STATE DEVELOPMENT, INFRASTRUCTURE AND INDUSTRY COMMITTEE

Members present:

Mr DF Gibson MP (Chair)
Mr MJ Hart MP
Mr SA Holswich MP
Mr R Katter MP
Ms KN Millard MP
Hon. TS Mulherin 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 HEARING—INQUIRY INTO THE REGIONAL PLANNING INTERESTS BILL 2013

TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, 12 FEBRUARY 2014

Brisbane

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Committee met at 8.36 am

CHAIR: Good morning, everyone. I declare open the public hearing for the committee's inquiry into the Regional Planning Interests Bill 2013. I thank you all for your attendance here today. I would like to introduce the members the State Development, Infrastructure and Industry Committee. I am David Gibson, the member for Gympie and chair of the committee. The other members that we have here today are: Mr Tim Mulherin, the deputy chair and member for Mackay; Mr Michael Hart, the member for Burleigh; Mr Seth Holswich, the member for Pine Rivers; Ms Kerry Millard, the member for Sandgate; and Mr Bruce Young, the member for Keppel. We will be joined by Mr Robert Katter, the member for Mount Isa.

This is the committee's second public hearing to inform its examination of the Regional Planning Interests Bill 2013. The Parliament of Queensland Act 2001 requires the committee to examine the bill to consider the policy effect to be given by the bill and the application of fundamental legislative principles. Today's hearing is being broadcast live by the Parliamentary Services website. A transcript of today's hearing will be made by the parliamentary reporters and published on the committee's website. Copies of the program for today are available from the secretariat staff and the hearing will conclude at 1.15 pm. Before we commence, I ask that mobile phones be switched off or placed on silent mode. For the benefit fit of Hansard, I ask that all witnesses clearly state their names and positions when they first speak, and to speak clearly into the microphones.

This hearing is a formal committee procedure. The guide for appearing as a witness before committee has been provided to all those appearing today. The committee will also observe schedule 3 of the standing orders of the Queensland Parliament. I now welcome representatives from the Cape York Land Council and ask them to come forward.

STINTON, Ms Marita, Senior Legal Officer, Cape York Land Council

Ms Stinton: Thank you. I am Marita Stinton. I am a senior legal officer with the Cape York Land Council. Thank you for inviting the Land Council to appear this morning.

CHAIR: Thank you for being here. We thought we might have had to do this by video conference, but we appreciate you being available. Would you like to make an opening statement?

Ms Stinton: Yes, thank you. The Land Council has made submissions to the committee dated 17 January 2014. As set out in the submissions, the Land Council generally supports the intent of the bill and that is on the basis that we support management of development in Cape York. Certainly we are hoping to see in place in the not-too-distant future a well-developed plan for Cape York that identifies all of the values in the land concerned and that involves local Aboriginal people in the decision-making process. The Land Council has been involved in the process for the development of the Cape York Regional Plan and that is obviously highly relevant to this particular process as well.

Our submissions do set out a number of suggestions for some areas where we believe that improvements could be made. I do not intend to go through those in any detail this morning. Obviously, they are set out in the submissions. But I think that there are two key matters that essentially form the basis for the suggestions that we have made. The first of those is that there have been a number of Queensland government processes over the past couple of years to which the Cape York Land Council and associated Cape York organisations have made submissions. One of our continuing themes is that we see a very strong need for those processes to be coordinated and integrated. We think that that is something that is critical if any of these processes are going to actually work on the ground. Just as an example—and again this is noted in our submissions—we would certainly suggest that the committee should be liaising closely with the Department of State Development, Infrastructure and Planning which is preparing the Cape York Regional Plan.

The second key aspect, I guess, that forms the basis for the submissions that we have made is that we believe that the bill must ensure that Aboriginal native title and land-holding interests are recognised and incorporated into the processes. We take that position on the basis that we see

Aboriginal interest holders in Cape York as not just being another stakeholder in the area, but as being the most significant land and interest holders for the Cape York region. They already hold a very large proportion of land across Cape York and there are certainly significant additional areas that are currently in the process of being transferred. We stress the need for proper engagement with those traditional owner groups in order to understand what their issues are and what their values are.

We have noted that a submission made by AIATSIS to this committee about this bill proposes the option of an additional area of regional interest for significant Aboriginal or Torres Strait Islander areas. We certainly think that that would be something worth exploring, but at the very least we have submitted that the bill should include regionally significant cultural heritage values along with the other values listed. That does seem to be something that has not been included at present.

We also submit that the processes and the provisions contained in the bill should include native title bodies and Aboriginal organisations. For example, we think that those two entities should be incorporated as parties who are able to appeal decisions on assessment applications.

Lastly, we think that it is obviously necessary that, in order for these processes to work and for Indigenous people to be able to have the involvement that they should have, they are provided with sufficient capacity and support to enable them to properly participate in the processes. It is all very well to say, yes, there is provision for you to appeal, but if they do not have the ability to actually be involved in those processes then, again, it is not going to work. That is probably all I wanted to say as part of an opening statement. Obviously, there is a level of further detail contained in the submissions.

CHAIR: Thank you very much, Ms Stinton. I would like to pick up on something that you have alluded to in your submission and reiterated then. Recognising the point that the most significant stakeholders in the Cape York area are the Indigenous people, there are concerns about the clauses relating to appeals. You have alluded to having the traditional owners, the native title registered bodies, having that ability to appeal. Would you expand on that for the benefit of the committee, because we have certainly been looking at the appeal processes that are contained within the bill?

Ms Stinton: Okay. At the moment, our understanding is that there are provisions that restrict the parties who are able to appeal a decision made about an assessment application. I do not have with me all of the detail of the way that the process is intended to work but, as I understand it, it is limited to parties who are directly involved in that assessment process which, for various reasons, may not directly involve a prescribed body corporate, so a native-title holding entity or an Indigenous corporation that may have tenure interests in land. Our proposal is that there should be provision included so that it is clear that those entities have standing to actually lodge an appeal if they have issues with a decision that has been made.

CHAIR: Just so I can clarify, looking at clauses 68 and 69 where they talk about a landowner, whilst that would impact for those who are the traditional landowners, it may not impact on—

Ms Stinton: No, that is right.

CHAIR:—the peak bodies that—

Ms Stinton: That is correct. For example, you could have a prescribed body corporate that represents native title holders who have nonexclusive native title and they will not have any particular tenure interest that would bring them into that definition of an affected landholder, and so we are saying they clearly do have interests and we think that those definitions should be amended to make that clear.

Mr YOUNG: Can I just have that sentence again? I just missed the first bit of it. Could you say that again, please?

Ms Stinton: Yes. There may be some doubt about whether a prescribed body corporate which represents native title holders who hold nonexclusive native title rights and interests is an affected landholder. We think they are probably not within the current definitions, and we think that the definition should be amended to make it clear that an Indigenous entity, whether it is a native title body, or a landholding body, or whatever the case may be, should fall within those particular definitions.

Mr MULHERIN: In your submission, how important is the proposed amendment to clause 68? I refer to point 6 of your submission, to have a registered native title representative as a standing party who may appeal an assessment application decision.

Ms Stinton: I guess that probably is associated with what we have just been talking about. But I think what we have specified in our submissions is a prescribed body corporate or a registered native title representative body, and the reason that we have made that distinction is that there will certainly be for a period of time areas of Cape York where there is no prescribed body corporate but where native title holders—sorry. There are certainly groups which assert the existence of native title rights and interests, and so in those circumstances we have suggested that a registered native title body, which is essentially Cape York Land Council for Cape York, should again be able to take steps on behalf of affected native title groups.

Mr MULHERIN: Just to follow on from that, what level of resourcing would you recommend for land trusts, registered native title bodies or other Aboriginal landholding entities to allow meaningful participation in appealing a decision to a regional interest authority?

Ms Stinton: Yes, that is one of the questions. I guess I am not sure that I can give you a dollar figure or a specific answer on it. It is certainly something that we struggle with, and I am sure it is unlikely through this particular process that we are going to end up in a situation where we have resolved that particular issue, but it is clearly something that is critical. Most of the organisations that are established in Cape York do not have their own sources of income. There will certainly be some groups who have some mining activity in their area who have income streams and who are able to use that source of funding to participate in other processes, but the reality is that for most of our groups that is not the case, and often they are reliant on assistance from Cape York Land Council or limited funding provided by the Commonwealth government, and then there are, of course, a myriad of programs that the state government is involved in that may provide opportunities for people to pursue matters of interest. For this particular process it is difficult to know. We would love to say that if there were groups who had issues with what was happening and who wanted to appeal a decision, that there would be funding and resources made available for them to do that. That is the aim.

CHAIR: Just for clarification, are there any other native title registered applicants? You mentioned the Cape York Land Council. Excuse my ignorance in this matter, but is there an overlay? Is there any dispute? Would there be other bodies under that definition that could potentially also be seeking appeal rights?

Ms Stinton: The way that the native title system works in Queensland, there are four what are call native title representative bodies, and each of those four organisations have distinct boundaries. We work with each other, but there is no particular overlap. Then each of those organisations then represents or acts in the interests of the groups that lie within their particular representative body's area. Certainly some of those groups will have overlaps across a couple of representative bodies' boundaries, and there are arrangements in place as to how those sorts of situations would work.

Mr HART: Are we just talking about funding? Is that what we are talking about? Or is there an education process required, or is it better for a peak body to be doing this or an individual landowner, for instance, to be educated and be provided with facilities to appeal these sorts of decisions?

Ms Stinton: I think it is certainly the ultimate aim that individual organisations are able to take steps in their own interests as any other landowner or interest holder should be able to do. I think the reality is that it is going to be some time before the organisations in Cape York are going to be in that position, and so I think that certainly for an interim period of time there is probably a need for some sort of peak body or representative body, or whatever you want to call it, to assist organisations when they want to take action to do that. Certainly for Cape York at the moment Cape York Land Council has a primarily native title related function and there are other organisations that we work with, so that hopefully someone is able to step in and provide assistance. Certainly for Cape York Land Council our funding is very tightly constrained in terms of what we are able to do with it. Again it is aimed at getting native title outcomes. So it is quite possible that a process that arises under this particular regime may not have a direct native title element to it, and that would mean that the land council would have difficulty using our funding and resources and would need to look for some other way for these groups to take action.

Mr HART: Are you saying that it would be specifically excluded for you to use those funds or—

Ms Stinton: No, it would not specifically exclude us from taking action, but it just might mean that our ability to help is quite limited without some other source of funding.

Mr HART: Would you say that this sort of concept would need to be expanded to other interest groups?

Ms Stinton: Possibly. I am not sure.

CHAIR: The committee has received some views from other submitters with regards to which court should hear the matter, whether it would be the Planning and Environment Court as proposed in the bill; some have expressed the view that it should be the Land Court. From the Cape York perspective, would you see the Land Court or the Planning and Environment Court being better suited to consider the appeal rights contained within the bill?

Ms Stinton: I am not sure that that is an issue that we have really given any particular consideration to. It is certainly something that we could have a look at and come back to you on.

CHAIR: We have heard from other submitters and the views have been fairly balanced, I guess; arguments have been put forward one way or the other. The final question I have is we just want to tease out again on the issue of looking at regionally significant areas of cultural heritage. Would you care to expand upon that for the committee?

Ms Stinton: Yes. There have been a number of processes relating to the Aboriginal Cultural Heritage Act over a number of years. As things stand at the moment, the land council's view is that that act is not adequate to fully protect Indigenous cultural interests. But having said that, certainly we believe that when there are other pieces of legislation being developed, that the issue of cultural heritage is something that needs to be taken into account and, as we have indicated in our submissions, we believe that it is such a significant issue that it should have specific coverage in the bill and the bill should provide for the protection of areas that have been identified as regionally significant cultural heritage. I think the particular example that we have given there is one that lots of people are certainly aware of. The Cape York Quinkan rock art area could, for example, be identified as a significant cultural heritage area so that it has a particular level of protection under this legislation.

CHAIR: Your concern is that the existing legislation that we have does not provide enough protection?

Ms Stinton: That is right, and there are a range of reasons why we say that. One example just off the top of my head is that at present there are limits on what action, if any, can be taken for areas of cultural significance that are located on freehold land. So that would be just one example of why building in areas with particular protection under this legislation would be an improvement.

Mr HART: Just expanding on that a little bit, would the designation of a cultural heritage site be then listed in direct regional plans, do you think?

Ms Stinton: Yes, certainly we would be looking to see the plans incorporate the cultural heritage areas.

CHAIR: Is there a challenge there? Because the plans are statutory documents and they have a life and perhaps are not updated as frequently as the need may arise, do you feel that that may be a bit clumsy in being able to reflect those areas if it is only done within the regional plan?

Ms Stinton: I think we would like to see the incorporation of those sorts of areas across a broader range of processes and regimes, and you may be right that there needs to be some way to ensure that areas are expanded or adjusted, or whatever the case may be. But again I think that we would see this certainly as an opportunity to improve the current position.

CHAIR: Point taken. Thank you very much. We really do appreciate it. Please pass on our thanks as well to the Cape York Land Council for their submission. It has been of value to the committee in its deliberations.

HANNAN, Mr Luke, Manager—Advocacy, Local Government Association of Queensland

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

CHAIR: Gentlemen, lovely to see you here. Would you care to make an opening statement?

Mr Hoffman: Thank you, Mr Chairman. It is a pleasure to be here before you and your colleagues again. The Local Government Association of Queensland welcomes the introduction of the Regional Planning Interests Bill 2013 and we appreciate the opportunity to address the committee today.

The LGAQ is supportive of this proposed legislation and understands the bill provides the ability to manage the impacts of resource activities and regulated activities in areas of regional interest and will require resource activities authorised under the resources act and other regulated activities to align with the regional land use policies of the regional plans as well as other areas of regional interest that are prescribed in the bill.

The LGAQ is strongly supportive of the ability of local governments to assess regulated activities when proposed in priority living areas. This is inclusive of the ability to condition and prohibit such activities. In making this point I add, though, that local governments in resource sector impacted areas are, by and large, supporters of, and wish to enable, ongoing resource sector development provided, though, there is a reasonable balance between the interests of the proponents and their communities. This bill rightfully empowers communities, through their councils, to approve or not resource activities where people live or where urban development is planned.

Since making our submission, representatives of the LGAQ have been able to meet with departmental officers and obtain responses to the submissions and requests for clarification. The LGAQ would like to highlight our appreciation of these departmental efforts. Through these discussions, the important role of local government in the new generation regional plans drafting process, particularly in refining and localising regional interest area boundaries, has been reaffirmed. It is also clear that, should a dispute occur regarding a decision made in a priority living area, it is understood the chief executive may apply to the court to withdraw from the appeal if the appeal is limited to an assessing agency's response—in other words, the council's decision. In leaving the council as the sole respondent, this highlights the importance of the supporting regulation and priority living area assessment criteria, which will provide the basis for the council's decision and may subsequently be used in possible appeal processes. I note that the department is currently seeking comments from the LGAQ on these draft criteria and also has circulated them to relevant stakeholders including councils in the respective Darling Downs and Central Queensland regions. The LGAQ would like to further express a strong interest in participating in the continuing engagement process as the regulation and criteria are developed. It is these documents that will ultimately determine the successful implementation of the bill.

On a final point in response to questions asked of the last presenter, local government would support any appeals matters being heard before the Planning and Environment Court. We believe it to be the appropriate jurisdiction. It is an expert in resolving land use dispute matters and therefore we make that point. Thank you very much.

CHAIR: Thank you and thank you for your pre-emptive answer to a question that we may or may not have asked you. Greg, can I start by teasing something out that we have heard from other submitters. It is with regard to clause 50 within the bill, and that is the one that you have made reference to in your opening statement where local government can make a decision that the chief executive must give effect to any recommendations. There have been some concerns raised about that. Would you share with us the LGAQ's views on that process as it is contained within the bill?

Mr Hoffman: Quite obviously we support that. It goes to the heart of the point I made about the importance of issues of direct impact on local communities and living areas and their being paramount in achieving the objectives of this particular bill. It is created for the means to enable a balanced approach to be achieved, for related matters to be fully considered and to be adjudicated where needs be. This, as I have indicated before, does provide for communities the right to have direct impacts on them considered and determined by their representatives, their community, their council. On that basis, it is in our view totally appropriate for the chief executive to have to implement those determinations of council; otherwise the purpose of the bill, the importance of local communities, is not recognised.

Mr MULHERIN: Would local government need more resources if they were to act as the regional interest authority or assessing agency, particularly the remote councils?

Mr Hoffman: Potentially, but it depends on the volume in effect or the number of instances in which this might occur. There is no doubt that in the past several years the impact on councils of the considerations of matters coming before them in terms of EIS related and social impact assessments have in many instances been extreme, excessive, heavy demands. We are working with councils to find ways of assisting them where that assistance is needed. This I would perceive as being part of their planning related responsibilities. Whether it is with their own resource or external resource really would be a matter of the extent to which the matters come before them. It is a little difficult in the first instance to say what that might be. We would have to wait and see. I am sure though if it were a significant burden on many of the smaller regional or remote councils they would put their hand up and seek help.

Mr YOUNG: For those smaller councils it would have been assumed that you as the peak body and also the department would work with them.

Mr Hoffman: Precisely. The point I made before is that we are now discussing through our resource communities reference group, which consists of a number of mayors from resource impacted councils, the issues around not only legislative and related impacts but also the resourcing impacts of dealing with the load that comes with engaging. They do wish to engage. They do need to engage, and we are discussing with them how that support might be developed.

Mr HOLSWICH: You talked about the PLA assessment criteria currently being developed and the consultation that is happening there. For the benefit of the committee, what are your key issues that you want to see addressed in those?

Mr Hoffman: I might defer to my colleague. He might be able to offer some specific issues there.

Mr Hannan: We are still seeking feedback. It is early, so we do not have any identified issues at this stage. However, it is primarily based on the matter that it must be clear and decisive for councils to make a decision. Where there is subjectivity it may lead to disputations or increased disputations. So the issue of subjectivity is one we are looking for and making sure that councils can have confidence in their decision making, whether or not it is to approve or refuse or to set those conditions as well.

Mr Hoffman: As identified in our submission, we were seeking clarification around the definitions of 'strategic environmental areas' and those other aspects that may be prescribed. Certainly the devil is in the detail. As an example, that is what the conversation we are starting to have with the department involves. But certainly seeking to get clarity around those matters is fundamental. As I said, the success of the bill is inherently linked to those matters which are not of themselves directly of your involvement as regulations. But I think it is recognised that the devil is in the detail usually, and that is a significant part of the work yet to be done.

CHAIR: Just to clarify, you are having those discussions now with the department with regard to what will be—

Mr Hoffman: Just commenced, yes.

Mr HART: Greg, we have heard in some of the submissions that have been given to the committee that there is the availability of exemptions for priority agricultural areas for pre-existing resource activities in priority agricultural areas but there does not appear to be any exemptions for pre-existing resource activities in priority living areas. Is that a concern to local government authority?

Mr Hoffman: It has certainly not been a matter that has been raised with us.

Mr HART: As far as gas lines or oil lines passing through a town are concerned.

Mr Hoffman: If they are longstanding and have been there, there is not an issue in it of itself unless people are still concerned about hazardous situations or if further development was proposed in, on or in relation to that infrastructure. Then it might become an issue. In terms of those that are there at the moment, we are not aware that there is a strong push for any exceptional consideration in relation to them.

CHAIR: I just want to tease out from you what you mean when you talk about 'scenic amenity'. Would you care to explain what that might mean?

Mr Hoffman: This is an issue that has been raised with us by councils in the south-east corner. We can recall concerns that have been expressed by residents in this part of the state about impacts on them. It is also raised in other parts of our submission around areas that might be

identified as iconic tourist infrastructure or areas and, in that, scenic amenity or vista is relevant to the consideration. That is why this question has been raised. One of the points obtained in clarification is that, whilst that is a consideration, how that might be dealt with is certainly not yet clear and would find its way into regulation or guidance. It is a matter that we will raise in those discussions.

CHAIR: I imagine it would be something difficult to define.

Mr Hoffman: Yes. There is the subjectivity that Luke mentioned before as to how you value scenic amenity as such and the significance of it to a particular area. If a particular area's current significant economic activity is built on such things, then you potentially have a clash of interests that are both economic in effect but for quite significantly different outcomes.

CHAIR: Finally, if I can, we have been interested in views with regard to the appeals process. We have heard that the criteria for appealing is in the view of some submitters too narrow and in the view of others too broad. What are the LGAQ's views on what is contained in the bill for someone to be able to make an appeal?

Mr Hoffman: It has certainly not been an issue that has been raised with us, so I cannot give you a specific answer. I do not know whether Luke has anything to add.

