guessing as to a means of doing that; say it. If you cannot say you need to do precisely this and this, why are we telling them to do the bigger thing if we cannot even tell them our best view about what that ought to be? It is a big task. We have 77 councils across the state and they vary from the biggest in Australia to those that are physically large but with very small populations. That is one of the reasons we felt that that sort of straitjacket that is the Queensland planning provision currently does not really work and we need to have greater flexibility to tailor schemes to the circumstances you are talking about.

Mr CRANDON: That column that we talked about there is a guidance column as opposed to prescriptive measures; is that what you are saying?

Mr Coutts: No. The acceptable outcomes are very much 'if you comply with that, you have basically satisfied that requirement'. It is not prescriptive in the sense that that is the only way you can do it, and that is why you have a performance outcome. So most what will become merit and are currently impact assessable applications say, 'You were meant to have a wall of this length or this height or this much setback. You have not done that. But notwithstanding that, it says that the building is to do such and such. Does it still do that?' That is the sort of merit assessment that we are still looking to encourage.

It would be the case that, under a standard assessment, if you do tick the boxes against the right-hand column you really should be expecting an approval because it has satisfied all of those criteria in a very straightforward and simple way. That is really about reinforcing the fact that when councils go to produce good planning schemes with good strategic intent that is precisely a straightforward way of achieving that strategic intent, otherwise you are frustrating the achievement of that intent.

Mr HART: James, you said in your introduction there would be an emphasis on training. Just carrying on from what the member for Mount Isa had to say, how are you going to carry out that training? What is the form that that is going to take?

Mr Coutts: As I mentioned before, we have regional services offices in each of Queensland's regions, and the planning and property group is already working in close liaison with our regional services colleagues to network with councils at this stage to really receive their questions about the legislation. But as I mentioned in my preliminary remarks, we have been on the front foot with councils. We had a two-day session around how to transition schemes and we put forward ideas and asked for their reaction. We have refined that to the material that we have now released which puts forward further ideas for them to consider. We have had sessions with development assessment managers from across the state to work through the content of the decision rules that apply and the process for lodging applications and assessing them.

That training starts with an engagement with them about what will work. We cannot produce good training unless we understand the way in which they are approaching it. Many of us have a background in local government. I do. I spent a decade and a half in local government, so it is a little while ago now but my memory is still pretty fresh about the sorts of challenges. But notwithstanding that, we acknowledge that it is those that are in those local governments at the moment that are best placed to tell us what they need. Our training is being worked up on the basis of those conversations with local government of how best to engage, and it will vary. With some it is at a pretty high level because they are quite sophisticated and across this, while others will be much more hands-on.

So as I said, that package of information that we have placed on our website will be out there and will be starting to be examined, and we have a quite intensive program in the next sort of nine months or so to work with councils. That will include us going out into regions and working and hand-holding with those councils.

Mr CRANDON: Will there be a level of de-training? There has been a pretty prescriptive process they have had to go through before, so they have to sort of unlearn that.

Mr Coutts: That is a question that goes to probably the single most mentioned element of the system but the most difficult to get a handle on, and that is the notion of culture and what is now decades of a particular way to approach planning. It is probably the most difficult to do. New legislation will not change planning culture, but it can make a big difference to the way people approach it.

Yes, our fervent hope is that people will use this as a basis for pausing and reconsidering whether the way they are going about things is the right approach. Simple changes of terminology can help. As I mentioned before, SPA talks about an impact assessable application. What does that mean for many planners? I have to find the impacts of this thing—that is, what is wrong with it? So I start with a list of all the things that I do not like or I can find wrong with this. Merit assessment, on the other hand, is about saying, 'What are the merits of this proposal? What makes it worthwhile thinking about this thing?' It does not mean there are not things wrong with it, but it is the lens through which you look at this that changes your attitude about the role. There are things in this legislation that do go to the way in which we approach the system which are incredibly important for the efficiency of its operation.

Can I be very clear that this is not about ensuring any and all development happens; it is about saying that when a scheme sets out its very clear strategic intent the development provisions are about enabling that to happen easily. The conversation any council has with its community is really important and the community subscribes to, 'This is the sort of city or town we want to have in the future going forward in its strategic plan.' If the development provisions do not allow that to be easily achieved you frustrate the achievement and outcome, and things go off the rails because people try to work around that rather than work with it to achieve that. So we are very intent on making the system simple to deliver on what that strategic intent says the system wants to see occur.

CHAIR: Can I just pick up on something that you were talking about because often around that point where there is conflict we start to see the issue of third parties making appeals. Can you just tease out what are the changes to third-party appeal rights from SPA that are contained within these bills?

Mr Coutts: The most significant change is that at the present time if you are an impact assessable application it is automatically subject to notification and therefore automatically subject to potential third-party appeal rights. Under the new categories of assessment we have not linked appeal rights to any particular category of assessment, so it is not automatic that if you are a merit assessable application you will be subject to notification. There will be certain circumstances where that will occur, so there will still be access where that proposal departs from the intent of the scheme.

It is interesting in talking to a number of the larger councils about impact assessable applications. All impact assessable applications are subject to notification, as I said, and potentially appeal, but in many, many instances there are no matters about that that actually draw community concern: it is simply what the scheme categorises and people are perfectly happy with the scheme being applied. At least one large council had done an analysis and found that the overwhelming majority of submissions that were made on impact assessable applications were made on those that were a significant departure from the scheme rather than complying with the scheme in general.

The intent here is to say that where you have a merit proposal that really seeks to push the limits of what the scheme says—or perhaps break those limits—that is when the community really needs to focus because otherwise it is a case of judgement about things that are largely consistent with the scheme. So the appeal rights are still preserved for those situations where there is a significant departure from policy or the provisions of the scheme.

Mr HART: Who makes that decision?

Mr Coutts: It will ultimately be councils. We set up these categories of development, and councils then judge which matters they want to make subject to that. The act sets down some very clear bases for doing that and councils will use that, but at the end of the day it will be their decision as to whether it is a standard assessment or merit. There are transitional provisions that talk about if councils want to do no more, it is an automatic transition. So if it is currently code, it becomes standard; if it is currently impact, it becomes merit. But we are allowing councils to make the decision for themselves how they transition their schemes.