Mr Hannan: No.

Mr HART: Just going back to that 'scenic amenity' consideration, I am from Burleigh on the Gold Coast and I am just wondering how the LGAQ feels about scenic amenity applying to resource areas but it does not apply to things like quarries. So in terms of scenic amenity and quarries, how do those two things mix in as far as you are concerned?

Mr Hoffman: I understand the basis to your question. Quarrying is of itself a resource extraction and does pose significant issues in terms of impact on landscape as well as transportation issues. I think that issue has its management processes contained within the relevant planning legislation that control them. That is a pre-existing arrangement. This process is around a more recent issue of conflict that is likely to or potentially can occur, as the legislation recognises, in people's backyards.

Mr KATTER: You touched on something before that I think is important to raise. I have had some experience in council specifically with mining approvals. There is a phosphate mine in Mount Isa. There always seems to be a wealth of information that comes to councils when they make these decisions—and we are talking about the council's involvement in this process. There is a wealth of information about environmental impacts and scenic amenity, but there is often an absence of information about the economic impact—what benefits there are from mining and development. I know that that information is available through QRC and the like. It is the same with town planning matters for that matter. You get a wealth of town planning information and advice from town-planners but there is often not an economic development officer saying, 'Also consider this, councils, when you are advocating this stuff, that these are the positive impacts.' I just put that out there. Does the LGAQ have a role to play to make sure that there is a balance of information being offered to councillors? They will always naturally be an advocate for those people who, I feel, are screaming about where you are destroying a lifestyle impact. But we need to be assured that if they are going to have such a strong role to play in this planning bill they have a good balance of advice.

Mr Hoffman: The point I made earlier is that in our assessment—and this comes from quite open statements from mayors and others in the directly resourced impacted council areas—they are supportive. They understand the benefits of resource development and are not of a mind to want to prevent it point-blank but do want to see an appropriate balance in the considerations that are relevant to the impacts on communities. There is no doubt in my mind that the majority of councils would want to find a way to support development subject to appropriate conditions. In those circumstances where impacts would be direct—extreme—then they would rightfully express the opinion in the interests of the community as a whole. I do believe that the majority of resource impacted councils bring a balanced approach to their assessment of these matters.

Mr KATTER: I do not mean to labour it too much. I understand what you are saying. I probably draw on my own personal experience. I will talk about the phosphate mine and the fertiliser plant in Mount Isa. There is a lot of information easily accessible to me about the environmental impacts. Sometimes the resource company, or whatever it may be, is a little bit winky about offering too much or trying to push it too much. I just found that it was not as forthcoming and readily available to someone. We might all have our sentiments and, yes, we are all pro mining, but the fact is that we may not have that data and all the resources available to us. I just found that

naturally the balance used to swing that there was heaps of stuff to tell me what the costs and the impacts were going to be but there was not a lot of data to say, 'This could mean this many jobs to your community. This could mean so much.' From my own personal experience, take aside what my sentiments were, there just was not that balance, I feel.

Mr Hoffman: I think that it is incumbent on the resource companies to promote the benefits of the proposal. They seek an approval. The benefits that come should really be promoted by them.

Mr KATTER: That answers my question.

CHAIR: Thank you. The time allocated for this session has now expired. I appreciate both your presentation here today and also for your submission. Thank you very much. I now call forward a representative from Australia Zoo.

LYON, Mr Barry, Senior Conservation Ranger, Steve Irwin Wildlife Reserve, Australia Zoo

CHAIR: Good morning, Barry. For the record could you state your name and the position in which you are appearing before this committee.

Mr Lyon: Thanks. My name is Barry Lyon. I am the ranger in charge of the Steve Irwin Wildlife Reserve and I have been delegated by Terry Irwin to appear on her behalf.

CHAIR: Thank you very much. Would you like to make an opening statement?

Mr Lyon: I would, thanks, Mr Chair. Firstly, I would like to thank you all for inviting us. I have a brief statement. I will go through that. On behalf of Terry Irwin and Australia Zoo, we would like to firmly reiterate our support for the government's proposed Regional Planning Interests Bill and in particular its aim to provide environmental protection to the Steve Irwin Wildlife Reserve and the associated stretch of the Wenlock River in perpetuity.

The Steve Irwin Wildlife Reserve is a living dedication to Steve Irwin, Australia's world-leading conservation and wildlife educator. It was declared in 2007 as an initiative of the former Prime Minister, John Howard, and it was acquired through the Australian government's natural reserves program. Steve and Terry Irwin's immensely popular documentaries have been viewed by millions of people in hundreds of countries worldwide and triggered an awareness of nature to people of all ages far beyond they had ever seen before. Australia Zoo itself has become one of the world's major zoological institutions, is a major and award-winning tourist attraction, a major contributor to the Queensland economy and also nature conservation in Australia and overseas.

Terry Irwin and Australia Zoo are totally committed to the protection and management of the Steve Irwin Wildlife Reserve because of its special dedication to Steve and the fact of its outstanding natural values. In fact, the protection of the reserve is the greatest of Terry's aspirations apart, of course, from aspirations for her family.

In support of that statement, I have brought—and I can leave it here—a compilation of different media events supporting protection of the reserve and its management. I would just like to also highlight that Australia Zoo had a Save Steve's Place petition, which in the end raised 451,234 signatures.

CHAIR: Impressive.

Mr Lyon: The acquisition of the reserve was achieved only following an extremely rigorous application process through the Australian government's natural reserves program. The key criteria that had to be met were that the property featured major conservation values and a demonstrated ability by the applicant to effectively manage it. The outstanding perennial river along the southern boundary, four clusters of nationally recognised relic rainforest and the Walter savanna woodland and wetland types easily met the first criteria. The fact Australia Zoo had already purchased other significant properties and nature reserves and were managing them effectively met the second.

It is highlighted here that Australia Zoo derives no income from this reserve. Its management is entirely funded by Australia Zoo profits and should the property ever be sold in the future, which is extremely unlikely, the funds from the sale return to the Australian government. The management is directed according to the reserve's comprehensive management plan and we are very satisfied with how effective that management plan is. There may be a copy—

CHAIR: We have received a copy, yes.

Mr Lyon: Okay. Thanks. My role with the reserve has been as ranger in charge since its inception in 2007. I have about 30 years experience as a ranger, mostly on Cape York. I first lived there in 1979. I have also recently been an inaugural member of the Cape York natural resource management board. I live up there for most of the year and, along with other rangers and scientists and other experts, we have been spending our time unravelling the secrets, the natural values of this reserve and managing it. To this end, over $3 million has so far been spent on research, surveys and natural resource management along with substantial in-kind value provided by other volunteers.

We have found that the reserve is an outstanding mosaic of land forms, hydrological features and ecosystems and that this country survives in healthy pristine condition. All the ecological functions still happen across the landscape. It is in exceptional condition. We would invite all of you to come up at any time and have a look.

The Wenlock River, which runs for 65 kilometres along the southern boundary, is an exceptional river. It actually gives you the impression of being in New Guinea rather than in Australia. It runs all year. It is spring-fed. It is an exceptional river and its nature and beauty and natural values are outstanding. We have always been concerned that any large scale land disturbance, for example from strip mining, would seriously and irreversibly impact on the natural integrity of the reserve.

Some of the area has been subject to mining interests recently—potential bauxite mining. I would just like to point out here that the Weipa bauxite land province—they are the largest bauxite reserves in the world—and the bauxite plateau on the reserve that may have been mined represents only 1.6 per cent of that approximately. It is arguably the case that the entire bauxite plateau around Weipa will eventually be mined. We consider that retaining some of this special country from which some perennial springs run and feed the Wenlock—protection of that—is essential. We are definitely not against mining. We all use mining resources. It is important economically.

The protection of the reserve does not prevent other compatible land uses or economic activities. For example, at the moment the traditional owners of the reserve, the Teaphitthigghi people, supported by Australia Zoo, are well advanced in developing a project with Griffith University in undertaking pharmaceutical studies of bush medicines. This project has the potential to provide considerable ongoing economic benefit to the traditional owners. As well, we encompass ranger training with other Indigenous ranger groups from Mapoon, Kanju and Napranum. We have junior ranger camps and men's camps from Mapoon. So we are involved more broadly in the community. We have many researchers working on the reserve.

One point that I would like to bring up in relation to this bill is how the protection of the reserve is going to be enshrined in legislation. That is something that we are very interested in. In conclusion, I would just like to reiterate our support for this bill. We applaud the Queensland government for its strategic protection of an outstanding part of Australia's natural heritage, dedicated to the world renowned, the late Steve Irvin.

CHAIR: Thank you very much for that very comprehensive statement. Can I pick up on just that final point that you were making with regard to the strategic environmental areas and the concern that you have with how they might be protected. Clause 11 of the bill provides a definition of a strategic environment area. Do you have any views for the committee as to whether that is sufficient, or whether you would like to see something else added in that wording?

Mr Lyon: We would have to get back to you on that, but thank you.

CHAIR: We would be happy to take that. We need to have a response by Wednesday, the 19th.

Mr MULHERIN: This might clarify. In the submission from your lawyers, McColm Matsinger Lawyers on behalf of Australia Zoo, they ask that the Steve Irwin Wildlife Reserve be included in clause 11. Is this the approach that you would like to see—that clause 11 specifies the Steve Irwin Wildlife Reserve? Or should it be specified in the regulation? Should it be in the bill?

Mr Lyon: In clause 11, yes.

Mr MULHERIN: So that is what you would prefer? That is your position?

Mr Lyon: That is our preference.

Mr MULHERIN: That it actually specifies the Steve Irwin Wildlife Reserve at clause 11?

Mr Lyon: We will confirm that.

CHAIR: If you could. It would make it easier for us.

Mr HOLSWICH: I would just like to ask you a question. The thing that has been coming through in our public hearings and in all the submissions is about co-existence of mining activities with other activities. Do you have a particular view on whether there could be any co-existence of any sort of activities in and around the Steve Irwin Wildlife Reserve or is that, in your view, completely impossible in that instance?

Mr Lyon: The reserve has been set aside for nature conservation purposes. Unfortunately, the nature of strip mining is that such large areas are cleared. On the landscape scale, we are looking at thousands of hectares here. If the bauxite, which is the supporting substrate for the ecosystem, is taken out and the landscape is lowered, you cannot rehabilitate that, because that substrate that supported the original ecosystem is gone. It also affects the hydrology. The land has been set aside for nature conservation purposes and mining is incompatible on this land. That is our position. Thanks.

CHAIR: Nothing else?

Mr YOUNG: I would have thought that reclamation up there had been successful. You are saying that it is not.

Mr Lyon: It is possible to replant country, but you could use the analogy of a farm: if you cleared off the rich topsoil and you are left with poorer soil underneath or a different type of soil you could not possibly grow those same crops there. It is the same in a natural ecosystem. That bauxite is critical to supporting the different ecosystems not only that grow on it but also in driving the hydrology. There has been some dispute over what is known as the Coolibah Springs, which emanate from this bauxite plateau. Where does the water come from for those? We now have irrefutable evidence that monsoonal rain that falls on the bauxite plateau filters through the bauxite. So it plays a role in mediating that hydrology. It filters down into the deeper aquifer. We have been working with hydrologists. So to take that bauxite away you are losing that big geological sponge that initially absorbs all of that water and then feeds the springs, which then feed the river.

It is interesting talking to the traditional owners of that country, too. If you go up and you have a look at the springs—we have been with them—and then if you walk back on to the bauxite plateau they say, 'This is where the river starts. The rain falls on the bauxite. It filters down. It comes out of the springs and runs into the river.' So you have both western science and traditional science saying the same thing,

Mr YOUNG: I noted your photo in there.

Mr Lyon: Yes.

CHAIR: Barry, thank you for your presentation and for the submissions not only directly from Australia Zoo but also from those supporting organisations that you provided. They have been of benefit to the committee. So I thank you very much.

Mr Lyon: Thank you very much.

CHAIR: Please pass on our thanks to everyone at Australia Zoo.

Mr Lyon: Certainly. Thanks.

CHAIR: We are a little bit of ahead of time so we will take our break now and we will return at 9.40. We were due to return at 9.45. So we will return at 9.40 to hear from the Queensland Farmers' Federation and Cotton Australia. But we will adjourn for the next 10 minutes. Thank you.

Proceedings suspended from 9.30 am to 9.41 am

ARMITAGE, Mr Stuart, Board Member, Cotton Australia

GALLIGAN, Mr Dan, Chief Executive Officer, Queensland Farmers Federation

CHAIR: Thank you both very much for making the time to appear before the committee today. I invite you to make an opening statement.

Mr Galligan: Firstly, thank you to the committee for allowing us time to provide evidence today and thank you for your deliberations. I know it has been a very detailed, lengthy and expansive inquiry into the bill.

CHAIR: You have no idea.

Mr Galligan: I will take a guess. I will make a relatively brief opening statement. We have got a fairly detailed submission, so I am more than happy to take questions in that regard. At the outset I will make the point again that we are providing evidence today from two organisations, one of which is Queensland Farmers Federation. Stuart is both a director of QFF but also a board member of Cotton Australia, who is a member body of QFF.

Most of you are probably aware—although I have got it in my advertisement—that the Queensland Farmers Federation is a federation of industry bodies. Cotton Australia is just one of those. There are about 15 others. Our predominant effort is associated with the intensive agricultural sector, particularly irrigation. AgForce, who I know is also providing evidence today, deals with the extensive industries. In that regard I will point out that both AgForce, Cotton Australia and QFF have attached to our submission in relation to the bill our proposed framework for the implementation of coexistence, which to us is probably the most important part of the entire regional planning framework and the bill is just, I guess, the overarching legislation. But it is the framework for its implementation that is of most interest to us.

In that regard, our greatest challenge associated with this bill is that it is a framework. We are still yet to see the detail about how it would be implemented. We would encourage the committee—and indeed we are encouraging ministers associated with the bill—to look at the proposed framework that we have put forward as industry bodies to ensure that we can actually deliver the principles underlying the bill. There is a lot of devil in the detail. We still do not really understand about how this bill would be implemented.

In principle QFF certainly supports the idea of protecting agricultural land, but we are very concerned as the overarching definition of what is priority agricultural areas—as at least recommended in policy principle by the two regional plans that have been completed—are not actually clear in the bill. There is a lot of detail to be associated with that that we have suggested in our framework, and we would like that to be considered in the future.

I am happy for questions in relation to our submission. I do not think it is in anyone's best interests for me to read out provisions after that. Stuart may or may not like to make opening comments, but I will leave that to up him.

CHAIR: Certainly we would like you to, if you would care to.

Mr Armitage: I have very little to say, except we are pleased to see there is an effort being made to protect priority agricultural land, but we would like to see the effort in legislation.

CHAIR: Just to clarify there, when you say legislation, you mean within the bill and the act itself as opposed to sitting in regulation?

Mr Armitage: Yes, subordinate legislation.

CHAIR: Thank you for your opening statements. Dan, I would like to pick up on a point you made towards the end with regard to the process you put forward for co-existence as opposed to a definition. From reading the submissions, I note that while there are divergent views, as one would expect, there also appears to be a degree of common concern about the issue of co-existence and how that might play out. With regard to the process that you have attached to your submission, have you had discussions with other stakeholders who are perhaps not naturally aligned to your organisation about how they feel about that type of process?

Mr Galligan: Yes, we have. A bit like the committee's work, we have had rather extensive discussions. The most detailed have been with APPEA, the Australian Petroleum Production and Exploration Association, and subsequently with their members. I think APPEA is on the agenda for later today so I will not try to paraphrase what I think it is up to, but most interested stakeholders would be surprised with how much consistency there is between the CSG industry peak bodies and us as agricultural peak bodies in terms of trying to come up with a framework for how a

co-existence agreement would be struck. I think there are lots of principles that are very consistent. There are some obviously difficult issues that are inconsistent, and our position is really about an agreement on co-existence that is required, not voluntary.

Determining thresholds for material impact still needs to be resolved. I think they are wrestling with that. We have proposed a very specific threshold. The management of cumulative impact is the other area that is quite difficult to get finite agreement on. Having said that, both peak bodies, with agriculture being the third, are the ones that we have worked with directly, and associated with that are a number of more local regional farming groups and many CSG companies.

I think APPEA as an organisation is proposing much more detail than we have seen formally provided for by the government at this stage. Yes, we have spent many hours. We have proposed discussions with the government and certainly the department in that regard, and we are still trying to propose our framework as being so far the best option for implementation.

CHAIR: Thank you for that.

Ms MILLARD: You mentioned that the Land Court might be a more appropriate forum tan the Planning and Environment Court. Can you give us your thoughts on that?

Mr Galligan: I am happy to do so. Laying my cards on the table, we have not received formal legal advice on this issue so we put it to the government that it needs to resolve this issue. But what we have decided upon is to come at it from a practical level. Our proposed agreement framework talks about potentially using it as an amendment or an addendum to conduct and compensation agreements. That is a framework that has also been evolving and is still evolving, but at least it is understood by landholders and companies. The natural progression from that is that jurisdiction for conduct and compensation agreements is already held by the Land Court. In our view it would become difficult to see how a landholder would understand what process would play out when part of that agreement, maybe conduct and compensation issues, is managed by the Land Court and part of it, associated with co-existence, is managed by the planning court. So that is one issue that we felt the Land Court has experience of. On that experience front, we were unsure how these issues would be dealt with by the planning court. I am open to be told otherwise by experts in the field, but from a logical perspective our understanding is the Land Court has come some way in terms of understanding CCAs and therefore we would hope it would also come some way in terms of understanding co-existence agreements. Therefore, it is a logical place to be. Stuart may comment, but I think the overriding principle is that we want to avoid court situations at all costs. That is part of the reason why we are looking for agreements to be almost incentivised between landholders so that the landholders' say is recognised and acknowledged and also that a company sees the value in getting that agreement satisfactory before we have to go anywhere near a court.

From a policy principle, as a peak body there is obviously some internal tension with this bill. While it is about regional planning, the connection between what were developed as regional plans and what is in the bill, when the bill is really about identifying activities that could be regulated as assessed by the state, is an issue in that it has now become a planning instrument as opposed to the implementation of statutory regional plans. If we look at the outcome of the planning process, again, Stuart was involved as he was on the regional planning committee for the Darling Downs. The bill has really become an opportunity for regulating certain areas for certain activities, and therefore we may well have lost that community engagement on implementation of statutory regional plans. Court jurisdictional issues between departments and courts have become more the issue rather than the implementation of a regional planning outcome.

Mr MULHERIN: Good morning, Dan and Stuart. In relation to the Queensland Farmers Federation submission, you state that the absence of regulation—

... has made it difficult to evaluate the potential effectiveness of the Bill on protecting the regional interests from resource activities ...

Would you like to see a draft of the regulations for this bill prior to the legislation being debated in parliament?

Mr Galligan: I am not sure how much time you need to save, but obviously yes. As I mentioned in my opening comments—

Mr MULHERIN: I am sorry, I was not here.

Mr Galligan: No, it is fine. I am happy to expand. I think that is the challenge with implementation of any of the principles. While we would welcome them in the Regional Planning Interests Bill, it is difficult to understand their impact and whether or not they will carry through what we are looking for in that co-existence framework without seeing the regulations. We have made

some recommendations in our attachment that the requirement for the agreement, the definition of PAL and the treatment of priority agricultural land use would be best held in regulation as opposed to being in the bill. There might be all sorts of things you could do in terms of ensuring agreements are struck and how that agreement is managed, but we do not know that yet. So we take it on faith that that next phase is going to happen to a level of satisfaction to us, but it is very difficult to know until we see the detail.

Mr MULHERIN: In your submission you also ask for assurance that both current and potential strategic cropping areas be protected at the same level of protection in this bill as under the Strategic Cropping Land Act 2011. How would you envisage the guarantee being provided?

Mr Galligan: We have made recommendations about combining what have now become very confusing definitions about priority agricultural areas, strategic cropping areas and strategic cropping land. Four years ago we saw strategic cropping land protection in terms of protecting that land from permanent impacts as a first step in what should be an expanded protection of both the use of the land and expanding the definition in terms of the footprint. We have made recommendations that that should be clarified in the bill. The definitions associated with SCA or cropping areas and SCL and priority agricultural areas should be combined so we are talking about the one defined area of important cropping land for Queensland.

We have discussed over a number of years that if you define the area effectively in the legislation that is to be covered you can certainly stratify the levels of protection through the regional planning process. So it is not necessarily one size fits all. The larger area is then excluded from resource development, but there are varying levels of protection that could be afforded for land use underneath that area. But now that we have multiple definitions it is not even clear to us exactly how the strategic cropping land repeal and therefore inclusion in this framework will be carried through to the level that gives us the assurance that we had at least in the SCL Act.

Mr MULHERIN: Do you support AgForce's submission that the definition of strategic cropping land should be taken from the strategic cropping land for inclusion in this bill?

Mr Galligan: Effectively, yes. That is how you would give effect to what we are suggesting, and then also amended for the priority agricultural areas as well.

Mr MULHERIN: AgForce in its submission states that protection for strategic cropping land must be 'enduring, robust and transparent' and that when these protections are embedded in regulation there is less certainty than if the protections are embedded in legislation. Do you support the position AgForce advocates?

Mr GULLEY: I would put it in a different way, to be honest. I can completely understand the general principle: if you can put everything into an act, then maybe it is more secure. What we want are clear definitions in the act so there is some sort of sustainability associated with it, although I do not need to tell this committee that things can change in parliament. An act is not necessarily locked in concrete. Things change. I was involved in strategic cropping land and I have seen it change, and I am not that old so things will change.

There is also a measure of advantage in terms of having the management of the area defined in the regulation because that may need to change with the maturity of the industry and as the maturity of agreements form. I think where we landed is not too dissimilar in principle from AgForce in that we would like the area defined that needs to be protected in the act and then it can be changed and there is some sustainability to that. The management of the area and the implementation of agreements seem to fit more logically in regulation.

Mr HOLSWICH: Dan, I want to take up a point that you made earlier. You were talking about the cumulative impact and the disagreement among various stakeholder groups. That has been raised in previous hearings as well. In spite of that disagreement, for the benefit of the committee can you give us your view on what that should be?

Mr Galligan: What my view should be on the definition of cumulative impact or how it should be treated in regional planning?

Mr HOLSWICH: More around the definition but both.

Mr Galligan: It is very difficult to see how cumulative impact would be legislated for in an act. I think it can be considered as a principle that should be managed. I guess our concern is more about the process of regional planning where we started essentially this time last year where management of cumulative impacts was a consideration that regional plans should consider and effectively it has been lost through the drafting process. What we have suggested in our proposed co-existence framework is that it needs to be reconsidered. Thresholds associated with individual property agreements can go so far and then we have proposed an alternative. Once the agreement

goes beyond that trigger at the property scale, then there is an independent panel that can consider whether or not this region may be coming close to something that could be an impact on the entire resource base for agriculture. We decided that the most important decision-making process is with the landholder and the company that is involved, but you need some trigger threshold where there could be a review mechanism. That fits in within the bill and becomes more relevant where our framework could actually be delivered by the regional planning bill effectively by saying that once a property scale threshold is breached it goes to the independent panel. It is still up to the state, not the panel, as we proposed. The panel provides advice, but it will still be up to the state to make a decision on regional interests and that regional interest could consider cumulative impacts. So it could consider how many—and this is really where it gets down to tick-tacks—agreements in that region have gone beyond what we consider to be an acceptable property level threshold which we have proposed, and the state would have that information because there will hopefully only be very few agreements that would need to go beyond that. That at least provides some break and some capacity to review cumulative impact. Again, we have suggested we could do that through reviewing the plans to go back and make sure that everyone is comfortable.

Many have said that if you minimise the impact at a property scale and you add it altogether that two plus two equals four and you have minimised the impact at a regional level. We think there needs to be some sort of threshold that judges that. That and obviously cumulative impact on water resources have always been a big concern for us. There has been a huge amount of work done on that through the Office of Groundwater Impact Assessment in Queensland. We have probably done better on that than anyone else in the country so I do not see why we cannot do that in terms of land based resources. I hope that answers your question.

Chair, can I say this: please do not let Stuart go home without having a crack at this. If anyone has a hard question for Stuart, please ask. I do not want him driving back to the Darling Downs without taking some skin off this issue.

CHAIR: Stuart, would you care to expand on anything that your good colleague has dumped you in on?

Mr Armitage: I would be happy to talk about the co-existence criteria that we have put in. I am probably talking more from a landholder's level where we could be seriously impacted. I believe that co-existence is an important part of this framework. It has been a word that has been bandied around for many years by industry and lately more by government, but no-one has been game to put a meaning to what co-existence actually is.

I believe that the original document from Jeff Seeney did give some outlines and our reply to it, I think, satisfies the landholder aspect of it in that, while we do not have the right to a veto, we have a right of consent. I think in the democratic day and age we live in, if the landholder does not have the right of consent as to what happens on his property, we have not come far since the 1920s.

CHAIR: Stuart, that is a good point. For your benefit the committee had the opportunity to visit two properties out at Chinchilla. We deliberately looked at one where the arrangements were working well and one where the arrangements were not. Without pre-empting the committee's report, I think we certainly had a good feel that, where that respect was and where that consent was in place, things worked a whole heap better than when they were just, 'This is what the act says and we're allowed to do it, so allow us to do what we are legally entitled to.'

Mr Armitage: With the legislation as it stands today, the resource company can come on to my property and do what it wants to do. So they are going to have to live with my hate for the rest of their lives and that will never work. So we need to get to the stage where there is that consent between two parties. We cannot just leave it up to the goodwill of the landholder or the goodwill of the resource company; it has to be legislated.

CHAIR: Fair point. Rob?

Mr KATTER: I see that you have touched on this in your submission, but this is a good opportunity to expand on it. You are concerned about the impact of the bill on resources like the Condamine Alluvium and the SunWater channels. Would you like to explain how these could be protected under the bill?

Mr Galligan: Yes, thanks. I think as we have suggested the identification of regional interests should include those specific infrastructure associated with critical agricultural production. We have suggested that some water channels, the Condamine Alluvium and those sorts of assets, are just as important as the land based assets and they should be recognised as regional interests in the act.

Mr KATTER: So single those out, because they are two of the more significant ones that you would see?

Mr Galligan: Yes.

Mr Armitage: Probably the big thing with those is that if you start taking them out, you start destroying a small community's ability to produce. Say with the likes of Emerald, if you cut their ability to get water then you might lose a gin and an employer in town. So we need to make sure that if we are going to look after PA land we have to look after the production. Jeff Seeney's main aim was production. So this is all part of the production process.

CHAIR: Yes. Excellent. Other committee members?

Mr YOUNG: Let me just elaborate on irrigation channels. What would be the impacts on irrigation channels?

Mr Armitage: If there was subsidence and the irrigation channel then became unable to deliver the water or, in the case of Emerald, if there was an open-cut or a longwall mine that went under it, it all has to be protected so that it can continue—and St George.

Mr YOUNG: Has that occurred to this day? Has there been subsidence?

Mr Armitage: There is strong evidence of subsidence in Emerald.

Mr YOUNG: I have seen subsidence, but it has not impacted on the irrigation channels to date?

Mr Armitage: Not yet, but we have to make sure that it does not happen.

Mr YOUNG: You assume that it would.

Mr Armitage: It would if it is in that—

CHAIR: Yes. Michael?

Mr HART: Gentlemen, you have made some submissions with regard to exemptions, particularly in the 12-month exemption area. During one of our site visits we heard from a landowner at the particular property that we were at that he had some concerns that the hard-and-fast rule of putting the land back exactly as it was when they first started could not be negotiated with the landowner themselves. In particular he was talking about a dam that had been installed on his property for coal seam gas purposes and he wanted to be able to keep the dam after the resource company moved out. Is this something that we need to be looking at—some sort of negotiated process rather than a hard-and-fast rule?

Mr Armitage: A few things on that. I think the 12 months was there to try to find out what exploration and, because of that, quite a large amount of the downs has been released from having a permit to explore on it. So that works in our favour as landholders. I have also come across where those ring tanks have been made, but if you want to keep them they are an illegal structure unless they are used for storing the coal seam gas water. We cannot, at the moment—

CHAIR: In this case it was not a ring tank; it was actually a dam that had been produced.

Mr Armitage: But I still struggle to find that it would be legal, because there is a moratorium on the ability to catch water on the downs—or anywhere. So I think it is illegal.

CHAIR: Just picking up on the exemptions that you talk about, in the submissions you talk about agreements with landholders that were signed by the time that the bill was introduced on 20 November being able to gain an exemption under clause 22. Do you want to expand on that a little bit?

Mr Galligan: The way exemptions are noted in the bill so far it is just completely unclear about what is and is not under it. As we have said in the past, we think that it would make more sense if people had some clarity about that for those who already have agreements that are satisfactory. We would also encourage people to have agreements and to make sure that they have review clauses in them as well so that both parties can trigger a review. I put the proposed date as being logical but also any of those comments around exemptions and the 12-month issue is contingent on recognition of the framework that we have proposed for negotiating an agreement. So just as the issue of prescribing exactly how rehabilitation takes place after that 12 months or within that 12 months, our landing on this—and I would fully recognise that not every landholder in the state would agree with this as well—we have come to the point of maturity, as Stuart says, that in many cases in our dealings with the CSG industry the agricultural industry would be best to ensure that they do the best possible job that they can of exploration so that they can then minimise their longer-term footprint.

If the government were to look favourably on the implementation of a framework such as we have proposed, then hopefully that agreement allows for a mature discussion about the rehabilitation work within and after that 12-month period so that both landholder and company are satisfied with the way it is done and it is not prescribed by George Street exactly what goes where. That is our risk here. We have proposed a number of amendments and suggestions that are quite detailed in some and quite vague in others but it is contingent on also, which is why we have attached it, that the process by which anything underneath those exemptions are made are made via a required landholder-CSG company agreement to be struck in the first place.

Mr HART: Just expanding on that a little bit further again, in your submission you have suggested that we change the wording on the restoration to 'preapplication production capacity'. Can you just explain to us the difference between that and the present wording?

Mr Galligan: One of our concerns about restoration is that it has been narrowed down to just physical attributes and that is considered by both landholders and sometimes minerals and CSG companies to be limiting. It has also in many cases delivered some perverse outcomes, whether it is stockpiling our topsoils or whatever it is. It becomes a management nightmare for many. I think—I am happy for Stuart to chip in—what we are looking for as a principle is that the property is returned to the productive capacity it was and that baseline is difficult to manage. I think it has always been difficult for government to even identify a production baseline. Again, and I hate to repeat myself, what we are suggesting is that the landholder and the company involved—CSG or minerals—come to an agreement on what the landholder judges to be the productive capacity of the soil, or the land, or the water resources that are affected. When he says that he is happy, then he is happy, basically.

Mr HART: Is that a determinable area to reach? Is there a defined—

Mr Galligan: In terms of productivity, do you mean? I will have to flick it to Stuart at the risk of my own career, I cannot help but say that it is not easy, but it is. To be honest, from a policy principle, we would be encouraging landholders to be able to put some numbers associated with productivity as the land that is being affected here. There are two sides of the coin. It is a difficult task. We think that landholders will be well served by having to go through that process themselves to be able to value what is happening to their property and not have that judged from afar.

So it will be a learning exercise for some to do that but, in terms of determining agricultural productivity, there are plenty of options for doing that. The particular parcel of land—it depends on where it is—and the challenges that we have negotiated both with our members and landholders and indeed company representatives is the value. It is easily to say, 'I've lost a hectare of land that was in cotton production,' but what is the value of one hectare of irrigation ditch and how you manage that is much more difficult. You have to have an agreement framework to offer that process to take place. It is a good thing for a landholder to be able to do it. It is not easy but there are measures out there. Certain suggestions that we have seen over successive governments, to be honest, about putting requirements about exactly how you measure that—whether it is physical attributes or a measurement of capital infrastructure—are not satisfactory. We think, again, go back down to the local level, let the farmer do that calculation to make sure that they believe that they will end up with, hopefully, a net benefit out of this relationship with a company on their land. But it has to be how it is done on their terms—not whether or not it happens in the first place necessarily, but how it happens.

Mr Armitage: I think the two things there are that we need to be careful that it is repaired by compensation. By giving the landholder the right of consent means that the person who knows the farm, or the area the best, and also having the right of consent so that there is that degree of agreement between the miner and the landholder that means that you will get the best result at the end of the day. If you bring George Street into it, it makes it very hard. I think if George Street becomes the third party and the landholder and the miner are the two main people who are working on this business deal, the way that that farm is being mined and repaired is the best outcome for all concerned.

Mr HART: Do you think that leads on to maybe a template conduct and compensation agreement—that maybe you could tick this box and tick that one?

Mr Armitage: It is very hard, because every farm is different. Even where we are where it is all just flat and black and irrigated, every farm is different. There are different management processes. On my farm there are places that I could somewhat comfortably fit in a gas well, but on the neighbour's farm it is very hard. I think a template to fit all is virtually impossible. It comes down

to having that consent between the farmer and the miner and the farmer knows best. Again, the farmer cannot say, 'You can't come because I hate you.' He has to have good and valid reasons to tell the miner where the gas well or the mine has to be.

CHAIR: Stuart, can I just pick up something that you provided in the answer before that? I am not sure if I clearly understood what you were saying with regard to the agreement and moving forward. Are you of the view that offsets should not be considered in an agreement between a farmer and a resource company?

Mr Armitage: Yes. I do not think that offsets will really work that well, because it is very hard to get your head around exactly what an offset is and where it is going to be and how it is going to work. If it is the actual impact on the land—and I only talking about gas wells—it just has to be managed. If it comes on to that farm it has to be managed in such a way that it reduces the impact on the production. We have to have minimum footsteps and minimal loss of production on this sort of land, because it is an asset of the government, of the state as well.

CHAIR: And the people of Queensland. Dan, can I just get your view on offsets, or the QFF's view?

Mr Galligan: Yes. No, it does not seem to fit in this model for the very good reasons that Stuart has just given. We cannot see how you implement an offsets framework for agricultural production. So we have come back to the agreement for returning the property to the level of productivity that it had. That could be done through a relationship under a CCA associated with co-existence. I think there are ways of managing that situation that the landholder and the company might involve themselves with. But a hint of an offset type of structure, particularly at the property scale, I cannot see how it works.

CHAIR: Okay. Thank you for that. There being no further questions, the time allocated for this period has now expired. I thank you, gentlemen, both for your appearances here today and for your submissions and in particular for the process that you have provided us. I think it deals with what is the very complex issue of co-existence and we thank you for that.

HAUSLER, Mrs Sarah, Member, Management Committee, Queensland Environmental Law Association

CHAIR: Welcome. Would you care to make an opening statement?

Mrs Hausler: I would; thank you. Firstly I want to thank the committee for inviting QELA to address the committee today. QELA is a non-profit multidisciplinary organisation. Its members include lawyers of course, town-planners and a broad range of consultants who represent and advise participants in the development industry. QELA's members have already made some submissions to the committee—and they include representatives of the resource sector, environmental interest groups and local and state governments—and it is in that context that QELA does not propose to make any submissions about the policy objectives, because we represent a wide range of interest groups, but our submissions focus on the procedural aspects of the bill that will impact on our members. We are really keen to see the bill get the procedural issues right, because that is in everybody's interests.

In that context I want to firstly raise QELA's concern that this bill seems to introduce an additional separate assessment and potentially an appeal process in addition to existing processes that already exist, and those processes will probably run concurrently, giving rise to potential delay and additional costs for project proponents, government and the community and it is not apparent to QELA why the policy objectives of this bill cannot be included in another process that already exists. The current government has been quite keen and effective to reduce regulatory burden. The appeal rights are of interest to QELA and its members. They are limited to the applicant, the landowner and affected landowner. QELA is concerned about the definition of 'landowner' being restricted to someone who is entitled to receive rent, and I think the committee has heard others raise concerns about that issue. The other concern that QELA has is that the definition of 'affected landowner', which is the third-party appeal rights, is not sufficiently objective, and this has the potential to cause confusion at that first step of an appeal about who is entitled to be there and who is not. That is likely to require evidence to be put before the court as this first step before you get into the issues that are really in dispute between the parties.

So QELA is concerned about the use of concepts like proximity and impact as a preliminary step in getting to the appeal rights issues. We have suggested that the definition of 'affected landowner' be removed and perhaps appeal rights be tied to whether a person makes a submission. That is the process that is used in the Sustainable Planning Act and it gives rise to a fairly objective question about whether a person made a submission within the relevant period. It is a yes/no answer and then you move on. It also gives project proponents some idea of the issues that they are likely to face in any appeal and who the relevant interest groups are. So it gives a bit more transparency to the process. It would be possible to put the submission qualifier in conjunction with some sort of land based interest for the submitter to give them a right to appeal if the interest was to limit appeal rights to those with a particular proprietary interest if the region.

As I mentioned before, a resource project could potentially involve an appeal to the Land Court about the environmental authority as well as an appeal under the bill and potentially, if there are off-tenement aspects to the project, then you could also have an appeal in the Planning and Environment Court, and I would think that that is an undesirable outcome for all involved. The other issue that we raised in our submission was that the penalties in the bill are very high compared to other legislation. We suggested that there might be other ways to deter noncompliance with a bill through expanding the court's powers where there is a noncompliance—where there is an offence—to give the court power to stop that particular activity happening, and that would be a fairly strong incentive, I would expect, for resource operators and other project proponents. We also raised a concern that the bill does not specify time frames for each of the steps in the assessment process to occur, and the time frames are really important for all involved so that they have an understanding about when a decision is likely to happen. They are my opening comments. Thank you.

CHAIR: Thank you very much. You have raised some very interesting points that the committee has been looking at in a broader sense. I want to pick up an issue with regard to the appeal rights issue and note your submission and the points that you made in your statement with regard to affected landholders. In your comments you talked about having a qualifier for a submitter. How would you see that playing out? Are we shifting the definition of affected landholder down to a submitter level, or would you see it being some other proprietary criteria that would link in?

Mrs Hausler: The bill currently proposes that there will be a notification process for some applications, and the detail will be in the regulation. Assuming that you have an application where you have to publicly notify and the community can make submissions after hearing about it from the

local newspaper or wherever it might be advertised, that person would put in a submission to the assessing authority and that submission would be their ticket, if you like, to going to court and having an appeal right. If that broader appeal right related to something that to the whole of the community was not palatable, there could be a two-limb process where first you are someone who has put in the submission and secondly perhaps you are somebody who has a proprietary or other interest in the region. I am not sure that that second test would necessarily be required. In my experience in the Planning and Environment Court the costs of going to court are usually enough to deter somebody from participating in the process.

CHAIR: We have a great justice system; the best money can buy!

Mr HOLSWICH: I have a question following on from that. You are not worried that if you brought it down to that submitter level that would then potentially open it widely to vexatious submissions of people who essentially just wanted to cause nuisance and took that as their licence to do so?

Mrs Hausler: I can understand the concern. It has not been my experience at all that that is the case in Planning and Environment Court appeals where that process is used. The court until some time ago had an explicit power to award costs against a party who pursued litigation on that basis—delay, obstruct, frivolous, vexatious and those sorts of unwarranted appeals. The cost power in the Planning and Environment Court has recently been expanded, so the court has even broader discretion now to award costs against a party. Those issues about whether somebody is pursuing an appeal for an improper purpose are usually raised by the parties fairly early on. So if you are a solicitor acting for a project proponent and you have an inkling that somebody is there for the wrong reason, you would often send them a letter and say, 'I don't think your appeal has any prospects and we're reserving our client's right to costs,' so that they are on notice that they have the responsibility.

Mr HOLSWICH: Thank you.

CHAIR: Again just picking up on that, that experience is based on the Planning and Environment Court. You made a comment earlier about the potential for appeal processes running concurrently between the Planning and Environment Court and the Land Court. Is that your experience in the Land Court? Has that same situation played out in the past?

Mrs Hausler: I do not have as much experience personally in the Land Court, although from what I have seen there is not this broad range of litigants that step up to spend their money on court costs rather than in other ways.

CHAIR: Thank you.

Mr MULHERIN: In your submission you raise the absence of the trigger maps and regulations in considering this bill. Would your concerns about the bill adding additional cost, delay and complexity for project proponents be ameliorated by having the regulations and the trigger maps available prior to consultation of the legislation being debated in parliament?

Mrs Hausler: I think it would help parties to understand exactly how the bill and ultimately the act will work in practice, but those concerns about cost and delay are really about the new process that the bill sets up rather than the lack of secondary detail in the bill.

Mr YOUNG: Did you want to elaborate further on third-party appellants?

Mrs Hausler: I am not sure what else I can say.

Mr YOUNG: You said that only property owners had the right to appeal, but you said there are third parties that do not have those rights.

Mr MULHERIN: An interest group.

Mr YOUNG: Yes.

Mrs Hausler: At the moment my understanding of the bill is that the landowner has an appeal right and so does an affected landowner who is somebody in proximity and whose property rights might be affected or impacted.

Mr HART: Earlier in the day the Cape York Land Council suggested that maybe native title bodies might have appeal rights. How do you feel about that?