Mr HART: I see in the explanatory notes there is a clarification of the party-house situation. Can you just step me through that? There have been some recent media reports that the Gold Coast City Council is still concerned over the legislation that went through recently and that it possibly does not fix their issue. Have you had any discussions with them about making any further changes during this process?

Mr Coutts: I have not personally had any discussions, and I can follow up as a question on notice about the contact we have had with the council on that.

CHAIR: If you could take that on notice that would be appreciated.

Mr Coutts: The amendment we made to the legislation, which you have in front of you, is that the party houses were going to be carried forward as a transitional provision. We felt that it was better if it was preserved, if it was just placed back in the act. So the act now carries forward those party-house provisions. Unless and until we get a very clear indication, I think, about the sorts of issues that councils are talking about, we are probably not in a position to make a deliberate decision about how those provisions should be modified. As I said, I am not aware of any conversations. It does not mean they have not occurred; I just have not been involved in them. If a council does come up with a very clear indication about what the problem is and what a clear and sensible solution would be, then we are not in a position. But should that emerge during the time of the consideration of these, it would be a matter that could be brought to the committee for its consideration.

CHAIR: We would certainly hope that the Gold Coast City Council would make a submission to our committee if they had any concerns, considering that we have quite extensively considered the party-house issue.

Mr YOUNG: You often see a council that has a current planning scheme and you see a development that sits in what you would regard as classic infill, so it sits within that but it sits in limbo. Is there anything in this bill that is going to address the timeliness of development approvals?

Mr Coutts: One of the areas where we have invested an awful lot of time and energy has been to look at the development assessment rules—in other words, the time frames and the processes that attach to them. The revised rules—and they have been placed on our website today—do look to ensure there can be a line drawn under matters. The deemed approval provisions are still for standard assessment. If there is consideration of broader applicability then we would be happy to consider that and put it forward. But the development assessment process does things, for instance, like at the present time under the Sustainable Planning Act should you receive an approval and you are unhappy with the conditions that you have received you enter into a negotiated decision period. There is no time frame for that and it can drag on indefinitely and sometimes does.

Mr YOUNG: And that is the issue.

Mr Coutts: Yes, and so the new DA rules put a time frame on that. Bearing in mind that applicants can find themselves in the situation of being asked a question and then reconsidering, there are stop-the-clock provisions in there. But basically it says there is now a time frame. This is not a suggestion that councils are going to be dragging the process out, but they are getting the applications in all the time. If they have decided on this one and they are talking about the conditions it is very easy for them to go, 'We will worry about that some other time. Let's get on with these ones.' This is really a way of making sure that an applicant does not see that matter drag on indefinitely and can bring the matter to a head.

Mr YOUNG: In some cases I have seen right across the state it can take eight years and it is classic infill. We are not talking about a greenfield site that sits outside the current planning scheme. That frustrates a lot of developers.

CHAIR: I think an observation is that one of the growth industries in local government has been their planning departments and that has been on the back of the complexity of planning legislation, of the various regulation, planning policies et cetera. I am going to dust off my copy of the SPA bill and compare it to where this sits because if we can be stripping away those unnecessary layers of regulation and those elements such as the lack of time frames that then result in things dragging on when really we just need someone to make a decision and allow things to move forward.

Mr YOUNG: There were 224 submissions. I was part of it. I was in the Central Queensland forums. You said there were some councils that wanted to contest. What were those councils and on what grounds did they want to contest?

Mr Coutts: There were a couple of councils and it was limited to those that had questioned something as fundamental as the need for new legislation at all. If I can backtrack a little bit, this is not something that was entered into lightly. At the 2013 planning forum we did pose the questions: 'What sort of system do we want?,' and, 'Does our legislation as it stands serve that system well?' On that day we had a number of speakers give their observations from local government, industry, the legal fraternity and the planning profession. Three out of the four said, 'Look, the system isn't great, the act is not good, but the disruption of the change is perhaps not worth it.' The fourth one said, 'No, the system is not working and we need to do something more positive about it.'

We then looked at the sorts of matters that people were concerned about. These were their top issues that they had put up on boards around the wall and said, 'This is what we want to focus on.' They were plan making, development assessment, dispute resolution and planning culture. That workshop concluded that if you were to address all those things the current legislation was not going to get us there; we had to do something much more substantial. Right from that point, it has been a progressive sort of 'okay, let's think about this', to an overwhelming view that if we were to have a good system, we could not say we have got a great system where we had Australia's best planning system if what sat at the core was the current legislation. It is not good legislation. It is not clear, it is not concise and it does not address a number of the concerns that people have. So there has been a progressive move to that understanding and now broad support from industry, from local government in general and from the planning practitioners. But there will always be some local governments that will say, 'Things are fine the way they are. Why don't we leave it as it is?' Those sorts of questions were about why we need new legislation, why we can't carry on. I might add that it does not stop individuals from those councils complaining about the way the current system operates.

CHAIR: As we streamline, would you expect that the cost to local government for conducting their planning assessments and the various work that they do in-house would drop? Would we expect to see both the time that it takes for councils to do their assessments and therefore the cost that is associated and staff et cetera reduced and hopefully see a reduction in fees that Queenslanders would be paying?

Mr Coutts: The potential is certainly there for that. Councils that would seek to embrace what this act enables them to do could realise that and realise it fairly quickly. I would say that that will be very largely dependent on the willingness of them to transition their schemes in the right way and for them to take advantage of the streamlined processes. That will be their judgement. We will be doing everything we can to encourage them and putting the tools and techniques in their hands to give that effect. As the old ad says, it won't happen overnight but it will happen ultimately, I believe, if we can be very clear about those matters that are entirely consistent with the scheme, those should be able to be dealt with quite expeditiously.