Mrs Hausler: I see no problem with that.

Mr MULHERIN: What you are saying is that an environmental group or another community group that may not live in the area where this activity is being carried out would not have the right to make an appeal?

Mrs Hausler: Yes. It might be somebody like that or it might be a downstream property owner who may not be affected in the relevant sense and they might not get over the threshold or they might be put off by the threshold being there and the costs and the lack of certainty. So it is not necessarily just about community groups; it might also be about a business that has a broader regional interest and others in the community more generally.

Ms MILLARD: Earlier you mentioned that the word 'affected' is something that you would like to see removed though?

Mrs Hausler: The concern was about the way that the definition of 'affected landowner' has this general concept of being proximate to the relevant project and there being an impact. The concern is really that those things are not very easy to determine at the outset. You need to have a look at the project and you need to have a look at that person's particular property interests and how their farm operates or how perhaps their nature reserve operates, or whatever it might be, in order to determine whether they have appeal rights. So it is setting up an extra process, if you like, before you get into the merits of any particular appeal.

Ms MILLARD: Okay. So you are just referring purely to proximity—a proximity issue?

Mrs Hausler: The proximity, yes.

Mr HART: With regard to time frames, you made a suggestion that maybe there should be time frames for the chief executive to refer to other departments of government or to make a decision. Do you want to elaborate a little bit on that and maybe tell us what sort of time frame you think would be reasonable?

Mrs Hausler: The time frames under other legislation would probably be informative, so perhaps a period of 20 business days or something in that order, depending on the scale of the project and that sort of thing. The benefit of having time periods is that if a department or local government is lacking in resources and is unable to perhaps give priority to a particular application this gives them a bit more incentive. It also creates a point in time where the project proponent will have an expectation of a decision and potentially rights that flow from a lack of a decision being made. So it is a certainty issue for the project proponents.

CHAIR: I want to pick up on something that we have been looking at broadly with regard to exemptions and we would be keen to hear your view. When we look at clause 24 and we are talking about exemptions for pre-existing resource activities, there have been some submissions made with concerns raised that that may have some unintended consequences, in particular with regard to resource activity work plans which may not necessarily cover all of the works that are on a particular lease area—that is, someone saying, 'Okay. These are our work plans for the next 12 months or the next two years.' Do you as an organisation have any concerns about unintended consequences with regard to exemptions?

Mrs Hausler: Those concerns have not been raised with me.

CHAIR: Okay.

Mr HART: Just expanding a little further, what about the exemptions only applying to priority agricultural areas and not priority living areas and strategic environmental areas?

Mrs Hausler: Again, I am sorry, but those issues have not been raised with me.

CHAIR: Sarah, thank you very much. We really do appreciate you appearing before us today. We appreciate the insight that you have been able to bring to this particular bill. We think it is critical that whilst we hear from directly affected stakeholders we also hear from the professionals in the sector, and we appreciate your organisation taking the time to do that.

Mrs Hausler: Thank you very much.

CHAIR: Thank you. I call forward representatives from the Environmental Defenders Office of Queensland and Northern Queensland. I am hoping we are taking the Northern Queensland representative by phone. We may start with the Queensland office representatives, and then when we are joined on conference we will invite them in at that point. Allow us to interrupt you as that proceeds.

CAMPBELL, Ms Fiona, Senior Solicitor, Environmental Defenders Office of Queensland and Northern Queensland

HAMMAN, Mr Evan, Solicitor, Environmental Defenders Office of Queensland and Northern Queensland

KOROGLU, Ms Rana, Solicitor, Environmental Defenders Office of Queensland and Northern Queensland

CHAIR: I welcome you and invite you to state your names and the positions by which you are appearing before the committee today.

Ms Koroglu: Rana Koroglu, solicitor at the Environmental Defenders Office Queensland.

Mr Hamman: Evan Hamman, solicitor at the Environmental Defenders Office Queensland.

CHAIR: I take it we have the Environmental Defenders Office of Northern Queensland on the line, Fiona Campbell?

Ms Campbell: Yes, that is correct.

CHAIR: Thank you, Fiona. We have only just started and we have just introduced the Environmental Defenders Office representatives who are here today. For the benefit of Hansard, could you state your full name and the position by which you are appearing before the committee today.

Ms Campbell: Fiona Campbell, Environmental Defenders Office of Northern Queensland, senior solicitor.

CHAIR: Allowing for the fact that we have both telephone conference and people before us, I invite the Environmental Defenders Office Queensland representatives to make an opening statement and then, Fiona, I will come to you and ask you to make an opening statement following their remarks.

Ms Campbell: Thank you. Can I just say that we are relying on the opening statement of the Environmental Defenders Office from Brisbane.

CHAIR: You just made my life a whole heap easier, thank you.

Ms Koroglu: We thank the committee for inviting the Environmental Defenders Office Queensland and the Environmental Defenders Office of Northern Queensland to appear at this inquiry. Our respective organisations are not-for-profit community legal centres with expertise in environmental law. We provide free legal advice to Queenslanders in urban, regional and rural areas, including graziers, to help the community understand their legal rights to protect the environment. We appreciate that there is an obvious need to manage land-use conflicts between the resources sector on the one hand and agriculture, our communities and the environment on the other. We understand that this is not an easy task for the government to undertake.

Managing land use inevitably involves weighing private and public considerations, but in our view this bill is weighted too far towards private interests. As has been raised by others in their submissions to this inquiry, important provisions are missing from the bill and will be put in regulations that are still not publicly available. It is difficult for all of us to assist the committee in fully investigating the effect of the bill without cross reference to regulations. It is like selling a steak sandwich with just the bread and maybe some sauce and onions, but with no steak.

Skeleton or framework legislation such as this bill should not be passed by parliament until there has been community consultation on these regulations. The underlying concepts in this bill, that there are areas of regional interest and importance that must be managed appropriately, are ultimately for the benefit of present and future generations of Queenslanders. Regional interest areas concern our fundamental necessities of food security, healthy waters and the environment on which all of us rely. So the very concept that there are areas of regional importance that need to be managed differently is ultimately for the public interest. We are very concerned about the department's decision not to engage in community consultation on the development of this bill. We know the resources industry and the agricultural sector were consulted on this bill and, while the department has consulted more broadly on the development of the specific regional plans, there has been no community consultation on the development of this bill nor has there been any targeted consultation with community groups. We consider this is an unreasonable approach as the bill is ultimately for the benefit of the community and the decisions made under this bill affect all of our communities, not just private landowners and private resource companies, so of course the community should be consulted. I pass over to my colleague.

Mr Hamman: I am going to be pretty quick. A particular concern is that the bill does not provide for public interest appeal rights for members of the community who are seeking to protect values in a regional interest area. Public interest appeal rights exist in other Queensland legislation such as the Sustainable Planning Act and the Environmental Protection Act. To us, it is somewhat counter intuitive to have legislation that attempts to manage land-use conflicts in the public interest. It is not allowing the public themselves, that is, our communities, to appeal a regional interests authority decision. This is going to be inconsistent with the current processes under SPA, the Sustainable Planning Act, and the Environmental Protection Act. As a quick example, an environmental organisation that supports its individual members right across Queensland to protect biodiversity and/or ecological values could not challenge an RIA decision, being a regional interests authority decision, or, for that matter, a peak agricultural body that represents the interests of farmers across the state that is especially concerned about, say, groundwater impacts of mining and gas activities could not challenge an RIA decision.

The impacts of resource activity do not stop at arbitrary lines of regional plans. RIA decisions will ultimately affect our food security, our aquifers and the livelihoods of our communities. Currently, individuals and community groups can appeal an environmental authority and, under this bill, a regional interests authority can override the environmental authority. We see that as a particular concern, which we have raised in our submissions. The wording of the provisions regarding the regional interests authority overriding the environmental authority is open to wide interpretation. We believe that there is a breach of the Legislative Standards Act in this regard as it is ambiguous and not drafted in a sufficiently clear and precise way. This is only one problem that we have picked up in our submission and we are happy to take any questions that the committee may have.

CHAIR: Thank you very much. Fiona, I might start with you. I am not sure if you have been following us online and have been able to hear what the earlier witnesses have said. We have heard support with regards to the strategic environmental areas within Cape York. Would you care to provide for the committee your views as to how this bill may or may not provide protection for Cape York areas?

Ms Campbell: One of the biggest issues in regard to strategic environmental areas is that the criteria in regard to the level of protection are not provided, so they lack certainty. I think page 21 of the Cape York Regional Plan has a table which indicates what may or may not be able to occur in each of the different regions. In regard to strategic environmental areas, there is no certainty whatsoever. Basically, at the bottom of the table it mentions compatible use subject to regional criteria. Until the regional criteria are known, and they are not clear in the regional plan nor in the Regional Planning Interests Bill, there is a lot of uncertainty not just for conservationists, people trying to protect those areas, but also for resource companies, for people wanting to practice agriculture in different areas. I think that there has been a lot of uncertainty in regard to that and it has caused problems amongst all different groups. That is one of the biggest issues.

The strategic environmental areas cover most of the rivers that are now wild rivers, so it is extremely important to know what sort of protection they are going to have, excepting for the Stewart River. That is another issue as well, because the planning process does not really look at the broader aspects of issues outside the region. One of the areas that we are greatly concerned about is the Great Barrier Reef where the Stewart River runs onto the east coast, which goes out to the Great Barrier Reef. Things that happen in that river in particular are really important to the Great Barrier Reef. You can say that the flow-on effects downstream from any of the rivers will have ongoing effects for people downstream.

Also, in regard to third party appeal rights, it is only people who have, I guess, a strong interest as a landowner in the areas under the strategic environmental areas that can have the right to appeal. There is an area in Cape York, Shelburne in the north on the east coast, and it is reserve area. At this point I think the government has been discussing with Aboriginal people with regard to transferring that back at some point time. However, if they decide to do something else in that area, the Aboriginal people, at this point in time, do not have an appeal right under the Regional Planning Interests Bill, so they would not be able to say or do anything. It would be a government decision in regard to what happens in that area.

CHAIR: Fiona, we heard from the Cape York Land Council, which put forward a view that registered native title bodies should be included for appeal rights. What are your thoughts on that?

Ms Campbell: I think that that would be a good idea. I think that that would partially resolve the problem, but there are some areas where there may not be native title claims at present or in the future. Also the native title claim, because of internal issues with Aboriginal people trying to sort

out who belongs or what country they should claim, may be discontinued, so there may not be protection in the long term in regard to particular areas. Some groups do not have native title body corporates. There has to be fall-back positions in regard to who can protect that country. That is another aspect of the regional plan and the Regional Planning Interests Bill, in particular in regards to Cape York.

Aboriginal people have been known to protect that country and look after it for a long time and that is why it is in a good state, as well as its isolation. I do not believe that they are being recognised to the extent that they could be in this process for future protection and input in regard to what happens to their country.

CHAIR: Thank you for that, Fiona. I now open to other committee members. Tim, would you like to start the questions?

Mr MULHERIN: Yes. To either Rana or Evan, in your opening statements and also in your submission you raised the point that the bill undermines the legal procedures and protections afforded by the Environmental Protection Act 1994, by allowing a regional interests authority to override the environmental authority. At page 3 it mentions that this could result in conditions enacted from a submitter under an environmental authority being overridden by the regional interests authority. The submitter would then be unable to appeal the regional interests authority decision. In your interpretation, could this result in environmental conditions being removed that would not have been otherwise?

Mr Hamman: I do not know whether that is the intention of what they had in mind when they drafted it that way, but according to us, in our opinion, that is a potential outcome of that; that if you make a submission during the environmental authority stage and you get some certainty, whether it be by the Land Court process or by agreement with the recourse company that a particular condition will be on that property, later on, if they apply for a regional interests authority and that overrides any protections in the EA, you are essentially out of the game for that. That is just one concern we have with that.

Mr MULHERIN: Would you like to comment further, Rana or Fiona?

Ms Koroglu: I would reiterate that we appreciate that might not have been the intention of the drafters and it is something that perhaps could be looked at again by the drafters to more clearly articulate the intention behind having the RIA override the EA.

CHAIR: Fiona, would you like to comment?

Ms Campbell: I am sorry, I could not quite hear Rana, but the only thing that I would say is that if it is the intent that the RIA improves conditions, that that be placed in the legislation and placed clearly so that the opposite cannot occur.

CHAIR: Thank you. Tim, anything further?

Mr MULHERIN: No.

CHAIR: Other committee members?

Mr HART: Rana, you have raised a concern that resource activities may affect a regional interest area, even if that resource activity happens outside the area. Can you elaborate a bit more on that?

Ms Koroglu: Certainly. Currently, the way the bill is drafted it requires regional interests authority applications for activities that are occurring within a regional interest area. There are obviously maps. But if a resource activity is occurring just outside that regional interest area or somehow approximate to it, this bill does not capture that particular type of activity at all. That may have the effect of resource activities having impacts on regional interest areas, but they are not covered by this legislation whatsoever. I would also note that in the objects of the act, it states one of the objects is to manage resource activities on regional interest areas, but in our view that does not actually occur if activities occurring outside of the area that impact on the area are not being addressed by the legislation.

Mr HART: How do you suggest that be fixed?

Ms Koroglu: We have provided some suggested draft amendments on that which are at page 12 of our submission. The bill could be amended to require resource activities that may have impacts 'on an area of regional interest'. That would allow resource activities that may impact on those areas to be addressed by this legislation otherwise they will fall outside this act completely.

Mr HART: I am from the Gold Coast. Would some resource activity in Cape York affect me on the Gold Coast?

Ms Koroglu: No, that would not fall under our suggested amendment at all.

CHAIR: As a side note, the format of your submission is really appreciated. It is a very effective format from a committee's consideration perspective both in terms of the detail and the fact boxes of examples and proposed solutions. I really want to praise you for that. It makes our job a lot easier.

Mr Hamman: We are happy to give it to you as a precedent, if you would like.

Mr YOUNG: On another side note, I see a leasehold grazier near Yeppoon? Is that me?

Mr Hamman: Are you leasehold or freehold?

Mr YOUNG: We had better not go there.

Ms MILLARD: Just carrying on from Michael Hart's question, the Queensland Environmental Law Association mentions the term 'affected' and having that reassessed in terms of proximity. Do you feel that should be the case?

Mr Hamman: Our view is that it should be open to public interest, and we have made that clear in our submission. I know there are arguments against that, but we go into bat for that being the open-ended standing because that is what is in the Sustainable Planning Act. That is what is it is in the Environmental Protection Act. There are public interest considerations all throughout the state. It is going to be incredibly difficult to narrow the boundaries of a definition of who is 'affected' and what is 'a community'. The thing that is being missed in this bill is that it is trying to deal with resource activities and agricultural activities, which is a good motivation, but it is not taking into account the community as a whole in terms of that. Not allowing the community to object in the broader sense of the word and narrowing it to a debate between who is privately affected at a particular point in time is really concerning to us.

I do not know how you are going to get to a definition of 'affected landholder' because you have someone way downstream. You have aquifers that go underneath the ground for many kilometres. I do not know how you are going to resolve that problem. Our view is that it should be open in the public interest.

Ms MILLARD: As Mr Hart said, he lives on the Gold Coast there could be a situation in Cape York and he might put in a submission. Would you consider him to be affected?

Mr Hamman: No, that is what we are saying. It should be open standing to people. If he can prove that in front of the court—and that is what it is in the Sustainable Planning Act at moment. If there is a development going on in Cape York he could put in a submission for that and he could bring an appeal. There are public interest considerations that apply for different areas. That is up to the court to decide. Currently we do not have thousands of people running cases as Sarah from QELA said. It does not happen because of the court costs. People only get involved if they are the landholder or they have particular concerns about biodiversity or the amenity of area or something like that. That is what we are saying. The government should be putting that out in the context of the bill.

CHAIR: I think Mr Hart might want to comment.

Mr HART: Doing something like that may take away the certainty that this bill provides for the resource companies and landowners as far as a way forward goes—that is, if we open it up to absolutely everyone.

Mr Hamman: I guess you could have the same discussion around the Environmental Protection Act which relates to mining anywhere at the moment and also planning. Rana, do you have a view on that in terms of certainty for the resource company? It is probably more certain than not having open standing and having a definition that is—

Mr HART: I am not talking about resource companies; I am talking about landowners, resources companies—everybody.

Mr Hamman: Yes.

Mr HART: Providing certainty.

Mr Hamman: Certainty for land use and who gets to use that particular plot of land for their purposes?

Mr HART: Yes.

Ms Koroglu: I go back to our original submission which is that these particular areas have been identified and declared. A lot of mapping and work has gone into identifying these areas for a particular reason and that is for the benefit of Queenslanders to ultimately conserve these areas and to manage them in a different way. Ultimately, that is of public interest. I take your point that it may not provide certainty to resource companies or to landowners, but if this legislation is ultimately for the public interest then we consider that the public should have the right to be able to appeal.

Mr HART: If you are relying on maps for designating these areas, do you think the maps are accurate enough for that purpose?

Mr Hamman: Fiona, do you have a suggestion on that. You have been looking at the mapping in the Cape York plan.

CHAIR: The question relates to whether the mapping is accurate.

Ms Campbell: With regard to third party appeal rights?

Mr Hamman: No, in relation to designated areas within the plan itself.

Ms Campbell: I can speak only really about the Cape York regional plan. At this point there is still uncertainty and we know that the mapping is likely to change depending on the submissions and what people are saying. Today I have received maps from the Cape York Peninsula Tenure Resolution Branch which are a lot clearer but still quite unclear with regard to the areas. It is partly because of the nature of the Cape York region being so large and not having town areas and different ways of being able to identify exactly where the areas are. Although, the people living in Cape York probably have really good idea around areas.

Going back to third appeal rights and having standing, strategic environmental areas have only arisen in Cape York with regard to regional plans. I think that at least with regard to those areas there should be third party appeal rights given the nature of those areas and their connection to national parks and Aboriginal land.

CHAIR: Just before we conclude, I know the Brisbane based people were here for the earlier submitters. We heard from the Local Government Association with regard to scenic amenity in the strategic environmental areas. What are your views on that? Is it something that should be included?

Mr Hamman: We would like to see the criteria for strategic environmental areas. We would be happy with that. To see it publicly available and to have a discussion would be good. You cannot give someone something and hold back a big chunk of it which shows you how it is going operate. That is our particular concern with this.

CHAIR: Thank you for that. The point you make is one that the committee has heard consistently. Framework legislation does have challenges in that we can only examine what is contained within the bill. The bill makes reference to what will be in future regulation. Clearly it is never appropriate to bring a regulation in at the same time as a bill because that presumes the bill will pass. Having discussions about what should be in the regulation we think is very important. We will certainly be posing those questions to both the Deputy Premier and department as the final witnesses to this inquiry. The committee obviously reserves its right to conduct an inquiry into the regulation when they are tabled in the parliament.

Ms Koroglu: If we may add, that would be most welcome if that was to happen.

CHAIR: I think you are not alone in that case.

Mr Hamman: Am I table to table a document which is a letter from a landholder? Is that possible?

CHAIR: What does it contain? We would not table something that had confidential or personal information in it.

Mr Hamman: I do not think it does. We have read through it.

CHAIR: If you seek leave to table it, we can then discuss it from there. We will take that document as tabled. I thank you for your submission and for the format of your submission. Whilst all submissions are valuable, that proactive approach where real life examples are given and your view as to potential solution is appreciated. I understand the time that it takes to put those submissions together and with limited resources—that is acknowledged. The time for this session has expired. There being no further questions, we will close this session. I thank you for your attendance today.

Proceedings suspended from 10.55 am to 11.09 am

FISH, Ms Colleen, Manager, Environment, Communities and Sustainability, Cape Alumina

SHERLOCK, Mr Graeme, Managing Director, Cape Alumina

CHAIR: Can I welcome everyone back to the hearing. Can I thank those members from the public who are now joining us in the hearing room. I know it is a little bit tight, but we appreciate the opportunity to have you here with us. I call forward representatives from Cape Alumina.

Mr Sherlock: Thank you for this opportunity to appear before the committee today. We have already provided a detailed submission on the Regional Planning Interests Bill, particularly focusing on what we believe to be the duplicative and completely unnecessary approval process identified for projects within regional interest areas as well as the complete lack of consideration of the economic and social value the resource industry provides to Queensland. Rather than reiterate that content today, I would like to add further to our submission as well as respond to a few arguments presented by our submissions which we believe are misleading and not based on factual or scientific evidence.