We see a number of practice-leading councils across this state that have taken the opportunity to have streamlined processes such as riskSMART or 'five day' or whatever their term is. This act actually institutes an arrangement for councils to do that more readily and it also puts in there provisions where an applicant can make a point that a matter is now outdated. A good example is that there has been a development that dealt with a waterway area by piping it because it was the appropriate thing to do and the adjoining development now benefits from that but there is still a waterway overlay on their site. They say that is clearly wrong: 'The whole system is now piped. Do I need to respond to that? Do I need to make an application on the basis of that?' This act now says to a council, 'You have the discretion to issue an exemption certificate to say you don't need to lodge an application for that matter.' At the moment you go through the process, it takes however long, you pay your fee, you get your assessment for something that should never even trigger an application in the first place but the scheme is patently wrong, so this allows that for the first time.

Mr CRANDON: Going back to something that the chair brought up earlier where he asked if there were any things that you lobbed into the act that were last-minute additions that did not have consultation, was there anything taken out over time or at the last minute that was perhaps contentious or you did not have broad support for the removal of?

Mr Coutts: I am looking through my list of things we have done and most of them were points of clarification, but that does not mean there were not. Maybe it is a question on notice. We could go through it and get back to you about matters that were removed in response. I do not recall anything that I would say was hugely controversial that we took out. There might have been matters where people have said, 'Look, we are not quite sure whether that is necessary.' Dean, can you remember anything in your area?

Mr Misso: Only in relation to the Planning and Environment Court Bill. In the original consultation draft that was released in that April-May period we had a judge administrator provision. The judge administrator provision was envisaged to oversee the Planning and Environment Court. It is in line with other jurisdictions—South Australia, New South Wales—that have other specialised jurisdiction for planning and development matters. The Queensland Bar Association, the Queensland Environment Law Association and the Queensland Law Society all supported the amendment. But at the moment we have not pursued that and kept that in the bill as it currently stands.

Mr CRANDON: You have taken that out?

Mr Misso: We have taken that out. The Chief Judge, which is in one of the clauses of the Planning and Environment Court Bill, will oversee the court for those purposes. The chair did ask us to clarify those other additions that we have made. I fell short in two areas. In the Planning and Environment Court Bill there are two additions that were not part of that original submission I made. The Chief Judge of the District Court had requested the ability for us to put in a provision relating to the security of costs. Security of costs already applies in the Planning and Environment Court through the UCPR, the Uniform Civil Procedure Rules, but there are some clarity issues around language. The Uniform Civil Procedure Rules use things like 'defendant' rather than 'appellant' and so on because it deals with the criminal side of things. So we have made that addition with the necessary changes. That is in clause 58 of the Planning and Environment Court Bill.

The other addition is that we have completely rewritten the alternative dispute resolution provisions. The ADR provisions in the Planning and Environment Court rely also on part 6 of the Civil Proceedings Act which sets out things which the ADR takes into account, costs associated with the ADR and also procedural type matters. We have actually taken those provisions of the Civil Proceeding Act which are relevant for the ADR provisions in the Planning and Environment Court and brought them across to this bill to ensure that users only have to refer to one piece of legislation so that we do not create that layering effect of what applies and what conflicts with what to try to simplify and make the system more concise. They are the two additions that I have.

CHAIR: With regard to the Planning and Environment Court Bill, there are no changes in the way that this bill would award costs as it currently sits under SPA?

Mr Misso: There are two provisions or two changes. The first relates to the security of costs which is just a clarification issue for the purpose of this court. The other addition that has been made is in relation to awarding costs potentially at the court's discretion, subject to the circumstances of the case, to nonparties—so parties that were not part of the original proceeding. There have been instances where there are people outside the proceeding process, either directing a particular party in a proceeding or funding a particular party in a proceeding. We have extended the ability for the court to make an order in relation to costs for nonparties to a proceeding in that regard.

CHAIR: For the benefit of the committee can you tease that out? How would the court become aware of someone or an organisation that is not party to the proceedings to have costs awarded to them? How would that come to the attention of the court?

Mr Misso: There have been some cases, particularly in the High Court, in relation to this particular issue. There is a provision within the Planning and Environment Court that it has to have some sort of relationship or interest in relation to the proceedings. The typical examples that come up are commercial interests where there is a commercial advantage in a particular proceeding, either delaying it or other otherwise, where there may be a submitter that has put in a submission, becomes a party to that particular proceeding but there is a shop owner or another commercial entity that is actually feeding him information through that process and also potentially funding that particular party in the appeal and by de facto, I suppose, running the appeal through a particular party.

Mr Coutts: While Dean was answering I did go through this. I am surprised it slipped my attention. Possibly the reason it did was it was raised very, very early in the consultation process that we held when we released the bills and it was quite controversial and so very early on we decided to remove this particular provision. So it is some time ago and therefore slipped my attention.

The consultation draft to the bill introduced a provision where a local government would issue a notice about the impending lapsing of an approval. What the bill has done is to extend the time frames, in other words the currency period for an approval, to two, four and six for reconfiguration of lots, operational works and material change of use respectively. The original version had suggested

that in the lead-up to that lapsing time a local government would send a notice to an applicant saying, 'Your application is about to lapse.' Local government was very concerned about that for the systems that they would have to set up to operate that effectively and were also of the view, 'Well, it is an applicant driven system. If you have received an approval surely you should be the one determining whether you are going to exercise that or when it will lapse.'

So when we discussed that around the focus groups there was an acknowledgement from those who represent applicants or are applicants themselves that that was not an unreasonable view to take, that the longer periods were useful but there was a view that perhaps to compensate for that there should be some revival provisions. The reason this has become such an issue is that there have been some spectacular examples where developers who you would assume would have very, very good records have let something lapse and you have had workers forced off a site because the approval has lapsed and it has been discovered and the matter has to be resolved in court before the development can recommence. That is just silly. So there is a provision there where they can revive a lapsed approval should that, hopefully in rare circumstances, occur—rather than putting an administrative burden on councils to effectively be the conscience and watchdog for applicants.

CHAIR: We are pretty close to time so if my colleagues can think about any final questions.

Mr CRANDON: Just to confirm, you have cast your mind back to that.

Mr Coutts: I will do a more thorough examination. That is the one that stood out.

Mr CRANDON: The awarding of costs to a third party would mean a two-way street. You could actually see costs being awarded against the third party? Is that what you are suggesting? If you can pay them, the money has to come from somewhere.

CHAIR: I thought it was costs against, not costs towards.

Mr HART: We were talking costs towards, but it is against.