Even though this bill has not yet been passed and the Cape York Regional Plan is only in draft form, Cape Alumina is the one company that has been the most immediately affected by this pending legislation. The decision to ban mining in the Steve Irwin Wildlife Reserve did not need to be a choice between the environment and mining: the environment can be protected; mining could have successfully operated in this area; traditional owners could have had the opportunity for employment and economic prosperity; and the state could have received much needed royalties. This announcement by the state government on 20 November 2013 to ban mining is predicated on the Cape York Regional Plan being finalised and the passage of this bill. The decision has not been enacted, and I implore you to question why this decision has been made and whether full consideration has been given to the following direct consequences to Queensland and Australia as a whole: the loss of $600 million in state royalties and payroll taxes from our Pisolite Hills mine and port project alone which could have gone directly to either paying down state debt or used in Royalties to Regions programs to help transform the Cape York economy; the cost to the Queensland economy of over $3 billion in economic activity over the next 15 years, much of this in Far North Queensland, which is desperately needed; the cost to the Australian economy of over half a billion dollars in lost federal government taxes; and, more importantly, destruction of the hopes and dreams of the traditional owners of this land of breaking the welfare cycle through employment, the creation of Indigenous businesses and direct royalties.

The traditional owners have lost over $375 million directly in royalties and employment. Cape York has some of the most disadvantaged, impoverished Aboriginal communities in Australia. They lack the opportunities that most Queenslanders take for granted. We have the majority support of the traditional owners. Australia Zoo has one traditional owner's support and he is an employee.

The Cape Alumina project was planning to mine just 1.5 per cent of the Steve Irwin Wildlife Reserve. There appears to be no justifiable reason why this mining project could not have proceeded and the legacy of Steve Irwin still preserved and protected; it did not need to be one or the other. Cape Alumina spent over $20 million exploring the bauxite resources at Pisolite Hills for the benefit of all Queenslanders. Much of this money was focused on understanding and managing any potential impacts to the environment. Cape Alumina was preparing to take on the exploration risk. When you are mining bauxite it depends on the quality, so you can only mine the best. We took on that risk, but we could never have foreseen any political risk that has now occurred.

If the government wishes to encourage ongoing investment and exploration then it must, either within this bill or through other means, compensate companies who have their mining rights stripped away from them as a result of this new bill. Cape Alumina has never asked for any political favours; we have only asked for a fair go and due process. In the area of the Steve Irwin Wildlife Reserve we commenced exploring for bauxite with the consent of the relevant stakeholders prior to the Bertie Haugh pastoral lease being acquired in 2007 by Mrs Irwin at Australia Zoo.

It was well-known that Cape Alumina was exploring this area, and at no time was it suggested by this government or the previous government that mining would be banned; quite the contrary. This government approved the declaration of nature refuge status for the Steve Irwin Wildlife Reserve in 2012 which explicitly excluded the Cape Alumina mining lease application and protected the mining rights of Cape Alumina. That was in that nature refuge status declaration. The government is on the record as stating that it would repeal the Wild Rivers declarations and right the wrongs of the past and empower the traditional owners of Cape York with a say in their land. It is

totally inexplicable that the Cape York Regional Plan and this bill lock up over 600 per cent more land than the Wild Rivers declarations ever did without the approval or consent of the traditional owners.

This government has rejected numerous petitions over the past few years from Australia Zoo requesting to ban mining in the Steve Irwin Wildlife Reserve, and as recently as September last year Minister Cripps was quoted as saying—

> The consideration of, or grant or otherwise of, the mining lease applications impacting on the Steve Irwin Wildlife Reserve area will continue through due process with consideration of the requirements of all applicable legislation, including native title rights and interests and environmental impact assessments.

The 20 November announcement to ban mining by the state government was made without any consultation with Cape Alumina or the traditional owners of this land. Yet the draft Cape York Regional Plan was released on the same day for consultation. The announcement had an immediate and obvious impact on Cape Alumina's investors and also resulted in the termination of a merger with another Queensland resource country, MetroCoal Ltd. After months of due diligence and significant expense and commitments from the government that we would be given a fair go, the merger had to be terminated. We were only two weeks away from completing that merger. This was a significant blow for small Queensland resource developers, who are struggling to survive in the financial market. Without small exploration companies, new discoveries and mines will not be forthcoming for future generations of Queensland.

I would now like to take this opportunity to dispel some of the mystery included in the submissions related to the Steve Irwin Wildlife Reserve. This is a very emotive subject and, unfortunately, this results in a lot of emotive language and not much substance or facts. The Wenlock River is not part of the Steve Irwin Wildlife Reserve. The majority of research is conducted by them on this river for crocodile research. The majority of beautiful photographs provided by Australia Zoo are of the Wenlock River, not the reserve. I can provide to the committee, if they so wish, now or later photographs of this area demonstrating that from the river there is only 100 to 200 metres of green belt.

CHAIR: Is leave granted to table the document? There being no objection, leave is granted.

Mr Sherlock: As you will see by the photographs, the lush corridor along the Wenlock River is only a matter of a few hundred metres. The Pisolite Hills Mine is located between 2.8 and 15 kilometres away from the river. The eight springs in the Steve Irwin Wildlife Reserve are not the lifeline of the Wenlock River. The surface flows of the springs represent less than one per cent of the annual flow. The springs will not be mined because there is no bauxite there. The springs themselves represent only a very small part of the reserve, with an estimate of less than one per cent of that area. Feral pigs have more potential to damage the springs than mining ever would.

There are over 100 reported springs in Cape York with a similar nature to the ones found in the Steve Irwin Wildlife Reserve. The bauxite layers are not water storages or sponges for the springs. During the wet season the water quickly flows through the bauxite into the underlying aquifers; we agree on that. However, the removal of the bauxite layer does not remove the recharge function. Studies undertaken on bauxite mining in Western Australia and around Weipa as well as our own detailed groundwater studies all indicate a slight increase of water recharge during the mining process that quickly approaches pre-mining recharge level as rehabilitation is established. Yes, rehabilitation has to be completed and to world-class standards. Infiltration studies undertaken by the University of Queensland on the Pisolite Hills mined area confirmed no change to the water quality that would be delivered to the springs.

The vast majority of the Steve Irwin Wildlife Reserve is typical Darwin stringybark open forest found throughout Cape York. It is not pristine, untouched wilderness. This has been a pastoral lease for many years and will continue to be so for generations to come. This is not a piece of unique Queensland. It does not contain some of the highest natural values in Australia. A frequent mistruth is that the Wenlock supports more species of freshwater than any other Australian river. From government records you will see the Brisbane River has more.

A substantial body of scientific evidence supports the fact that mining can be successfully carried out in the Steve Irwin Wildlife Reserve and that the environment can be protected. The environmental impact statement, which was being prepared by Cape Alumina, would have been the most comprehensive collection of scientific work to be completed in this area. Cape Alumina was working towards a plan to deliver long-term benefits to all through the provision of mine infrastructure that could be left as research and ecotourism facilities at the mine and in the port areas. They were creating long-term, sustainable employment and establishing a long-term

sustainable environmental research in collaboration—hopefully—with Australia Zoo and others. This could have created a win-win outcome and promoted the legacy of Steve Irwin as well as the local traditional owners. There are many other mistruths, however because of the essence of time I obviously need to move forward.

Cape Alumina's submission on the draft Cape York Regional Plan will demonstrate that the boundaries used for strategic environmental areas are based on high level scientific data with significant and pertinent information gaps—gaps that are even recognised throughout a number of government reports that have allowed the prejudice of bureaucrats to make unjustified interpretations of existing environmental values. The expert panel completely ignored the evidence provided in the independent report commissioned by the government during the wild rivers review that supports mining near the springs. These poorly prepared regional statutory plans will be enforced through this bill and have lasting consequences. The regional plans must be based on real science and real economic interests for all Queenslanders.

Although the stated intention of the government in drafting this bill was to provide more certainty, the investment climate in the state has already been undermined by this political decision to ban mining at the Steve Irwin Wildlife Reserve. This bill and the current draft Cape York Regional Plan have the potential to send a death notice to the mining industry in Cape York and more than likely throughout Queensland. Existing mining operations will stop investing due to the risk of title. Investment in new projects of exploration will dry up even further.

This committee should reject this bill in its entirety as it is not in the interests of all Queenslanders and will send this state into a perilous direction. State debt will not be reduced but will grow as royalties from the resource sector reduce significantly over time. We recommend that utilising existing environmental legislation and continuing to assess mining projects such as Cape Alumina's through an environmental impact statement is the only sensible way forward.

In conclusion, I would like to reiterate that we believe the current actions by this government with regard to the pending ban of mining in the Steve Irwin Wildlife Reserve are not in the best interests of Queensland. Not all of the relevant information has been provided or considered. I plead with this committee to use whatever influence it has to have this decision reconsidered; to reconsider the greater need of this state and the traditional owners of the land; and for the government to broker a win-win outcome for the Australia Zoo, the traditional owners, Cape Alumina and all Queenslanders. Thank you for this opportunity to appear. We are now open to questions.

CHAIR: Thank you very much for that very comprehensive opening statement. I appreciate that our invitation to you was based on the fact that you are the one company that has been directly affected by this. As a committee our limitations are looking at the bill and not at the government decision. While we granted you a great deal of latitude in that and we understand the sentiments that you have shared and we take them on board, our questions will not be with regard to the government decision; they will be with regard to the bill. To start, I would like to go to page 4 of your submission. You bring forward a suggested concept of priority resource area that the bill may consider. Would you like to expand on that a little bit?

Mr Sherlock: I will allow Colleen to expand.

Ms Fish: It is going to the intent of the whole bill which, theoretically, is to balance the economic, social and environmental values in the state. There seems to be something missing. We have quite obviously looked at the agricultural areas in priority agricultural areas. We have looked at the environmental areas in SEAs. We have looked at towns in that section. A significant part of the Queensland economy is the resource sector and yet it has been completely overlooked.

Similar to the other priority areas, we are limited by where the resources are located; we cannot go and build a mine somewhere else. So from that aspect the piece of the puzzle that is missing in the bill is actually to say, 'Where do the resources occur? Where are they most likely to be profitable and economic, and how does that actually match up with priority agricultural areas and strategic environmental areas?', and then try to get a balance. We feel very strongly that that is the really significant piece of this bill that is missing.

Mr MULHERIN: In your submission concern is expressed particularly at the regulatory cost of this bill as introduced. It states that it has potential to impact on existing operating mines and other resource operations. Would your company be required to take on new staff to deal with this level of regulation, or would you cease to exist as a company?

Mr Sherlock: Currently we are struggling to exist because of the uncertainty of the Cape York Regional Plan—it has not been finalised—and this bill is still here. We cannot spend any money on any work because we do not know what the hell is going on up in Cape York. With respect to the bill going forward if it is passed as it is, it would create so much more uncertainty for the investor. You have to relate to the fact that we are competing with international investors. So in the case of BHP and Rio Tinto, they are looking internationally on where to invest their dollar. Unfortunately, if you extend the approval process of any resource development, which is already stretching out to many years, any further increase is only going to delay the investment and put it at risk because the economy changes; the world demand for commodities changes continuously. So anything that lengthens the approval process is not good for the resource sector.

Mr MULHERIN: If this legislation is passed, would your company consider its options to continue to have an interest up in the cape?

Mr Sherlock: We are hopeful that, working closely with State Development, we can introduce real science and facts into the debate around where these strategic environmental areas are located. We believe that these boundaries can be pushed back significantly and an EIS process is the best way to manage the environmental impacts of any resource development.

Mr MULHERIN: You said earlier that feral pigs cause more environmental damage than mining—

CHAIR:—to the springs.

Mr MULHERIN:—to the springs—

Mr Sherlock:—to the springs. Feral pigs are a massive issue up in Cape York; everyone knows that. I will admit that Australia Zoo has done a great job in managing the property that it is on and reducing them, but it is an impossible task to eradicate them all. We have photos—and I was only up there last year—of one of the springs that we were at. It is quite evident that the pigs are there because it is a wet area and they are getting cool. There are quite a few pigs in the area, although there are probably a lot less than in most of Cape York.

Mr MULHERIN: But they would do more damage than mining?

Mr Sherlock: Yes, they can and they can die in the springs and rot and carry on. At the end of the day it is something that everyone has to manage. We were hoping as a company that we would be able to contribute to that environmental monitoring and also work with Australia Zoo and the traditional owners in eradicating as much as we could the pests and ferals up in that area.

Mr HART: Other companies have raised concerns about whether they are going to be impacted by this particular bit of legislation and the regulation that backs it up. Do you think that there could be some changes to the transitional arrangements that might alleviate some of those concerns?

Mr Sherlock: I think the intent of the bill was to create some certainty but, unfortunately, that is not happening at this point in time. It is creating so much more uncertainty for existing mining operations. So the existing mines want to know what it means for them. When do they submit their next plan of operations? Are they exposed to title risk or more onerous conditions being applied to them? When investing in a mining project that takes 10, 15 or 20 years potentially to mine out the resource, you cannot have the rules change continually throughout that process. For new projects it is just the length of approval process that is going to kill off projects. It takes too long as it is.

Mr HOLSWICH: I have a quick question about the appeals process. In your submission you say that it is completely illogical for there to be two separate courts of appeal for a single resource application. I am just confirming that your preference is the Land Court over the Planning and Environment Court. Can you provide some more information as to why that would be your preference, because we have had a range of views on that particular issue?

Mr Sherlock: The key is to ensure that there is only one process where you have people to challenge you. If you have different processes then you can, again, expect that everything is going to be delayed further and further. It is quite obvious that certain groups—activist groups—are using it as a deliberate tactic to delay projects, to frustrate investment, and investors will go elsewhere—overseas—and invest. We have to try to minimise that. Yes, you have to give everyone a fair go, but let us not make the process any longer than what it is.

Mr KATTER: In your submission you talk about the definition of 'priority agricultural land uses' and say that there should be a criteria approved for 'highly productive agricultural land'. I find that interesting. I would not have thought that would come into the regional plan up there. Would there be high priority agricultural land up there?

Ms Fish: No. That was a comment on the bill itself, not necessarily on the Cape York Regional Plan part of it. That was just looking at certainty across the rest of the state as well. The idea of preserving or protecting priority agricultural land is one that we definitely support, it is only in the definition and the extent that we probably have some concerns. One of those concerns is the definition of priority agricultural land use. That does not really define how it is highly productive, which is actually a term utilised in the bill not clearly defined to a measurable manner. A lot of the concerns of the bill come from the potential for a priority agricultural land use which theoretically could be a very small hobby farm type arrangement where they irrigate a few hectares of sorghum to feed a few head of cows. They meet that definition and that sort of operation could then theoretically completely stop a major resource project that would have benefits for many, many people. That was the concern, just to clarify that.

Ms MILLARD: You have made it quite clear that you are not a fan of the bill.

Ms Fish: I like the intent of the bill.

Ms MILLARD: That is right. You did say you believe that the intent was to create certainty but for yourselves it has created more uncertainty. You have also made comment in your submission that you feel as though it would be better to change the current legislation as opposed to introduce a new bill. Perhaps you could just give us a few pointers on specifics there.

Ms Fish: It has been mentioned by a number of other groups already this morning that the application and assessment and the regional interest authority is a complete double-up of what we currently have under the Environmental Protection Act and under SPA. It almost seems illogical to me why we would have another whole layer of legislation when we have already got stuff in place. It is already looking at the environmental impacts. It already looks at land sustainability. You have to do detailed soil studies and say what is actually suitable for that land and how you are going to change it. So whether it is from the environment or from the agricultural perspective, it is already covered in the EIS. We talked about scenic amenity earlier. It is covered in the EIS. All you need to do is bring it down to a regional level and say you have to also include these specifics that are based on the detail from this bill and from the regional plans. I am not a lawyer, but I have had a lot of experience taking projects through EISs. They are massive documents, they have a lot of detail and I am struggling to see the benefit of having another process, another appeal process, everything.

CHAIR: The time allocated for this session has now expired and I thank you both. In conclusion, I would like to qualify my earlier remarks in that the committee does recognise that Cape Alumina is one of a number of resource companies that are impacted by this bill. Thank you very much.

BROADFOOT, Mr Lachlan, Executive, Queensland Exploration Council

HOGAN, Mr Bernie, Regional Manager, Association of Mining and Exploration Companies

MASON, Mr Dave, Deputy Chair, Queensland Exploration Council

POLSON, Mr Robin, Executive, Queensland Exploration Council

CHAIR: Thank you all very much for appearing before the committee today. Would you care to make an opening statement for both organisations?

Mr Hogan: Firstly, I would like to thank the committee for considering our submission and for the latest opportunity to comment on the Regional Planning Interests Bill. The Association of Mining and Exploration Companies, AMEC, is the largest peak industry body for mineral exploration and mining companies within Australia. The membership of AMEC comprises of over 300 explorers, emerging miners and the companies that service them, many based in Queensland or operating within Queensland. AMEC's strategic objective is to secure an environment that provides clarity and certainty for mineral exploration and mining in Australia in a commercially, politically, socially and environmentally responsible manner. It is in this context that AMEC has been actively involved in all the regional planning processes so far and on the committees established for Cape York, Darling Downs, Central Queensland and with the South-East Queensland planning process. In each of these processes AMEC was pleased to hear from the Deputy Premier and the Department of State Development, Infrastructure and Planning the desire to support exploration and mining as a pillar of the economy and that co-existence was a key tenet in the planning process.

The current version of the Regional Planning Interests Bill, as viewed by our members, does not live up to these goals. Despite the Queensland government regularly announcing that it will reduce red tape, we find another permitting processes is in store while still relying on the existing strategic cropping land framework. To add more red tape delay, the RIA will, in effect, be necessary every year as exploration plans may change depending on previous years results and, of course, this assumes that all of the thousands of applications have been cleared by the department each year. We foresee that this will simply lead to a call for cost recovery and the exploration costs will continue to rise.

AMEC has recommended that the RIA that is proposed is simply duplication of an existing proven mechanism, as previously mentioned this morning, in the environmental impact statement. The regional interests should be reflected in that EIS process. I am sure we will speak further on this, but the lack of time frames and the appointment of local governments in the bill as the assessing agencies simply increase the uncertainty of investment in Queensland. This is the direct opposite intention of the planning process and the bill in the first place. Whilst AMEC was heartened to see the attempt to provide exemptions for exploration company members and also those companies that have advanced programs, it is feared that no company will actually ever qualify for those exemptions.

We have suggested several improvements in our submission to make these exemptions workable in practice. My last point before I hand over to the QEC that I would like to highlight is the pathway this bill has opened for greater obstruction to exploration and mining. In the bill it is noted that appeals to exemptions can be made by another landowner not directly affected by the resource activity, there is no defined boundary to this appeal and it will be an open invitation for objections to every project in a PAA area. Further to this, we note that the appeals under the legislation head to the Planning and Environment Court not the Land Court that is more regularly involved in resource matters. Again it just opens another arena for vexatious claims and greater investor uncertainty that drives economic development away from Queensland.

I would like to stress that AMEC is committed to the idea of co-existence where local communities and all industries are given clarity based on robust scientific evidence which provides a decision based on the best economic outcome for the region. However, amongst our members and the wider investment community AMEC is informed that this bill is causing major concerns with investors. As we have said many times before, there is no loyalty for capital and every state and country across the globe is competing. This bill needs to be world class to realise the benefits for the people of Queensland in attracting the next wave of explorers and miners to our state.

CHAIR: Thank you. Queensland Exploration Council?

Mr Mason: Thank you very much for inviting the Queensland Exploration Council to address this committee. We have three representatives here today, as we have introduced ourselves. The Queensland Exploration Council is a voluntary body whose members come from exploration, mining and service companies, finance, legal, events and marketing, research and government and aims to have Queensland develop into a mineral and energy exploration leader.

Exploration companies prefer to work in regions where there is high prospectivity, good scientific information, easy access to land with secure tenure, good investors and the support of government. Government policy affects the last five of these six ingredients for exploration success. The Queensland government has already nominated mining as one of the four pillars of the economy. They want a strong, competitive and agile exploration industry and state that they are reducing red and green tape. The Regional Planning Interests Bill appears to contradict some of these government aims and is introducing another layer of approval processes which will increase costs, time frames, risks and uncertainty—the critical factors that explorers and investors do not want to see increase.

Exploration methods, target commodities and technologies are changing rapidly. This means that access to land for exploration is of prime importance as you can never be sure that there are no more resources to be found in any given block of land. New geoscientific information, new geochemical techniques with lower detection limits, sophisticated geophysical methods which can penetrate to greater depths, new drilling technologies, remote sensing techniques and 3D modelling keep providing ideas to open up and reassess ground for new mineral and energy resource potential. We included an example of this in our submission. Aerial geophysical surveys by the Geological Survey of Queensland over the Eulo area of South-West Queensland have identified areas where potentially mineralised rocks are within 300 metres of the surface in country that was previously thought to be of no exploration interest. The potential veto powers for landholders and neighbours in priority agricultural areas, as mentioned by my colleague here, plus the veto power for local governments in priority living areas will restrict access to land for explorers which in turn sterilises the land from possible future exploration success. The proposed use of the Planning and Environment Court to adjudicate on these matters could provide another avenue for vexatious objectors to delay and halt approval processes.