CHAIR: On the third party.

Mr Misso: That is correct.

CHAIR: Yes, costs against a third party.

Mr CRANDON: Costs against a third party.

Mr Misso: Yes.

Mr CRANDON: To a third party.

Mr Misso: Yes, costs against a third party. As I said, it would have to be related to the proceedings and have an interest in the proceedings in some way. Obviously it is at the discretion of the court, dependent on the circumstances of the case.

Mr CRANDON: Okay. I completely misunderstood that. I thought you were talking about being able to give them money to cover their costs. You are now saying that you could actually go after them and recover costs from them.

Mr Misso: That is how the provisions are written. It is clause 60 of the Planning and Environment Court Bill.

CHAIR: We will read that with interest. Are there other questions from any of my colleagues?

Mr HART: In the same vein as some of the earlier questions, James, you said SPA was pulled apart, unpacked and put back together the way it was. Was there one thing or two things that everybody said, 'Let's not repack'? Also, was there anything that dropped out between SPA and the Planning and Development Bill that has now dropped down into regulation?

Mr Coutts: Quite a lot has. The Queensland Planning Provisions that I referred to no longer feature in the act. I think you could say that is one where there is a reasonably universal view that that is probably a good thing. The example I use is that every single council I have ever dealt with thinks it is absolutely essential that schemes be consistent, and every single council I have ever dealt with said, 'But we would just like to change these things for ourselves.' I think it is an acknowledgement that across a state the width and breadth of Queensland with the variety they have that to get one system which works for 77 councils simply was not going to be the case. Rather than having something that the act institutes, it is saying, 'What are the core elements of the schemes where you expect to go to? It is the same definition. It is the same colour on a map.' So that would find its way into regulation.

Those are the sorts of things which I think there is now universal acclaim for. While the initial suggestions around the changes in the level of assessment and deleting some of them raise questions, I think there is now very broad support for the simplification of those. While there is the notion that you have an accepted development so you just accept that is going to happen or you are prohibited so you cannot, in the middle sits two ways of assessing things: either straightforward—that is, standard—or ones that require a bit more thought and merit. That simplifies the system and is now broadly embraced. We have deleted some elements and terminology, and that has had broad support. I could go on at length. There is quite a lot that would fit into one of those categories you are talking about, but they are two examples that I think stand out.

Mr CRANDON: You used an analogy about pulling the car apart and putting it back together. When I do stuff like that there are a couple of nuts and bolts left over and I do not know where they came from. Are you aware of whether anything has been overlooked? Has anything come to you—that realisation that something was left—

CHAIR: That is our role: to say that this little spring you left over needs to be put back in that valve.

Mr Coutts: I can honestly say that through our focus groups and our other consultation process we have left no stone unturned. Whether people agree with the decision to leave that spring or bolt out, we are very confident we have covered off on all of those.

CHAIR: We must be coming to the Christmas season, with all these metaphors being used. I thank you for your appearance before the committee today. In light of the time frame that the committee has to report on this, we will be doing our hearings slightly differently. Naturally we always have our departmental briefing first. The committee will be discussing—and we have not yet agreed to it so I will not announce it—a slightly different process, the aim being to engage as quickly as we can in recognition of the extensive consultation the department has already done. We do not feel we need to reinvent the wheel but we can engage with those groups. As a result of that, one of the things that we would be seeking from the department is the details of the submissions that you have received on this including the names and contact details of those submitters. We are not limiting it just to those. Clearly our processes are broad, but it will assist the committee greatly if we could receive that information from you.

Mr Coutts: We are absolutely happy to do that. In fact, if it would be of benefit, we have a full list of the people to whom we sent e-alerts. So that gives you an idea about the people who have been receiving it. I think about 600 organisations and individuals do that, so we can provide that as well.

CHAIR: That would be fantastic. Both in paper and electronic form would assist the committee.

Mr Coutts: We can do that.

CHAIR: Is leave granted to table that? Leave is granted. We will keep those details confidential within the committee's proceedings. I think that concludes all the elements we need with regard to the three planning bills. I will call forward the officers who will be presenting on the Ports Bill.

ALLEN, Mr Michael, Executive Director, Office of the Coordinator General, Department of State Development, Infrastructure and Planning

COKE, Ms Sue, Director, Planning and Property Group, Department of State Development, Infrastructure and Planning

NOONAN, Ms Sally, Executive Director, Planning and Property Group, Department of State Development, Infrastructure and Planning

CHAIR: I welcome the additional officers from the Department of State Development, Infrastructure and Planning for the consideration of the Ports Bill 2014. Ms Noonan, would you care to make an opening statement?

Ms Noonan: Thank you very much, Chair and members, for the opportunity to speak to the Ports Bill this morning. I thank you also on behalf of my colleagues. Apologies again from Mr Greg Chemello, who is not able to attend this morning. With the chair's permission, I will briefly outline the key components of the Ports Bill in terms of what the Ports Bill sets out to achieve. I will also briefly list any issues that may be perceived as potentially breaches of fundamental legislative principles and outline our justification for those. I will also give a very brief overview of some of the components of our consultation approach.

The Ports Bill implements the policy intent of the Queensland Ports Strategy, which was released on 5 June 2014. The Queensland Ports Strategy outlines the government's vision to drive economic growth through the efficient use and development of Queensland's long-established major port areas while protecting and managing Queensland's environmental assets. The bill, if passed, will deliver greater certainty for industry about the future development of ports. It will also provide certainty for other stakeholders regarding the government's intentions to properly manage the potential impacts of port development.

The bill will provide certainty by providing for the establishment of priority port development areas, or PPDAs, at the long-established major ports of Abbot Point, Gladstone, Hay Point, Mackay and Townsville. It is anticipated that the Port of Brisbane will also be a PPDA, consistent with the policy intent of the Queensland Ports Strategy. However, the bill does not currently include provisions that will apply to the Port of Brisbane as the various existing tenure and regulatory structures needed to be transitioned carefully as not to affect the rights or obligations under existing or past transactions.

A note is included in clause 8 of the bill which lists the potential PPDAs, or priority port development areas, identifying the existing Port of Brisbane provisions contained in the Transport Infrastructure Act 1994. They continue to apply to the Port of Brisbane. Once further negotiations have occurred and agreement has been reached between the parties, the intention is to include the Port of Brisbane in the proposed act as a potential PPDA consistent with the policy intent of the Queensland Ports Strategy.

Importantly, the bill prohibits dredging within and adjoining the Great Barrier Reef World Heritage area for the development of new or the expansion of existing port facilities outside PPDAs until the end of 2024. This prohibition addresses UNESCO's World Heritage committee recommendations regarding the conservation of the Great Barrier Reef marine World Heritage area and will ensure that the most pristine areas of the Great Barrier Reef are protected whilst still allowing for sustainable port development.

The bill also restricts any significant port development within and adjoining the Great Barrier Reef World Heritage area to within existing port limits until the end of 2022. The government will facilitate staged incremental expansion of port and terminal capacity to meet emerging demand in line with long-term plans at each PPDA. This will drive economic growth and concentrate port development to maximise efficiencies while minimising environmental impacts.

I will now outline a little bit about the master planning and guidelines approach. The bill allows for the development of master plans that will consider factors beyond traditional port boundaries including supply chain connections, environmental and community values, and surrounding land-use activities. This will allow better management of potential land-use conflicts beyond traditional port boundaries. The development of master plans and environmental management frameworks for PPDAs will manage both land and marine environmental values.

The bill provides for the development of a non-statutory priority port development area planning guideline to guide the planning of PPDAs. The draft guideline was tabled with the bill at introduction for the purpose of public consultation. The purpose of the guideline is to facilitate the

front loading into the plan-making process of state interests and Australian government interests, including requirements under the Commonwealth's Environmental Protection Biodiversity and Conservation Act 1999 or the EPBC Act. Plan making in accordance with the guideline will support streamlined assessment and approval processes for the PPDA. The bill will also reform planning for the ports that will not have a PPDA through changes to the port land use planning requirements, increasing the transparency and consistency of port planning across the state.

I now turn to streamlining. Rigorous upfront planning will position PPDA ports for streamlined assessment and approval processes. PPDA planning will consider issues beyond traditional port boundaries, as I have mentioned earlier, including supply chain connections, environmental and community values and surrounding land use activities. The plans will identify land and marine based environmental values, including the outstanding universal value of the Great Barrier Reef World Heritage area, other matters of national environmental significance, matters of state environmental significance and matters of local environmental significance. Strategies to manage direct and cumulative impacts on these values will be articulated through an environmental management framework.

The bill includes minor amendments to part 4A of the State Development and Public Works Organisation Act 1971 to allow streamlining of Commonwealth and state approval processes for ports within a PPDA once an approval bilateral agreement made under the EPBC Act has been finalised. These amendments would allow an assessment and approval of port development activities that impact on Commonwealth environmental matters to be made under Queensland legislation according to the existing high EPBC Act standards.

I will now outline the fundamental legislative principles issues that I foreshadowed earlier. Though the bill is generally consistent with fundamental legislative principles, several potential breaches have been identified and fully justified in the explanatory notes. Providing in clause 8 for a PPDA to be established on the making of a master plan rather than setting the boundary in the legislation is considered necessary to ensure full consideration can be given to factors such as trade forecasts, port user requirements and environmental values. Using the master plan to set the boundary will also ensure any required boundary changes can be made without unnecessary red-tape and bureaucratic processes.

Clauses 31 and 32 which provide for the minister to direct a planning entity to take action or for the minister to take direct urgent action to ensure an instrument is consistent with a master plan reflect the strategic importance of master plans. As the master plan sets the strategic objectives of each PPDA and ensures planning and development aligns with state interests, it is important that the minister has the power to ensure other planning instruments are consistent with it.

Clause 82 provides that an assessment manager must refer to the minister a development application made during the prohibited period for development in or on land under tidal water adjoining the Great Barrier Reef World Heritage area. The minister must decide whether the proposed development is significant port development, having regard to the purposes and principles of the bill. If the minister decides the development is significant port development, the assessment manager must refuse the development application. It is important the minister has the power to ensure development does not have a negative impact on environmentally sensitive areas.

The establishment in clause 105 of a power to make a regulation to deal with any urgent matter to facilitate the transition of port planning is considered essential to ensure the smooth transition of port planning. The power may only be used if the bill does not make sufficient provision and reflects that the activities dealt with under the bill are complex and the extent of existing rights may not be fully appreciated until the legislation commences.

I will also now briefly outline some of the consultation that has gone on prior to the making of the bill. Extensive consultation occurred on the draft Queensland port statutory—the document that informed the final strategy released on 5 June 2014—and the development of the bill. The draft strategy was released for public consultation from 17 October 2013 to 13 December 2013. The consultation process provided stakeholders with an opportunity to comment on the draft strategy through a number of mechanisms, including an online survey, written submission form and a submission via email or post.

As part of the consultation program, the department conducted engagement and community activities to raise awareness of the draft Queensland Ports Strategy and the opportunity to provide public comment. This included media releases, web pages, fact sheets and frequently asked questions, stakeholder letters, regional briefings and community information sessions that were held as part of the Great Barrier Reef strategic assessment public consultation program.

A total of 231 submissions were received throughout the consultation period. Submissions were received from a wide range of stakeholders, including the ports industry, environmental groups, the resources industry, local government, the tourism industry and individuals. The major themes emerging from the process were: strategic use of ports; environmental protection; efficiency; supply chains; and master planning.

An expert focus group was established to facilitate the development of the priority port development master planning guidelines. The group included members from the Port of Brisbane Pty Ltd, North Queensland Bulk Ports Corporation, Queensland Transport and Logistics Council, GHD, Marine Ecosystem Policy Advisors Pty Ltd, Sprott Planning & Environment Pty Ltd, the Queensland Resources Council, and the Commonwealth Department of the Environment. These members were engaged in a capacity as independent experts to provide content knowledge and to inform the development of the guidelines.

The Department of State Development, Infrastructure and Planning has begun consultation with the Port of Brisbane and will continue negotiations with the aim of a full transition to the proposed act at the completion of the negotiations. This concludes the department's opening statement. We are happy to take any questions the committee might have.