Several mines have closed recently in Queensland, with more expected to close in the next few years as resources are depleted or become uneconomic. We do need a competitive exploration industry to find the next generation of resources, to keep the mining pillar strong and to continue to generate healthy royalty returns. Explorers and investors need confidence that the Queensland government can and will create an environment that encourages exploration and does not raise the risks, costs and time frames that this Regional Planning Interests Bill appears likely to create. Thank you for this opportunity to appear before the committee. We are happy to answer any questions about our submission.

CHAIR: Thank you both for your opening statements. If I can, Mr Mason, I might direct my first question to you. You touched in your submission on a local example which immediately piqued my interest. It also touched on an area we do not look at with regard to exploration because we do tend to think of it as occurring in a new area, perhaps it has not had any mining activity occurring before. You make reference to the situation that if the bill was in place the proposed PLA, priority living area, regime would have prevented the reactivation of the Gympie goldfields. Would you like to tease that out a little bit more and what opportunities across Queensland this bill may impact upon with regard to PLAs?

Mr Mason: Gympie's mining history goes right back to the foundation of the state, as you probably well know.

CHAIR: I could give you the stump speech.

Mr Mason: The town is built around the mine. We can talk about Mount Isa and other towns like that. If this bill was in place they would not be able to reopen the mine.

CHAIR: Are there many places in Queensland that would find themselves affected by this bill as in the example that you have given?

Mr MULHERIN: Charters Towers.

CHAIR: Charters Towers, Mount Isa. Are there other places?

Mr Mason: Yes.

CHAIR: Mr Hogan, you are nodding. Would you like to add to that?

Mr Hogan: Many is the short answer. You roll off the obvious: Mount Isa, Charters Towers, Gympie. Lord forbid, Limestone Hill, which is Ipswich. These are all areas which have risen and declined on the price of the current mining operation that they had. We are seeing far more gold explorers move towards the northern parts of Queensland as gold becomes economic or the technology has caught up to make it economic to look into the Charters Towers region again. Suddenly that would all disappear.

CHAIR: Would you believe that an exemption or some criteria around priority living areas where there have been existing mining activities would address that issue?

Mr Mason: I think that is a possibility, yes.

Mr Hogan: There is an exemption there for existing resource activities, it just needs to be looked at how broad that can go. It will be difficult to define that because you may have an existing resource activity that was from 1850. So I think you have to look at how that actually works. And you cannot future proof that. If the price of some particular metal goes through the roof we may find another one that we did not know before so it is very difficult to future proof it.

CHAIR: Thank you. I open it up to committee members.

Mr MULHERIN: You said that modern legislation should be world class. You were saying that this legislation does not meet that standard. If this bill is passed in its current format, do you think that we would see a drying up of investment for mining exploration in Queensland? Would it be dramatic?

Mr Hogan: Undoubtedly.

Mr MULHERIN: That people—

Mr Hogan: The short answer is undoubtedly. It may be hard to quantify, but it is the uncertainty of investment. At current levels across the globe, as they call it, risk capital for entering the exploration market has dried up. That is probably the nice way to put it. It has substantially dropped in the last 12 to 24 months. Everybody is competing. When I say 'everybody', it is all jurisdictions across the world. If you are adding one more cumulative reason for them to turn away where another jurisdiction that is equally endowed with fabulous resources, and there are many, that is one more reason they will not come to Queensland. Queensland already is considered not in the top 10 in the world for its regulations. This is one reason for it to further slip down and I do not think that is a responsible way to go.

Mr MULHERIN: So the tap will be turned off.

Mr Hogan: Without a doubt.

Mr MULHERIN: Thank you.

CHAIR: Your comment there about top 10 in the world, could you share with who are considered—

Mr Hogan: It does move. I think at the present time Queensland, if you look at the Fraser Institute survey—it is a Canadian research institute that looks across several hundred jurisdictions across the world and compares them with their regulation and their susceptibility to encourage exploration and mining—Queensland is running somewhere in the mid-40s at the present time. Other states in Australia are ahead of us and have been for several years and are still going forward. Queensland is not.

CHAIR: Are any of those states in the top 10?

Mr Hogan: One was at 11.

CHAIR: Thank you.

Mr HART: For how many years has Queensland not been in the top 10?

Mr Hogan: I cannot say off the top of my ahead, I am sorry.

Mr HART: It is more than two, though, right?

Mr Hogan: My word.

Mr HART: Mr Mason, you used an interesting word before. You used the word 'veto'. I am interested to know why you think that landholders have a veto when it comes to priority agricultural areas and why you think that local councils have vetoes when it comes to priority living areas, especially given the exemptions that are in place in this bill.

Mr Broadfoot: I will have a go. I guess it links back to the exploration state that we are talking about in terms of risk capital and the stage that you are in. Your end result may not be a final veto but the consequence or the effective action causes a veto in terms of exploration spend or desire to spend exploration funds. In the scheme of things, with a well-developed or defined resource with really high potential to become a mine, some of these costs and some of the desire to take on this legal action or to go through this whole process and multiple avenues of appeal may seem okay to take on or seem worthwhile and have a fair potential to get through. But when you are talking about your first dollars to be spent with already extremely stacked odds against you geologically, having that extra level of concern or extra cost that just goes in for every dollar of metre drilled getting added on top and delaying that process, it is very much effectively a veto.

Mr HART: So your concerns are more about future ventures rather than previous ventures?

Mr Broadfoot: Wearing the exploration council hat, absolutely. In the hat that I wear in business—we are a consultancy group that provides services both to explorers and existing mines—I think there is very significant concern about how it could affect expansions or the continuation of operations that exist in mines when they have to go through this process for any change in their currently approved operations. I know that there is potential for some exemptions, but there is, of course, some concerns about how they will be defined and how they will work. But for new exploration, absolutely, very concerned and for existing operations, I do not think that we have to look too far to see some of the examples that have occurred in New South Wales with the planning act down there and how companies with existing operations going for extensions have been caught up in that to take a lesson.

Mr HART: Inside the bill as it is proposed what changes would you like to see to give you that confidence?

Mr Broadfoot: I guess it is the whole context of having a dual process there where even your agreements that you might reach with landowners—and I think there is a fundamental understanding in the exploration industry that the licence to operate with communities is extremely important; a lot of time and effort is invested into that and direct and positive win-win arrangements with landowners is always the best way forward. The existing arrangement means that even if you feel like you have had a win there other neighbours or others outside of that area may still become involved.

I guess in some ways I am concerned that it almost undermines the government's intentions of these relations. If you think that it can end up in that space, really, what is the desire or the intent? Are you better off just shortcutting and going straight to the court if you know that you are going to end up there anyway? Surely, that cannot be the intent, but it is quite a logical outcome to take if you are really trying to accept the fact that at least you get to get things on your terms and your time frames rather than waiting for a vexatious group to support any other member who may want to put something against you.

Mr HART: Cape Alumina raised an interesting point—and I thought that I would leave it to ask you gentlemen this question—about the mapping that this legislation relies on. Do you consider that the mapping is accurate enough for this particular legislation or the changes? How do we go about changing that particular mapping?

Mr Mason: I think the level of mapping is based on current information and current technologies. In five years time there will another technology that will see deeper into the earth or pick up different minerals. That is why I am saying that you could never say, 'There is no potential in that piece of ground.' There will never be sufficiently accurate mapping to say, 'There's nothing there.'

Mr HART: I guess I was coming at it from the other point of view, though. The mapping of an agricultural area—not so much prime living area; that is obvious—but a strategic environmental area—

Mr Hogan: From our point of view I would say no, it is not detailed enough. But also exactly as David was saying there looking at the geology, it is the same thing with the technology that we can use to map the land. I think it is probably the best of what is available right now in the current standards. That will constantly need to be updated. It is a problem with declaring any map. A day later, it is out of date. We do not think they are accurate enough now and there is a process going where many of our members are working with the department and saying, 'Why is that included?' 'Why should this be included?' 'Under what circumstances has this land been included?' and to test that. But you are going to find that constantly.

Mr HART: That system is working okay for you?

Mr Hogan: Outcomes are still to come. I cannot comment on that.

Mr KATTER: I have just a question relating to the transfer of RIAs—regional interest authorities. You are saying that they should transfer seamlessly with the sale of an asset or when doing joint ventures. I just wonder if you could expand on that for us?

Mr Hogan: Again, it goes to the uncertainty question. If there is a change in the ownership, which happens regularly and particularly at this time when people are looking for investment funds there will be a change in ownership, does that take them right back to the beginning of having to go through an RIA because it is different owners? The process may be exactly the same, but suddenly it is a different entity. This is not teased out in the bill at this point in time. That adds to uncertainty. Therefore, you are going to have fewer people looking at Queensland saying, 'If I buy in, do I have to stop operations and start again?' We are saying that these things have to transition immediately and stay with the project. We would prefer not to see them at all.

Mr YOUNG: Michael actually answered my question.

CHAIR: He asked so many of them.

Mr YOUNG: One of the things that I was concerned is that the agricultural groups might disagree with you about prime agricultural land. Do you still say that you should access prime agricultural land? You said that the farmers have a veto under the new PAA to get access to prime agricultural land. You are saying that you still require access to prime agricultural land?

Mr Hogan: I think the key to the answer to that question is in two parts. One is the idea of co-existence and priority. Co-existence should not be defined as, 'We'll exist here; you exist somewhere else,' which is what that pushes on to. Priority: yes, absolutely. If it is a priority agricultural area because it is a proven area where there is a land use, we can understand that. But there has to be a pathway through that that a project that does suit and allows co-existence should be able to exist.

Mr YOUNG: I am not disagreeing. We have been to properties where those agreements work very well.

Mr Hogan: It is not that AMEC is saying—I do not want to speak on the part of QEC—there are veto powers within different parts of the bill with the PAA. As long as that criteria, which is going to be those co-existence criteria, allows that pathway forward, it must be able to move through and not extend the period that it takes to develop, because it is just getting longer and longer.

CHAIR: Would the Exploration Council like to expand on any of those points?

Mr Mason: I tend to agree with everything that he has said, actually.

Mr MULHERIN: So in your view this legislation should be scrapped and not taken into parliament for debate?

CHAIR: You do not need to answer that question.

Mr Polson: No, I think it is worthwhile. I think the point is what we have at the moment is suboptimal. This bill is probably suboptimal. I think it goes back to the vetos. We have not seen the vetos that are already counting. Those vetos are happening in London, in Hong Kong, in Beijing. We do not even see what is disappearing. All we are seeing is the hurt where certain areas now are getting stopped like Cape Alumina. I think if we could have a picture of where you are sitting at the boardroom table and you are weighing up three deposits—and these are not shining examples of mining—Mozambique, somewhere in South America, somewhere in Canada—and there is one in Queensland it is very easy for board members to say, 'Okay, you don't want to start this. It's too hard. Let's have a look at these.' That is where we are losing the money. I do not think we are losing the opportunity; we are losing the value and we are losing enough for all of Queensland. So I think a solution needs to be found. The intent, as we have said, is good, but we need to sort it out in a way that is workable so that we do not only have priority on the left hand and not on the right—or maybe I should say it the other way around.

CHAIR: No, understood.

Mr MULHERIN: But you can understand the community's concern that all over Queensland there are some sort of exploration permits over land and that has been really ramped up in recent years. People are trying to manage properties, make a quid and the miners come in. It is just happening and they just think of the pace that it is occurring at and that not enough consideration is given to the potential long-term impacts of some of these activities. Can you understand that community perspective?

Mr Polson: Absolutely, but the important thing to understand is that—

Mr MULHERIN: But you are saying that capital cannot wait for the community to get an understanding.

Mr Polson: No, what I am saying is what exploration is is acquiring information. So it is giving the farmer, the local community, the wider Queensland community, the information on which to make a balanced decision. So sticking your head in the sand and saying, 'We are going to look there because we are farming there,' is not really a solution. It is a way of devaluing the overall potential of the state. I am all for getting all the information out and if you make the call what is prime agricultural and what is prime resource, that is a great decision, but at the moment we are looking at the one side and putting the blinkers on and that can never be a good way of doing things.

CHAIR: Okay.

Mr HOLSWICH: I just want to ask QEC—and this is a similar question about an issue that has been raised by many witnesses and submissions—about the proposed use of the Planning and Environment Court to hear appeals on this matters that could provide another jurisdiction for vexatious objectors to frustrate the established approval processes. When I have asked that question earlier—and you have possibly heard a number of the responses—they are saying that there are enough checks and balances in place to ensure that that sort of thing does not happen. Do you think that the limited definition of 'affected landholder' now will negate that risk or is that still a major risk in your opinion?

Mr Hogan: Are you comparing the two on the affected landowner and into the Planning and Environment Court if we reduced the definition of 'affected landowner'?

Mr HOLSWICH: Do you think that definition now is narrow enough that it will reduce those or negate the vexatious claims?

Mr Hogan: No. The way it reads at the moment is it says it is a landowner who is affected. How far away is that? Is that somebody who is in Mount Isa exploring and they want to continue to develop in Mount Isa, but there is somebody in Gordon Park in Queensland who believes they will be affected? How far away do they have to be? The issue with that is that there has to be a direct influence. I can understand it if they are saying there is an organic farmer next-door, all right, we have to be able to assess and address that, but there seems to be no extent. Whether geographically or time based, there is no extent to that.

The second issue is the two courts, being the Land Court and the Planning and Environment Court. The Land Court is where traditionally and more regularly resource based appeals head. They are more informed, they understand it. Also the industry—and I hate to hark back to it—the investors behind the operators understand that and are comfortable. The more opportunities there are for appeal, the greater the uncertainty, the less chance you are going to have of people coming to Queensland. It is a very direct relationship.

Mr HOLSWICH: So 'affected landholder' could be an effective term, but it has got to be locked down more.

Mr Hogan: Has to have more control over it, absolutely.

Ms MILLARD: With regard to exploration and mining, so often that particular term is sort of clumped into the same meaning. Do you think that they really should be quite separate, and if you can just give the reasoning for your answer.

Mr Hogan: They are two completely different industries. Exploration has far less impact on the environment. It is transitory by nature; they are moving through. We were talking before about the large exploration permits that are across all of Queensland. That is because the chance of finding something is incredibly low. You have better odds at the casino. It is incredibly low. It is an entrepreneurial activity.

The mining industry is those who have found a proven deposit which luckily enough is economically viable, is near infrastructure and does have a market—all the stars have aligned to create mining. Exploration does not make money. They lose money year upon year upon year.

CHAIR: You are making it sound like a bottom-of-the-harbour scheme.

Mr Broadfoot: I think the only point I would make, if I could add one, is just that intrinsic link to exploration success and the pipeline for future mining, however—I mean, whilst they are very different industries, if we kill off one that has that ability to have low impact on the land and to gather

data to produce that one-in-a-thousand opportunity, the mines themselves are always going to deplete resources. So it is fundamentally linked to the Queensland economy and success, but it is unfairly caught up in the public's perception of the level of impact that exploration can have on its own and the likely impacts that it can have on its community.

We as a group recognise we have to try and help with our communication on that and get that message across. I think in some ways in the most recent years where it has been caught up with a bit of a mixture of what is happening in the gas industry, that has put a lot of impact on the coal and mineral industry, which is much more searching for resources and a much lower chances of success, whereas some of the gas has led to much quicker production and an impact on land. So I think a lot of those concerns have fed off some of the rapid acceleration in the gas industry rather than what has been happening in the coal and mineral industry, which is still in a very—invest a lot of money and you may have a very small chance of success. But we need to have confidence that if we do have that small chance of success, that at least it can have a path forward.

CHAIR: Thank you very much. The time allocated for this session has now expired, and I appreciate all of you appearing before us today and for your submissions as well.

I would now like to call forward representatives from the Australian Petroleum Production and Exploration Association and from the Queensland Resources Council.

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

FENNELLY, Mr Paul, Chief Operating Officer, Eastern Australia, Australian Petroleum Production and Exploration Association

HAYTER, Ms Frances, Director, Environment Policy, Queensland Resources Council

PAULL, Mr Matthew, Policy Director Queensland, Australian Petroleum Production and Exploration Association

CHAIR: I thank you all for appearing before the committee today. I invite you both to make opening statements. We might start with the Queensland Resources Council and then go to APPEA.

Mr Barger: Thank you for that, chair. I have a statement to read, so bear with me. I will try and do my newsreader voice, but if I lapse into my Hairy Maclary voice, I am sure one of my colleagues will give me an elbow.

Thank you for the opportunity to appear today. As you have heard, you have got Frances and I appearing. As Dan did earlier for QFF, you do not invite a peak industry body without an advertorial. QRC are the peak representative body of the commercial developers of the state's minerals and energy resources, and in that context we represent the interests of more than 300 member companies in Queensland.

Something that is important to understand in dealing with this bill is the economic and the social context. One of the roles that QRC plays collectively is to draw together the spending of our explorer gas, mineral and coal members into a consolidated base to address some of the concerns you heard from Rob about councils making decisions with economic data—that that is at their fingertips.

We have just recently updated our website with the 2012-13 data, and I am pleased to say that despite pretty tough business conditions, particularly for coal and particularly for explorers, resources have made a record economic contribution to Queensland. A large part of that is due to the significant increase in expenditure from our coal seam gas members. The headline results for 2012-13 are that Queensland's resource projects delivered one in every four dollars of spending across the state's economy with money washing out throughout the length and breadth of Queensland and supported directly and indirectly one in five jobs in Queensland—so that is really important for helping the government hit that jobs target and in generating all that economic benefit—and used about .09 per cent of the state's land mass, so a very concentrated economic benefit.

We were so proud of this data that we wrote to you in December to sort of set out some of the latest facts and I guess just to substantiate the fact of the ubiquitous nature of the resource industry. You might not have an open-cut coalmine on the Gold Coast, but you have got workers there. You have got companies that benefit from the industry. So just to sort of call that out for the committee, whether you step from Mackay with 22,000 resource jobs; to Burleigh with 1,100; Keppel with 4,500 jobs; nearly 3,000 jobs in Pine Rivers; Mount Isa with 15,000 jobs; Sandgate, 625 jobs; and last, but no means least, Gympie with its own proud mining history has got 580 jobs created by the resource sector—

CHAIR: A random selection of electorates across the state.

Mr Barger: Yes, not even in alphabetical order. So at present there are four regional planning processes afoot in the state and QRC has been heavily involved in all of them. It has been a member of the three regional planning committees and involved in the South-East Queensland advisory committees. From Cape York to Coolangatta, QRC has been doing its best to provide our members with a voice in this fast moving regional planning process.

As we have outlined in our submission and in our individual companies' submissions, the industry is looking for some important refinements to the bill. I guess I would echo what AMEC said earlier, that there seems to be a disconnect between what the Deputy Premier has described in the regional planning committees in terms of what the policy is trying to do, versus what we have seen proposed as black letter law in the bill. So there are a couple of areas where we think refining the bill could deliver a much better policy outcome and steer it much more closely back to what we understood was the Deputy Premier's intent.

In that context we found the committee process really helpful, both seeing the submissions from other stakeholders on the legislation, and particularly hearing the department's evidence and seeing the letter earlier in February on the response to the questions that the committee posed then. What was really clear from that letter in particular was that the department's view and the view of QRC members about what 'coexistence' means are quite different and very different in practice. The fundamental thrust of our submission—apologies, it was a bit of a phone book submission—was to say that we cannot see that risking resource jobs while not contributing to the government's goal of doubling food production qualifies as coexistence, and we cannot see that that is really in Queensland's interest. One of the traps that we urge the committee to avoid is the risk of thinking if you give enough people the ability to say 'Not in my back yard,' resources can exist happily somewhere out there. That is not the way that geology works. That is not the way the industry is structured. So sometimes we need to have a harder look at what are the land uses and are there opportunities to coexist.

We have seen the state government's regional planning policy articulated in a bill that sets up zones, and those zones are designed to protect agriculture, protect towns and protect environmental values. There is lots of protection; not much growth. So we see a disconnect there between even the language around the Deputy Premier's Governing For Growth statement that he released yesterday, which talked about having the best planning system in Australia to drive economic growth, versus what we are seeing in the bill, which is lots of protection. In the case of the strategic environmental areas on Cape York, the draft regional plan just bans open-cut mining. There is no recognition, as you heard from Cape Alumina, of any previous work that has been done in environmental impact assessments and no apparent reference to the extensive scientific work that has been undertaken throughout the process—just literally a bolt from the blue banning a certain sort of operation.