CHAIR: Thank you very much. Before I go into questions, I just want to clarify something you said. I want to make sure it is clear. I think you mentioned that the guidelines had been tabled, but in the Deputy Premier's introductory speech he indicated that he would make the guidelines available. He did not actually table them in the speech. Could you advise the committee, is it the intent to put the guidelines up on the website? How would they be made? When would we and the public be able to see them?

Ms Noonan: Thank you for the question. The guidelines actually went live yesterday after the Deputy Premier made his speech in parliament. So they are now publicly available. We have a database of over 400 stakeholders. We will also be sending them a notification that these are now available on the website. The website went live yesterday.

CHAIR: I take it that was just a copy of the guidelines that was brought forward?

Ms Noonan: Yes.

CHAIR: Would you like to table them?

Ms Noonan: Yes, please.

CHAIR: Leave is granted.

Ms Noonan: Thank you.

CHAIR: Thank you for that clarification. The bill talks about a prohibition on the dredging within the Great Barrier Reef World Heritage area until the end of 2024.

Ms Noonan: Correct.

CHAIR: But it talks about a prohibition on significant development area on land under tidal waters until the end of 2022. Is there any reason there is that two year difference? For the purposes of simplicity, could we have picked one of those two years and said that that is where we will have both applying. Is there a compelling reason why we would have a two year difference between them?

Ms Noonan: Thank you for the question. I take the opportunity to explain that this has actually been a very iterative policy development process over a period of some years, commencing in 2012 and starting with the public release of the draft Great Barrier Reef port strategy in 2012. At that time that policy document included a 10 year commitment around the prohibition on significant port development outside existing port limits for a period of 10 years. The prohibition around dredging outside the priority port development areas was made in the draft Queensland Ports Strategy which was finalised in 2014. That was also made for a period of 10 years. With the 10 year period there is some mismatch because of the commitments that were made in those policy documents—that is 10 years from the publication of those documents.

CHAIR: Appreciating that they are 10 years from when the documents were published, would you see any problems if they were standardised and we were to pick the latter of the two—2024—as a recommendation of the committee?

Ms Noonan: Thank you for the question. In a technical sense there may be some advantages in having the same date. I cannot perceive any technical issues or any problems with actually aligning those apart from the policy commitment—the understanding that had been the result of a public consultation process.

CHAIR: It might be something that we might tease out during our inquiry process and if there is no objection to it being standardised we may make a recommendation along those lines.

CHAIR: I will open to questions.

Mr BYRNE: Obviously we only got these bills yesterday. The language around one of the sections concerns me. That is the prohibition of dredging within and adjoining the Great Barrier Reef World Heritage area for the development of new or the expansion of existing port facilities outside PPDAs until the end 2024. The reverse of that—the positive side of it—is that it allows for dredging within PPDAs adjoining the Great Barrier Reef World Heritage area?

Ms Noonan: That is correct.

Mr BYRNE: The proposals that have been put forward for the Port of Gladstone and the old area that was the Port Alma area—I suppose you are familiar with that area—

Ms Noonan: Yes.

Mr BYRNE: There were at least three proposals on the table at various stages. Despite the circumstances of the industry presently, they are all still viable within the parameters of this legislation, is that correct?

Ms Noonan: There are separate port limits and there will be separate treatment. Port Alma is part of the port limit of the Port of Rockhampton

Mr BYRNE: Rolled into the Gladstone port authority?

Ms Noonan: There is actually a separate port limit around the port of Gladstone. So while the Gladstone Ports Corporation does have a relationship with Port Alma it is actually technically a separate port in that it is defined under the Transport Infrastructure Act.

Mr BYRNE: Is it in the PPDA or not?

Ms Noonan: There is a specific provision in the proposed bill that it will be treated separately in land use planning sense. The port of Rockhampton will not be part of a PPDA.

Mr BYRNE: So it is not part of the PPDA? So it is out?

Ms Noonan: But it will have an opportunity to undertake its own land use planning process consistent with the proposed bill.

Mr BYRNE: Does that mean that that is in or out? This says that the master planning is for PPDAs, basically precluding everything else that adjoins the Great Barrier Reef World Heritage area. Is the Rockhampton port, the Port Alma area, inside the intent of this legislation or not?

Ms Noonan: There are two parts and one is that it is part of an existing port limit, so there can be development within that port of Rockhampton port limit. However, in terms of the prohibition with respect to dredging, that prohibition will apply to that port limit around the port of Rockhampton as it will not be part of a PPDA.

Mr BYRNE: Thank you.

CHAIR: Just for clarity purposes, we have different port corporations that exist and within those port corporations in some cases they have only one port and in other cases it will be multiple ports.

Ms Noonan: Yes.

CHAIR: So when we talk about a PPDA we are not referring to the port corporation's responsibilities over multiple ports; it is very clearly that defined port and that that PPDA will be the boundaries of that port.

Ms Noonan: Yes; that is a very good point of clarification. The legislation is ownership neutral and it is very much around looking at those land uses and looking at those planning instruments such as the port limits, for example, rather than any ownership structure.

CHAIR: Is there anything further?

Mr YOUNG: No. I was involved in it.

CHAIR: So you are happy?

Mr YOUNG: I am happy.

CHAIR: I am glad you are happy, member for Keppel. If you are happy, we are happy. The member for Burleigh is not happy.

Mr HART: No, I am happy. With regard to clause 82 relating to significant port development, there is a prohibition until 2022 and anything that is to be built in that time needs to be referred to the minister for him to decide whether it is a significant port. How does he determine that? What sort of reference material does he need? Is there some regulation that outlines how he does that? How does that happen?