That is not to say that the industry wants open slather everywhere. We do not necessarily want to dig up everyone's back yard. We accept that in some areas environment and agriculture takes precedence, and we appreciate that that is what the Deputy Premier has sought to do with the regional plans. Again echoing what you heard this morning from the Queensland Farmers Federation around a disconnect between regional plans being an instrument to manage cumulative impacts versus a bill which seems to be very narrowly focused on creating zones and protected activities, as recently as yesterday the Deputy Premier released his Governing For Growth statement, which talks specifically about providing certainty for business and investors. You heard a lot about the flight risk and the lack of loyalty for capital from the previous presentation from AMEC and QEC and reforms to reduce costs for industries and to create the right conditions for economic growth. The industry is happy to stand up and applaud that, but we struggle to see how that is articulated in the bill as it is presented at the moment.

One of the things we have tried to do in our bill—and at the risk of pre-empting your questions—is not just to poke sticks at it or say 'Here is where it is wrong,' but to identify how to refocus it to try and throw some solutions on the table. We recognise that regional planning is a key election commitment for the government and we can see a lot of benefits in that cumulative management of regional issues that the Deputy Premier has articulated, but how do you go about producing a better system of regional planning in Queensland? We would say the first thing you want to do is define scientifically which areas are the most agriculturally productive. If you understand why they are productive, then you have got a hope of preserving that production activity into the future and investing in that production. That also leads you down the path of understanding what the barriers are to the government's objective of doubling agricultural production by 2040. It is interesting that I have not heard anyone today talk about DAFF's agricultural land audit, where they have actually done some scientific baseline work of identifying where there are areas currently not being used that have agricultural potential. To neglect that new information in a regional planning process seems criminal. The next stage we would say is let us have a look at what we know about the energy prospects—

CHAIR: Sorry to interrupt. If you could wrap up, we are conscious that we need to give APIA time as well.

Mr Barger: Flipping through to page 37, there are a couple of key areas where QRC would recommend those refinements around the bill, so how we might focus it more sharply on the government's commitments to both agriculture and resources. We would say that the bill needs to have a series of clear grandfathering and genuine transition provisions. We have articulated some of those in our submission. The aim there is to ensure that you very clearly draw a line between existing resource activities and proposed new ones. The new ones have some capacity to adapt; the existing ones less so.

The second thing is—and you have heard this from, I think, every speaker this morning—the regulatory detail; understanding all that regulatory detail so that the framework legislation is articulated. You have heard from speakers this morning about how difficult it is to assess the bill in isolation. The other thing that came through very strongly again from all the speakers this morning is the delegation, so the pushing of legislative powers to regulations that we have not seen. We think there is a real risk of unexpected consequences from this.

The final point that I would make in terms of how the bill could be improved is a fairly simple one. Again, it is something that you probably heard more about in Toowoomba than you have this morning. It is about focusing the bill on coexistence. As it stands, the bill mentions coexistence once. It is not really defined and it then becomes very difficult for criteria to measure that. Our suggestion is simply that coexistence with mining projects could be defined in the bill simply as follows: coexistence means a new mining project within a priority agricultural area must provide a net benefit for that priority agricultural land use. You are picking up on the Deputy Premier's concept of priority, you are picking up on the agricultural framework about productive capacity and you are saying, 'Well, here's the test of coexistence; if you are making that existing activity work better and you can extract some extra resources out of that, that sounds like coexistence'.

The other aspect of it—sorry, I promise this is the last sentence—is around the strategic environmental areas. Again, to say for a new mining project in a strategic environmental area where it might have potential impacts, assess those regional environmental values through the environmental impact statement, so put some rigour around a process of defining why an area is special. You will be happy to hear my next word is, 'end'. Thank you.

CHAIR: Thank you. APPEA, would you like to make an opening statement?

Mr Fennelly: Thanks very much, Chairman, and thank you to the committee for this opportunity to present. Firstly, I should introduce APPEA. Some of the members may not be familiar with our organisation. We are the peak national body representing Australia's oil and gas industry. APPEA members collectively produce approximately 98 per cent of Australia's oil and gas. I pre-empted that we might be a bit tight for time, so I want to take the committee to our concerns up-front.

CHAIR: Please.

Mr Fennelly: The significance of the gas industry in Queensland: we spell out seven key areas where we believe the bill has major problems for our industry or creates major problems, and then we go to about four or five issues that we believe could remedy the deficiencies that we think are there at the moment.

CHAIR: The committee is aware of the significance of the gas industry for Queensland, so you may wish to drop that and focus on the others; that would be good.

Mr Fennelly: Thank you, okay. By way of introduction, I wish to state to the committee that APPEA is concerned that the bill as drafted will have a severe but, we believe, unintended impact on investment in Queensland's natural gas industry. APPEA considers that the passage of the bill in its current form would see a halting of a large section of the natural gas industry with a hugely detrimental effect on the industry in Queensland and a commensurate knock-on effect to the state economy. The key reason for this is that the exemptions and transitional provisions in the bill are ineffective for natural gas projects, meaning that already-approved and, in many cases, operational projects within affected areas would be required to obtain approvals under the bill or, indeed, cease operation until they do so. Compared to the existing Queensland approval regime, the approval process proposed by the bill provides little certainty to investors as to how long approvals will take and what conditions would be imposed. The bill in its current form would, therefore, also have a significant adverse impact on future investment.

However, with appropriate amendments—and this is reinforcing what the QRC has indicated—APPEA considers that the framework proposed in the bill has the potential to provide a sound underpinning for coexistence between the resources and agricultural industries in Queensland. APPEA supports the Queensland government's promotion of coexistence and wishes to continue working closely with the government, the agricultural industry, rural and regional communities and other stakeholders to develop a regional planning regime that improves outcomes for all concerned. The coexistence concept is one that the Queensland natural gas industry has embraced as a necessary prerequisite to obtaining social licence to operate in this state. As a result, natural gas activities throughout Queensland already coexist with agriculture and other land users, as well as complying with strict environmental standards.

In our submission, you will see, Chair, that we provide a clause-by-clause analysis of the bill. That analysis has been developed with the assistance of external legal counsel and the active involvement of our member companies. In particular, I refer to the submissions to this committee from Santos, QGC, APLNG, Origin and Arrow, which provide a further insight into the potential adverse impact of the bill.

In terms of jumping ahead on the economic significance of the industry, there are just two quick points on which I want to update the committee. Firstly, as you are aware, there is $60 billion investment currently occurring in Queensland in the natural gas sector. We now employ 30,000 people. We have signed 4,000 landholder agreements and so far have contributed more than $100 million to community projects and causes, and now a significant supply of water to farmers in the areas protected by the bill. The final point: I take the committee to a recent report by Deloitte Access Economics where the gas industry has been identified as one of the five mega-industries in this nation that provides potential strong growth and economic opportunity.

In terms of the bill, I mentioned there are seven key areas. Firstly, I will quickly go through those if I may and then what we believe should be looked at. We note, as the QRC also indicated, that the bill in its current form—and as I say we believe it is an unintended outcome—is inconsistent with the strong policy work and the strong report that was released by the Premier and Deputy Premier yesterday in terms of governing for growth.

I turn to the bill and the seven key concerns: as earlier stated, the exemptions and transition provisions in the bill are ineffective for natural gas projects and existing projects will require re-approval under the bill. Given that there is potential for disparate property scale approvals to be required under the bill, this may entail hundreds, if not thousands, of separate approvals for existing operations. Each approval would then be appealable by an affected landowner and, as discussed in the body of our submission, because landscape scale assets are regulated by the bill affected landowners again could number in the hundreds or even thousands for a single approval. Further, the approvals framework in the bill does not provide for an approval within the set timeframe and operations are stayed until an approval decision is lodged.

Second, the bill appears founded on the assumption that it is in the interests of the Queensland economy to refuse development that conflicts with agriculture. Third, the bill sets out only one process through which all resource activities occurring on areas of regional interest, from a large coalmine to a one-hectare well pad, must be assessed and approved. Unless a resources activity is exempt, the proponent must obtain a regional interests authority through a complex, open ended and potentially lengthy process in part 3 of the bill.

The bill allows for regulation of both landscape scale and individual property scale regional interests on a tenure-by-tenure, property-by-property basis, which will allow for a fragmented regulation of landscape scale public assets. Landscape scale assets such as aquifers are already strictly regulated because of their significance, as has already been recognised.

The bill's proposed method of dealing with duplication of legislation approvals and conditions is overly simplistic and will lead to an increased regulatory burden for both government and industry. There are only two more: the appeals process outlined in the bill largely duplicates existing processes administered by the Land Court and vests those processes in an entirely different court which has very limited resources, such as the Planning and Environment Court. Finally, the bill proposes to overuse regulations in an inappropriate way such that important aspects of the bill are still unknown.

Chair, I am conscious of the time. Probably the key message I want to reinforce to the committee is that the bill in its current form is of grave concern to the natural gas industry, among the highest levels of the industry in Queensland.

CHAIR: Thank you both for your statements and for your submissions. You have certainly kept me up late at night reading through all of the information that is there. I start off with a matter that you have both alluded to and I would like to tease this out a little more, because I think it has been identified as an unintended consequence of the way the bill is currently drafted. I am referring to clause 24, 'Exemption: pre-existing resource activity'. I note the various comments you have made within your submissions. I would like to get a response from both of you as from the way the clause reads at the moment certainly one would be excused for thinking, 'Well, it's a pre-existing activity, you have no problems. The exemption is in place.' This question is to both of you. My understanding is that the resource activity work plan that is in place, from a mining perspective, does not necessarily cover the full mining activities over the mining lease that would exist. It may be a work plan for the next 12 months, as opposed to where it goes. I wonder if that definition is

sufficient enough to ensure that there is an exemption? From the gas industry side of things, what challenges do you see with regards to the pre-existing approvals being in place? I will start with the QRC and give you both an opportunity to answer that one.

Mr Barger: Thank you for the question. That is probably the largest concern for the industry as a whole in looking at the bill as drafted at the moment. You are right: you read the heading, 'Exemption: pre-existing resource activity' and think, 'Terrific. I've been mining since 1923 and I can happily keep doing that'. But you are right: the way the exemption is worded hangs off a particular instrument. For example, in the case study of the Kestrel Mine that Rio Tinto presented to you and that was in the QRC submission, they are in the process of planning an extension of a 20-year life-of-mine multibillion investment, but their plan of operations is a 12-month rolling process. As currently drafted, the recognition as an existing activity only lasts for the life of that regulatory instrument.

We both talked about refinements and I think that is a fairly simple one, where a change in definition to a more enduring instrument where you can point to a process of authorising an area of land disturbance and recognising that as a regional interest which endures is a way of actually drawing that line in the sand sensibly between his activities that were afoot and had been approved already versus, 'You are a new activity; justify that you can coexist'.

CHAIR: APPEA?

Mr Fennelly: Mr Paull will answer.

Mr Paull: We have the same sort of issue as the mining industry with the plan of operations. They do not necessarily last for the whole project. They are changed and updated as the project goes forward. As well as that, there is the additional issue for the gas industry that any project under a CMA tenure is excluded from that exemption. The CMA tenures were set up specifically to manage aquifer effects from the CSG industry on a holistic basis. It was deliberately set up to encompass, essentially, the whole CSG/LNG industry. That clause takes the majority of the gas industry in Queensland out of the exemption.

CHAIR: I think it is in the QRC submission where you say it would be simpler to just have a grandfathering clause that would then provide that exemption. Is that the view? Obviously, it is your view. APPEA, would you be happy with a grandfathering approach to it?

Mr Barger: Chair, I do not know if the committee has seen this. I have maps of the cumulative management area, to give you a sense of the massive scale.

CHAIR: Are you seeking to table that?

Mr Barger: I am happy to table that if that is useful.

CHAIR: Leave is granted. I will now open it up to committee members for questions. Tim?

Mr MULHERIN: Andrew, the department has responded to the submissions that the committee received in this inquiry and advised that in relation to exemptions for existing projects—

... the bill is not intended to stop or further regulate resource activities that are already operating lawfully in an area of regional interest or that are not considered to have a material impact on the area.

Based on that response, you still have concerns?

Mr Barger: Definitely still have concerns. I completely understand the intention is not to impact an existing operation. That has consistently been the government's message all the way through. The problem is that the way it is articulated in the legislation does not deliver that. So I guess in a way it is a failure on the industry's behalf that we have not articulated the way the industry is regulated so that there is a misapprehension that a plan of operations is a suitable instrument for recognising a pre-existing activity. As APPEA have done, there are lots of suggestions coming forward from companies saying, 'Here's a way that we would delineate between our existing activities and new activities.' So, again, I think it is a definitional change where the government's intent is quite clear; it is just that in the drafting that intent has got lost and diluted and turned into quite a fleeting exemption rather than an enduring one.

Mr MULHERIN: What are the most critical amendments that would see the Deputy Premier's objective of co-existence of mining and agriculture? What do you see are the three most critical amendments that could bring this legislation back on an even footing for agriculture, mining and the environment?

Mr Barger: That is a good question. The legislation is complicated because it deals with environmental issues, agricultural issues and urban issues.

Mr MULHERIN: And Indigenous issues. I am sorry, but I forgot to mention that as well.

Mr Barger: Although we heard a few people say this morning it perhaps does not encompass Indigenous issues to the extent it should. So you are right: there is a complex set of issues that are considered in the regional plans. What we have seen in the bill is a sort of a narrowly focused planning instrument. So I guess what we would say if you were drawing up a set of priorities is that issue of the retrospective application to existing activities would be right up in the top three. We tried to do a sort of a back of the envelope exercise in our submission in attachment 6 to try and run some maths—and it will be wrong because we are making assumptions—just to get an order of magnitude around how many existing operations are going to get caught within the first 12 and 24 months if the bill passes. Even at that order of magnitude level of error, that is pretty alarming reading in terms of what that entails.

The other thing I think is that the focus at the moment—and it probably reflects the Sustainable Planning Act origins of some of this work—is that it has a real zoning and town planning focus. It is not a larger view of a region and saying, 'Okay. What's this region good at? What could it be good at? How's it going to grow? What do you need to put in place to make this region grow? Does it need a better rail link or water infrastructure? Is it something to do with the way the agricultural produce gets to market, or does it need better roads?' Communities are really good at telling you what they could do if you brought something to the table. So the regional planning process that has been run through is potentially a really good way to link through to the Queensland Plan and some of the other government's objectives about delivering economic growth. But the problem is the bill as the instrument of delivering that is very narrowly focused on protection, so there is lots of, 'You can't come here. You go to jail.' The focus is a little bit wrong. It needs to be more looking at growth.

I think the third point is probably around co-existence. We should put a framework in place where you say, 'In this part of the state environmental values have priorities, so if you want to operate there you need to be consistent with that and perhaps you actually need to demonstrate a benefit for those environmental values,' and similarly for the towns and similarly for the agricultural areas. Suddenly you have shifted the whole focus away from drawing up exclusion zones and carving people out of the map and saying, 'What we've done is we've just set the hurdle higher. We've described for you the values that are important in this region. If you want to operate there, here's the standard we're going to set,' and then you leave it up to the proponents to make their case. So you have shifted it from 'thou shalt not' to, 'Here's what we expect from you,' and then what you have done is you have shifted the bill away from protection towards co-existence and growth.

CHAIR: What would be APPEA's top 3?

Mr Fennelly: I agree with what QRC has indicated. We have basically said five things: provide a high degree of certainty and appropriate transitional provisions to grandfather already approved and well advanced projects, which we have touched on; recognise the ability of resource companies and landholders to negotiate workable co-existence outcomes without regulatory interference, and again QRC has stated that; rely on existing processes, systems, regulation and legislation as much as possible and minimise the need for additional red tape and/or assessment processes; regulate land in the same way, irrespective of ownership; and, finally, ensure that approvals and appeals processes have clear and firm time frames, which they do not at the moment.

CHAIR: We have about five minutes left.

Mr MULHERIN: Mr Fennelly, in your submission you raise the issue of timeliness for future project approvals. Acknowledging that with the absence of regulations that inform how the bill will work in practice, has APPEA done any estimates of how long projects could be delayed for and the cost of any such delays and the regulatory costs of new approval processes in this bill?

Mr Fennelly: Mr Mulherin, the way we see it at the moment it is quite open and, as we indicated, the way the bill is at the moment it could potentially shut down operations due to the lack of certainty. Mr Paull has been dealing closely with the industry and has direct information from the companies. He might want to expand.

Mr Paull: We have not done any specific analysis of that but, as Paul says, there are no time frames—so it is open-ended—and then after the open-ended approval process there is a court process during which time the court is quite likely, I think, to put a stay of operations. So we have an open-ended court process following an open-ended approval process, and so there is no real handle we have over how long it would take and there is no way we could produce a cost figure without that.

Ms MILLARD: This is probably more of a question of APPEA, but please feel free to answer. In relation to exempt resource activities, you suggest that clause 22(1) should be removed as all land should be treated the same, irrespective of ownership. Could you elaborate on that please?

Mr Paull: The bill draws a distinction between land owned by a resource company and land not owned by a resource company. Reading through the bill, it would seem that a material impact is not permitted on land owned by a landowner but if it is a resource company there is some different treatment. It would seem that material impacts are not affected or that they are going to somehow be treated differently. With the gas industry we do not think that is a material issue. We think that there is no public policy issue in distinguishing between who is the owner of the land.

CHAIR: Mr Hart would like to pick up on that.

Mr HART: Matthew, just continuing on clause 22 relating to the exemptions, the exemptions apply to priority agricultural land and not priority living areas. Have any of your members raised concerns that that may affect them, because we have had a submission recently from a group that says they have an oil line or a gas line going through a town? We were just wondering whether your members have raised that view at all?

Mr Paull: I do not think that one has come up specifically, but we would have similar concerns. We are looking for protection for existing projects. Things that are already in place should not need to go and get a reapproval under the bill, whether they are in a PLA or whether they are in a PAA.

Mr KATTER: APPEA suggests a two-tiered dichotomist approach to approvals. I am just wondering if you could expand on that. You said that it has been adopted successfully in other Queensland legislation.

Mr Paull: I think it is a similar point to that which has been made by the mining sector that there are activities which are low-impact exploration type activities, which are a different proposition to a multibillion-dollar project.

Mr KATTER: Mr Barger, I may have the wording a little bit inaccurate, but you said there were unexpected risks with putting powers in the regulations or maybe it was too much power in the regulations. Can you expand on that?

Mr Barger: In common with a lot of the submissions that the committee has had, there are two problems caused by framework legislation. Essentially, you need a lot of the critical detail to assess the impact, and your question about costs on gas projects is a prime example. Without the detail you cannot assess how your project might be affected. So that is one thing. The second aspect of it is that because not just details but powers to make decisions have been pushed into the regulations you have taken statutory powers and pushed them down to a regulatory stage, so you are in this sort of double jeopardy of that you are subject to some rules that you have not seen and the ability to apply those rules is being delegated down to chief executive level. So you are shifting it from a parliamentary power to a bureaucratic one. Given the state of flux around regulations and that this legislation may well be on the statutes for another 150 years, what future governments might try to do might bring through what future chief executives might decide is a fair and reasonable thing starts to look a little bit unbounded.

Taking it back again to the Kestrel example where you have a project on an existing footprint where they are extending an operation, they have decided to invest a couple of billion dollars in Queensland and suddenly they have this huge range of uncertainty over that project. I guess going back to what you heard from AMEC and the exploration council, for investors globally looking at where money goes, it suddenly becomes harder to get Queensland to the top of the list because you see those question marks about how the project is regulated. If instead of having a tenure that is operating for the life of your mine or for the life of your gas plant you are looking at a plan of operations that might only have a 12-month life span, your operational risks start to become extraordinary, particularly when you look at some of the consequences of not having a regional impact assessment in place on the day the bill comes in. So there are lots of stop signs with not much detail to work out whether it actually is a stop sign, or is it just an amber sign? How does the process work? So it is that lack of operational detail, which you have heard about from nearly every presenter this morning.

Ms Hayter: Could I just give one very specific example of that in the act?

CHAIR: Quickly, because the time allocated has expired.

Ms Hayter: Yes. One of the things in the act is that it refers to not only can regional interests be part of a regional plan, which has a process for consultation, but it also effectively says any other area included in a regulation. So that effectively means there is the capacity for a regional interest area to be declared over the whole of Queensland.