Ms Noonan: Thank you for the question because it is an issue that is worth discussing. If I could just make a first comment that is a little bit outside the question that you asked. I just wanted to clarify upfront that this has no retrospective application in terms of any development process that might be going through a current EIS or an approval process, so there is no retrospectivity to a number of port developments that might already be on the table. I just wanted to make that point clear. In terms of the issue around significant—and it is a difficult one to identify—there is guidance that is provided by the Commonwealth government in terms of significant impact guidelines under the Environment Protection and Biodiversity Conservation Act. That is quite a lengthy document that gives particular guidance as to what may be the nature of a development that is significant in the sense that it could provide such an impact that it requires a particular level of assessment under the Environment Protection and Biodiversity Conservation Act. Also, the use of significant is something that has been referred to in the Queensland offsets legislation that is currently being considered and there are significant residual impact guidelines that are currently under development and consideration by the Department of State Development, Infrastructure and Planning with the Department of Environment and Heritage Protection. That is another source of guidance in terms of the definition of 'significant'. Traditionally, under the State Development and Public Works Organisation Act there had formerly been a definition of 'significant' which was around a project that required an EIS process. That definition of the legislation is now changed to talk about a coordinated project, but it is really a project of that scale where there is seen to be a potential environmental impact that is of a level of concern that requires a particular level of assessment.

Mr HART: You said before that anything that is underway now is exempt. Do you know how many proposals are underway now and where they are?

Ms Noonan: There are a couple of projects and they are in different states and I could not speak to them authoritatively because there are projects that have been referred to the state government under the State Development and Public Works Organisation Act. There have also been some projects that have been referred to the Commonwealth government under the Environment Protection and Biodiversity Conservation Act that are port projects or of a port nature. The process of considering those projects differs between the state and the Commonwealth. There are, for example, projects that may have a particular status under one piece of legislation but not the same status under the Commonwealth legislation for example. So it is very difficult for me to speak authoritatively about projects that would have an outstanding Commonwealth approval process, but there are some, for example, that we do mention in the Ports Strategy. Around Cairns, for example, is a project which is Trinity Inlet that has commenced an EIS process, so that would not be affected by this proposed legislation.

CHAIR: I just want to pick up on that. Was there any consideration to retrospectivity with regard to this legislation in light of those existing processes and acknowledging that they are at different points in the process? During the development of this bill was there any consideration to including some retrospectivity provisions?

Ms Noonan: There was certainly consideration of retrospectivity and the potential impacts in the development of the Ports Strategy and I think members will find that the bill is very faithful to the Ports Strategy. We did seek internal and external legal advice on that issue and we came to the conclusion that it would be, in terms of fairness with respect to project proponents that had invested significant funds in those environmental assessment processes, unfair and it would not be an act of good faith to have a piece of legislation that made a retrospective decision around something that industry had entered into in good faith. Notwithstanding the issue around retrospectivity or not, with regard to the rigorous processes for assessment that the Coordinator-General's office undertakes as well as the Department of Environment and Heritage Protection and also the Commonwealth Department of the Environment, those processes are still in place.

CHAIR: I want to pick up on a couple of things there, and we went through this with the Planning officers earlier. As you consulted and through your Ports Strategy is there anything different—and I note your answer to the previous question where you said that this bill was faithful to the consultation—or any elements that are new that as a result of perhaps some last-minute

things that came forward you were not able to consult on? I think the member for Coomera picked up a good point—that is, is there anything that also dropped out that was discussed quite widely, expected to be there and at the last minute had been removed?

Ms Noonan: If you permit I might try to roll that into one answer. In terms of the two issues that are the most significant with respect to the difference between the Ports Strategy and the legislation, one is the issue that I outlined in my opening comments around the Port of Brisbane. The Port of Brisbane is outlined or flagged in the Ports Strategy very squarely as a potential future priority port development area. We found that, because of the very legal contractual relationship that the state had developed with the Port of Brisbane as a result of the current lease arrangement, it was quite difficult to make a transition of the Port of Brisbane without lengthy consultation and engagement over what would be quite a protracted period with the Port of Brisbane. So the Port of Brisbane does not appear in that clause 8 listing of the future priority port development areas. However, there is that note about the Port of Brisbane and the current provisions being in TIA. We have had a very strong and close relationship with the Port of Brisbane over the last 2½ years through the work that we have undertaken leading up to this. The Port of Brisbane has been very supportive of this work, is very supportive of the concept of becoming a priority port development area and is very supportive of the concept of planning that considers impacts beyond port boundaries, including along the supply chain. We have actively commenced negotiations with the CEO of the Port of Brisbane and others in the Port of Brisbane to make that transition, so we are confident that should the bill progress to an act quite soon after we would be able to put forward or the minister would be able to propose some amendments to include the Port of Brisbane.

The other of the two significant issues is that we do talk in the Ports Strategy around the priority port development master planning guideline being a statutory document, and that is something that we considered very extensively in the process of developing the bill. What we found through the consultation process that we had undertaken and also through our consultation across government agencies was that it made sense to have elements of that master planning guideline included in the bill in a statutory sense—for example, the public consultation requirement of 20 days, which is in the bill—but in terms of the elements of the master planning guideline itself it made sense for that to be nonstatutory in the sense that the circumstances from port to port will vary greatly and that, rather than mandate that particular ports consider particular features that may or may not be relevant, there be some opportunity for flexibility on that case-by-case basis while maintaining that minimum statutory requirement as per the proposed legislation.

CHAIR: For clarification, those guidelines on a case-by-case basis will now sit where—within regulation or within policy?

Ms Noonan: I might defer to Sue on that one.

Ms Coke: In terms of those guidelines, the bill just provides that the minister may make the guidelines and then he has to publish them. The guidelines will be policy. They will not be statutory, so it is not intended to be a prescriptive approach to doing your planning. So if you have a different way of doing it and you have not followed the guidelines but you meet the standards of the bill, then that is still acceptable.

CHAIR: Okay, and when we say 'published' you mean on the departmental website?

Ms Coke: Yes.

CHAIR: Excellent.

Mr BYRNE: I refer to this section that talks about a prohibition of significant development on land under tidal waters between the Queensland coast and the low-water mark and the boundary of the Great Barrier Reef until the end of 2022. That does not reference priority port development areas or otherwise; that is simply a complete statement. Hypothetically, although real in some respects, the idea is to, say, build a new channel for a port expansion and at the end of the process the spoil is to be disposed of onshore or for land reclamation purposes. Most of the examples of that that I have seen firsthand involve that inner tidal zone. So within a PPDA is any of this likely to inhibit or have the potential to inhibit onshore disposal of dredge spoil within port development areas?

Ms Noonan: No. The issue around port limits is strictly in the context of the maritime limits. With respect to the opportunity, which is a preference of the policy as well, for there to be an onshore disposal of dredge material where that can be safely and economically undertaken, there is no restriction in the legislation with respect to that. The section that you reference is really around

respecting existing port limits as they appear or have been made via regulation in the Transport Infrastructure Act and to limit the creation of new port limits or activities outside of those existing port limits.

CHAIR: In the explanatory notes you provide I think at pages 6 and 7 consistency with legislation of other jurisdictions—that is, how this compares. Whilst it is obviously a very brief table there, can you just give us in your words how this is comparable to these other pieces of legislation? I note only Victoria and Western Australia have some planning requirements, port development strategies and strategic development plans. How does this bill compare to those and what lessons have we drawn from other jurisdictions and how have we improved upon that?

Ms Noonan: I am able to make some overarching comments and then I will refer to my colleague Ms Sue Coke to provide a little bit more detail. The comments I want to make are really around we have had a very strong engagement with Ports Australia at a national level. We have also had a very strong engagement with the Commonwealth Department of the Environment as I have outlined, the Great Barrier Reef Marine Park Authority and a range of different ports at the CEO level, including through the Queensland Ports Association.

I am quite confident in saying that, what we are proposing from a planning perspective with the Ports Bill and the priority port development area master planning guidelines, is groundbreaking work. There is very little opportunity to draw precedent from other jurisdictions nationally—or even internationally, for that matter. There was a presentation on our ports strategy and the work that we are undertaking with respect to master planning guidelines at a recent national conference in Western Australia on ports that was run by Ports Australia. At that conference, I understand that the Western Australian minister for transport expressed his enthusiasm for what Queensland was undertaking and has engaged some Queensland based consultants to really look at what we are doing and to learn from it. So there has not been a very strong precedent nationally. We believe that we are undertaking something that is quite groundbreaking.

Having said that, we have, as I said, been strongly informed and have a very strong relationship with Ports Australia. We have also learned from the work of Infrastructure Australia around its recommendations with respect to the ability of infrastructure, including ports in particular, at a national level to benefit from a more sophisticated approach with respect to planning and master planning. I will, with your permission, refer to my colleague who can provide some more specific detail.

Ms Coke: Just to mention, I think probably the biggest difference with other jurisdictions is that the Ports Bill requires that the responsibility for preparation and the making of these plans rests with the minister who will be responsible for administering the act if it is passed, whereas in other jurisdictions that responsibility rests with the port authorities. Under the current system, the ports prepare land use plans and these are approved by the state government. In this instance, the state government is taking an active interest in it and it is a proactive approach to port planning.

Another thing that is probably important to mention is that, at the moment, ports can plan only in relation to land to which they have some form of tenure. So they have to own it or have some sort of licence in relation to that land. This legislation is tenure blind. That is why the responsibility rests with the state government, because it is about protecting state interests. Ports are state interests. So it is trying to achieve a much more coordinated approach to planning so that you have planning for a port, which might include other planning schemes, and that can then coordinate the planning and get a consistent approach to planning for those areas. That is particularly important for the supply chain connections. That is really derived from the work of Ports Australia on leading practice master planning guidelines.

CHAIR: Excellent.

Mr HART: Given what you have just said about the PPDA not just being the land that the ports own, how then is it determined where the boundaries of the PPDA are? How will they be shown? Will it be a map or something like that?

Ms Coke: The bill requires that the boundaries be set through the plan-making process. The importance of it is that it is going to be an evidence based process. You look at your trade forecasts and your supply and demand. There will be a whole lot of factors that you have to consider and then that will inform the boundary of the priority port development.

Mr HART: So they could be greatly reduced or greatly increased from where they presently stand?

Ms Coke: The ports that have been nominated are major commodity ports in Queensland. So it would be very unlikely that the area would be reduced.

Mr HART: So they take in a swathe of ocean and water around it and land. I think one of the previous bills that we looked at was looking at Gladstone port and if they bought more land—

CHAIR: That was the strategic development area and the challenges they had.

Mr HART: How can these things change over time? Is it a regulation that goes back to the minister and they change?

Ms Coke: The way it changes over time is that there is a requirement for the plans to be reviewed every 10 years.

Mr HART: So no changes inside 10 years?

Ms Coke: That does not prevent a change within. So if you have some major paradigm shift in a port area, then there is no limit on when you can review it, but there is a statutory requirement for every 10 years.

CHAIR: A requirement. So if it has not been reviewed beforehand, it must be reviewed within 10 years.

Ms Coke: You must review it, yes.

CHAIR: Okay. No further questions? Can I thank you for your appearance before the committee today. In allowing for the time frames that the committee is working within, much of our consultation will be done in conjunction with the planning bill. As we travel to visit regional areas we are going to try to visit the various port corporations. We may or may not be able to get site visits to those ports, but it is important that we talk to those organisations. What I would ask for the committee's benefit is, through your consultation process on the port strategy, if you could make available to the committee any of the submissions or any feedback that you have received and the contact details for those people. That will assist us in streamlining so that we can engage with them as well as the broader public in our inquiry process.

Ms Noonan: Thank you, chair. We have a summary of consultation report that I propose may be useful for the committee. We may not be able to provide all the contact details of those who have made submissions, because not everybody provided us with permission to forward those contact details. But we could certainly provide you with a list of the organisations that we have dealt with and particularly the very thorough consultation that we have had with the port authorities and organisations.

CHAIR: A summary of submissions would be great. Those contact details, where permission has been granted to forward it, and any other information that you feel would assist the committee into its inquiry process we would appreciate. Thank you for that.

The time allocated for this briefing has now expired. And there being no further questions, I close the briefing. I remind all participants that the committee would appreciate any answers to questions taken on notice to be provided by the close of business on Monday, 1 December. I thank everyone for their attendance at today's briefing. As always, the committee has gathered valuable information that will assist its inquiries into the Planning and Development Bill 2014, the Planning and Development (Consequential) and Other Legislation Amendment Bill 2014, the Planning and Environment Court Bill 2014 and the Ports Bill 2014. I declare the briefing closed.

Committee adjourned at 10.37 am