CHAIR: Thank you for that. I thank both APPEA and the Queensland Resources Council for their appearance today and for your detailed submissions. Before we move to hear from the Deputy Premier and the department, I want to advise all who are here today that the committee has resolved to hold a supplementary submission process closing a week after today's transcript is made available. That is in recognition of the fact that so many people wished to appear before the committee, but we were limited in the amount of time that we had to be able to hear from submitters. There will be an opportunity for stakeholders to present any further responses to the body of evidence that has been presented here today and the committee will be providing details of this process on its website as soon as possible.

SEENEY, Hon. Jeff, Deputy Premier and Minister for State Development, Infrastructure and Planning

CHEMELLO, Mr Greg, Deputy Director-General, Department of State Development, Infrastructure and Planning

ELSON, Ms Dimity, Policy Adviser, Office of the Deputy Premier and Minister for State Development, Infrastructure and Planning, Department of State Development, Infrastructure and Planning

POPP, Mr Jeff, Chief of Staff, Office of the Deputy Premier and Minister for State Development, Infrastructure and Planning

WILLIAMS, Ms Kylie, Executive Director, Planning, Department of State Development, Infrastructure and Planning

CHAIR: I welcome the Deputy Premier. It is unusual but we feel it is very important that you are appearing here, and we thank you for your willingness to accept our invitation. I also welcome members from your ministerial staff and members from the Department of State Development, Infrastructure and Planning.

Mr SEENEY: Thank you, Mr Chairman. I thank you and your committee for the opportunity to appear here today. As you said, it has not been a usual occurrence in the Queensland parliamentary committee system, but I think it should be and I have communicated that to my other ministerial colleagues. I think ministers should come at this stage in the committee hearing and respond to some of the things that have been raised genuinely by people who have submitted and appeared before your committee. I am very pleased to see the level of interest in this bill and the number of submissions your committee has received. I am also pleased that you have extended the opportunity for people to make further submissions.

We have engaged in a consultation process over more than 18 months now as we have put together not just this piece of legislation but the statutory regional plans that compliment it or that it provides the legislative power for. As you know, this was an issue that was very high on our list of priorities before we were elected to government—that is, to do something about the disaffection that had gripped regional Queensland in relation to land use conflicts. It was right and proper—and it continues to be right and proper—that there should be extensive consultation about those issues.

In this legislation and in regional plans themselves we are introducing a planning process to the broader landscape where there has been no planning process before. That is new. It is new for the people who live there and it is new for the entities, organisations and local governments that operate there.

The point I want to make today and I am compelled to make after listening to the hearing this morning and reading some of the submissions is that the elements of that planning process are not new. They are exactly the same as the planning process that has been in place for generations across urban areas. So companies, entities and people who live and operate in urban areas are very familiar with these planning processes. There is no new process in terms of a planning process being introduced in this bill.

What this bill does is take those planning processes, those planning concepts—those concepts of identifying areas and controlling land use and regulating activity—from a well-practised environment in the urban areas and applies them across the broader urban landscape for exactly the same reason they have been in place in urban areas for generations. That is to resolve or to prevent land use conflicts and to provide certainty for investors and communities and people who live there. I think a lot of the submissions that I have read and submitters I have heard do not fully understand that. There is nothing new in terms of planning. This has been put together as a planning instrument and it uses tried and true planning concepts.

I can make a lot of comparisons between this legislation and the Sustainable Planning Act, particularly in relation to what is in the bill and what is governed by regulation. But can I say, broadly, the bill sets out what we are going to do. The regulation sets out how we are going to do it. That is a tried and proven planning process, if you like.

The other point I wanted to make by way of introduction—I did not want to talk for too long—is that I said at the very beginning of this process 18 months ago that everybody involved would have to compromise because it was about finding a balance in the middle; it was about finding

somewhere in the middle. I think there has been a commendable level of compromise over the 18 month period that we have been involved in the consultation process, but I think at this late stage it is understandable that everybody is trying to push the balance a little bit in their favour. I have heard some long bows drawn here this morning. I completely reject the tales of woe and calamity that are going to strike down the mining industry. Rubbish! This is about providing certainty for regional communities, regional people, landholders, but it is also about providing certainty for the mining industry.

I stood in parliament two years—it might be 2½ years ago—and said that we were going to introduce this and mining companies that invested in areas where it was unlikely that they would get a social licence to develop their projects did so at their own risk. This legislation delivers through on those comments I made. Everybody has known our commitment to it. Everybody has known it was coming. Everybody has been involved in the consultation process and in the committees that led up to this legislation. It will provide greater certainty to everybody.

CHAIR: Thank you, Deputy Premier. For the benefit of committee members and the public here, I point out that it is appropriate that we ask the Deputy Premier questions about government policy, but we will direct those to the departmental people. They will be technical questions that we direct to the departmental people. I point that out for everyone's benefit.

Deputy Premier, you have touched on it and the committee has heard much about this being enabling framework legislation. Quite appropriately, it is not prudent to put forward a regulation until a bill becomes an act. But there is a great deal of interest as to when the draft regulations will be made available. Can you inform the committee as to the time frame?

Mr SEENEY: At this stage I am intending to table a draft regulation when we debate the bill in the House. But can I make the point, the process of consultation on the bill itself, the process of considering the bill itself has informed us greatly, I think, in relation to what should be in that regulation. There is a wide variety of views about what should be in the regulation. In fact, I would say that my thinking has probably gone 180 degrees about what should be in the regulation. We can have a regulation that is very prescriptive or we can have a regulation that is very broad in terms of defining the issues that are taken into consideration in the assessment of an application.

There are two points about that. One is that every one of those applications will be different because the situations are very different. They are very different for individual landholders, very different for individual communities, very different right across Queensland. The more prescriptive we make it, the more likely it is that it is not going to fit a particular situation.

The second point I want to make—and it seems to have been completely missed especially here this morning—is that there is an exemption that applies in this process for when a landholder and a project proponent agree. That is the situation we want to see in 100 per cent of cases. It would be wonderful if we never had to make an assessment on an application. If landholders and proponents agree then the government does not need to be involved. It is only situations where conflict cannot be resolved that the government has to be involved. Then it is like any other normal planning assessment process; it is about assessing the impacts and assessing what is fair and reasonable in the particular situation. Planning assessments are like that. With the existing processes that operate in urban areas they are the sorts of assessments that we make and that, I would suggest, we have all been involved in. I would suggest that the companies that have sat here and cried tales of woe and disaster have been involved in those exact same planning processes for DAs in urban areas. We are all familiar with them. They will be the exact same processes that will be applied in what I hope will be the very small percentage of cases where an application has to be assessed by government.

CHAIR: One has to admire your optimism.

Mr SEENEY: Can I say that if you look at what is happening across regional Queensland landholders are negotiating agreements for themselves. I have a lot of faith in landholders' ability to do that. Landholders are not stupid. They negotiate a deal for themselves. It is only a very small minority of cases that the government has to be involved in.

CHAIR: Can I pick up on one further theme and then I will open to committee members. The committee has heard a great deal with regard to the issue of co-existence. The committee has gone out for site visits, particularly in relation to coal seam gas. We have seen a property where the landholder and the gas company are working very well together and one where the landholder was not happy with the way in which they are engaging. There has been a lot of discussion about the definition of co-existence. Would you care to expand on what the regulation may contain or how you view or the department views that term?

Mr SEENEY: The best example of co-existence is when a landholder and a company both voluntarily agree. That is co-existence. As I said, I hope that is the majority of cases. When we the state or we the government have to intervene in that it is very much, I believe, an issue about the particular situation and what it is that has caused the conflict. That is going to be enormously different.

In that assessment process we will be guided by what is in the regional plans. That is the way the bill, as it is now, has been designed. The outcomes of the regional plan will guide that assessment. The outcomes in the regional plan are very clear. They are about protecting priority agricultural areas. They are about protecting priority living areas. They are about protecting strategic environmental areas. Any assessment will have to meet those objectives that are in the regional plan. That means that the priority agricultural land uses within those priority agricultural areas cannot be displaced or constrained or restricted or unduly impacted upon. That is the assessment that will have to be made if we the state have to make an assessment and a decision about an application that involves co-existence that could not be negotiated voluntarily.

CHAIR: I open it up to committee members.

Mr MULHERIN: Deputy Premier, I sincerely congratulate you for appearing before the committee. I hope by your appearance here today it sets an example for other ministers. We have heard from various stakeholders—mainly peak bodies from agriculture to mining to environmental organisations. They have all said that they have articulated your vision. Why is it that there is so much conflict between all the parties? One of the witnesses this morning said the legislation is not world-class legislation. You want Queensland to be a world-class place to invest. What do you think the problem is?

Mr SEENEY: Member for Mackay, I think you and I both know when we are trying to influence an argument we are all guilty of drawing long bows at times. As I said, we are at the final stages of a long consultation process that was always about compromising and bringing together a lot of competing interests. What is happening at the moment, quite understandably, is that a whole range of people are trying to shift the balance in their favour.

The point that I want to make is that our aim is to never have to sit in judgement. That is aspirational, but I believe in most cases these issues can be resolved and negotiated between landholders and proponents in the instance of PAAs and local governments in the interests of priority living areas. The only area where the state will have a major role is in the assessment of applications within strategic environmental areas. That, as you know, is an argument that will never be resolved. There will always be interest groups on both sides who will never be satisfied with a particular assessment.

Mr MULHERIN: The thing I found amazing this morning was that even people who came from different viewpoints—organisations—had commonality around their concerns, with the exception of local government. I think they were the only ones who were happy. You do not see the continuum link up all that often, but in this case mining and the agricultural sector have similar concerns. That is just an observation.

Mr SEENEY: For that reason. We are about trying to a find a balance—as the community expects us to—between two industries that we support unquestionably and two industries that unquestionably the Queensland economy and regional Queensland especially want to see thrive and grow. But in growing those industries we have to find a way to address the land use conflicts that we all know have caused disaffection in those communities—disaffection that in other states has meant that those industries have not been able to establish.

In New South Wales, for example, the coal seam gas industry has not been able to establish. The people of New South Wales are missing out on all of the economic benefits that Queenslanders are currently enjoying. To protect that ongoing growth, to protect those ongoing economic benefits we have to have a planning process that takes the planning concepts that we are all used to and are well tried in urban areas and apply it to the land areas where land use conflict exists.

Mr KATTER: I express the same sentiments. I am very appreciative of you making an appearance here, Deputy Premier. The one outstanding issue that seemed to be raised by everyone—and the summary response from your department goes some way to address it—was the threat presented by this bill to existing projects. Like I said, the department's summary response goes some way to explain that, but that seemed to be everyone's concern—and I would go so far as to say it was an outstanding concern. It says here that those things are addressed, but could you expand on that?

Mr SEENEY: Thanks for the opportunity, member for Mount Isa. We have been very firm in our position from the start that any existing rights have to be respected, and any existing rights to operate are respected in the bill. There is one clause that relates to the Condamine aquifer. That is to do with some amendments that need to be made to the Water Act and the community management plan that exists there. But, with that exception, there is nothing in the bill that can possibly be construed as representing a threat to existing rights to operate. We have consulted very widely about that to determine the best mechanism, the best point of requiring a regional interest authority to be applied. I do not accept for a moment that there is any real threat to existing operations. If there is, if any existing operator can identify such a threat, I am happy, along with the assurances that I have given for the last 18 months, to ensure that that threat is addressed. There is no intent, and there never has been an intent, to make this legislation retrospective.

CHAIR: Deputy Premier, we have heard—and this may tap into exactly what you have said—of an unintended consequence where in clause 24 it makes reference to the resource activity work plan. Those work plans may not necessarily cover the full mining lease. It may be just the next 12 months going forward. So there was some concern that, whilst they have a 20-year plan for that mine site, the work plan may only cover the next 12 months. Would you care to expand on that, whether that concern is valid or whether the wording may need to be tweaked?

Mr SEENEY: No. That is exactly the situation and that is exactly the intent. The legal right that an entity has is to carry out the work plan that has been approved. Any new and subsequent work plans that may be submitted after the passage of this legislation will have to meet the outcomes set out in the regional plan, and that is to protect the priority agricultural areas, protect the agricultural land uses, protect the priority living areas and protect the strategic environmental areas—absolutely. There is no indication that an existing right to carry out an activity will be impacted by this legislation.

The issuance of a mining lease does not provide a right to carry out any particular activity. It allows subsequent approvals to be gained that permit that activity. Those approvals can continue to be sought and they can continue to be granted, but they would need to take into account the aims and the objectives of the regional plans. I do not think anybody disagrees with that—that we need to protect our priority agricultural areas, we need to protect our priority living areas, we need to protect the strategic environmental areas. That has been a commitment of ours and it is simply not negotiable from our position.

CHAIR: You would not have seen it, Deputy Premier, obviously, but there was some concern expressed by members of the public behind you. I stress to everyone that the public are not able to make gestures or have input. The committee is providing a process with regard to additional submissions if they wish to do that. Are there any further questions?

Mr HART: Deputy Premier, you might have heard the question that I asked APPEA before and it follows on from the chair's question. I take on board what you said before that, when you have a bill like this and you have everybody saying they do not agree with it, maybe the balance is about right. But there is quite a bit of concern about transitional arrangements that are in place. With the exemption that I was talking about before, a particular company is saying that they have a gas pipeline that goes into a priority living area. There was no requirement for them to have a work plan to start with and they are wondering whether the exemption would actually apply to them or not, because it does not apply in that area.

Mr SEENEY: If they have a legal right to have the pipeline there, of course the legal right to have the pipeline there continues. You really are drawing a long bow to suggest that this legislation somehow interferes with that.

Mr HART: They are saying that the pipeline is a designated resource activity.

Mr SEENEY: If it is an existing pipeline with an existing right—of course it does. I am happy to respond to each and every one of those individual examples should those people who are concerned wish to write to me. I just make the point again that this legislation has been consulted on for the last 18 months, and we have responded to every one of those issues that may well be raised. But there is nothing in this legislation that would give cause for those sorts of fears.

Ms MILLARD: Deputy Premier, with regard to exploration activities versus other resource activities, there has been a lot of concern raised from a lot of different camps about those two terms being considered the same within the bill. Was that something deliberate that you did or is there consideration to perhaps separate those, if needed?

Mr SEENEY: Most exploration activity would fall within the 12-month exemption, I would expect, with the exception of more extensive testing type activity that could be carried under exploration tenures. In terms of the way that activity impacts on the aims of the regional plan, there is no difference. The aims of the regional plans are to protect those areas which we believe need to be protected—to protect the existing land uses, to protect the priority agricultural land uses, to protect the land uses that are involved in priority living areas, to protect the land uses that are involved in the strategic environmental areas. The bill should protect those existing land uses from whatever activity it is, whether it is resource activity or whether it is other regulated activity.

The provision exists within the bill to declare by regulation other activities such as broadacre cultivation, for example. If you look at the Cape York Regional Plan, there is an intent to declare broadacre cultivation a regulated activity in the Cape York area because there are areas there where we do not believe that that sort of broadacre irrigated agriculture is appropriate, whereas it is very appropriate in priority agricultural areas. The other area that we have made clear that we intend to declare as a strategic environmental area with a different set of regulated activities is the Channel Country. As you would be aware, this legislation will be accompanied by the repealing of the wild rivers legislation, but it will introduce mechanisms to ensure that the protections that are appropriate for areas such as the Channel Country can still be applied to the Channel Country. That is why the provision is there for other areas outside of the regional plan areas to be declared by regulation and for land use to be controlled.

Mr MULHERIN: Deputy Premier, will the regional interest authority override the environmental authority that is set out under the Environmental Protection Act 1994?

Mr SEENEY: Yes. There is provision in this legislation to ensure that an authority under another act does not allow an activity to take place that we believe needs to be regulated under this act. So that provision that you are referring to ensures that authority under some other act does not negate the purposes of the regional plan and the purposes of this bill.

Mr MULHERIN: Some concerns raised by the environmental groups are that this will undermine the whole legal procedures and protections afforded by the Environmental Protection Act 1994.

Mr SEENEY: No. It is actually the other way around. It is actually there to ensure that, if an environmental authority, for example, is granted by the Department of Environment and Heritage Protection but it offends the principles of the regional plan—it impacts on priority agricultural land or on priority agricultural land uses, which are not something the DEHP involves itself with—that environmental authority or some other approval under some other act does not negate the need to ensure that the proposed activity conforms with the regional plan and the legislation that supports it.

Mr MULHERIN: Ergon Energy in its submission notes its concern that if electrical infrastructure were to be included as a regulated activity this would impose an additional area of regulation and cost to the development of its network and to its customers. Is that the case?

Mr SEENEY: If I can make some broader comments, I think entities such as Ergon Energy and Powerlink and other such entities have to understand the changes that have happened in terms of community acceptance of transgression on private landholders and on areas such as those that are identified in the regional plan. Over the last five or six years there has been a major change in community attitude towards those sorts of things. Just as the coal seam gas industry, for example, has risen to that challenge and changed their practices, and changed them markedly, government entities such as Ergon have to do so as well. They have to respect, first of all, the rights of private property owners and, secondly, the elements that communities want protected and that I believe are reflected in these regional plans.

Mr HOLSWICH: Deputy Premier, I just want to take up something that LGAQ mentioned this morning and in their submission regarding strategic environmental areas. They mentioned that they were looking for clarification in relation to the definition of those and also whether values such as 'scenic amenity' would be included. Are you able to offer any comment or clarification on that?

Mr SEENEY: The strategic environmental areas like the other declared areas are set out in the regional plan. As part of the preparation of that regional plan, with the exception of the Channel Country, which I explained before because of the issue with wild rivers, the SEAs will all be a product of a regional planning process that will involve local government probably more closely than any other particular group in the community. That has been the case with the now four regional planning processes that we are involved in. They are based on local government and tapping into the expertise that local government has, because we recognise local government as being the legitimately elected representatives of their communities. So any declaration of SEAs would

certainly be done in conjunction with local authorities. Once again, they would vary markedly depending on the situation. The declaration of an SEA in Cape York, for example, will be very different to the declaration of an SEA in the South-East Queensland Regional Plan, and there are councils in the South-East Queensland Regional Plan which you may well be aware of that are very keen to declare SEAs and be able to regulate land use activities across the broader landscape.

CHAIR: Deputy Premier, if I can pick up on that theme because we have heard evidence from witnesses with regard to clause 50, which states, 'If the local government has given its response to the application (other than just advice), the chief executive must give effect to any recommendations in the response.' There has been some concern that that clause binds the state to a decision that was made at a local government level. Would you care to expand on that for us?

Mr SEENEY: There has been some discussion about that, and I am happy to consider that discussion. There have been a lot of points made backwards and forwards. That is one of the great outcomes of this process. By way of explanation can I take you through what we were trying to achieve here? The declaration of a priority living area mirrored what the former government did in drawing zones around urban areas, living areas, where land use needed to be controlled and people given the confidence that conflicting land uses would not be allowed to develop. That was done in response to suggestions that we were going to have coalmines at Gowrie Junction and other nonsense suggestions such as that. We supported the concept, and that concept has been carried through but it is a little different in this legislation. The main difference is the fact that we recognise that there may well be situations where the local government or a local community identifies a resource development of some sort that they believe can successfully be established there. The example that is always talked about is a golf club that may well want a coal seam gas well on their golf course to help them meet their running expenses.

CHAIR: There are a lot of golf courses in Queensland.

Mr MULHERIN: That would be an obstacle.

Mr SEENEY: It may well be an obstacle. That sort of situation is not common but we believe that, in keeping with respect for local government and their ability to make decisions on behalf of their community, they should be able to make that decision if that situation arose. It should not be something that the state should interfere with. It is a part of local government decision making and the councils should be able to make that decision. It provides an opportunity to allow that development where previously the opportunity to allow that development did not exist. It provides that opportunity to a council. It has enlivened this debate about whether or not local governments should be able to take a decision that cannot be overridden by state government, and we are aware of that and we are considering the implications.

CHAIR: I am conscious of time, but one of the themes that has come through quite broadly from a range of submitters has been the appeals. We have heard from both sides as to whether third-party appeal rights exist, whether they are too broad, who is an affected landholder or whether it is actually too narrow. The other point on appeals is concerns that we could have concurrent legal processes running through both the P&E Court and the Land Court. The committee would be very appreciative to hear some explanation on that.

Mr SEENEY: I will deal with the last point first. We certainly could have concurrent actions, and so we should have the ability to have concurrent actions in both the Land Court and the Planning and Environment Court because those courts deal with completely different issues. On the one hand, the Land Court deals with the appropriateness of compensation and those types of issues. The Planning and Environment Court deals with the planning provisions and the planning concepts. Neither of those things is new and neither is it new for particular proponents to be dealing with the possibility at least of two actions in two different courts. In fact, a resources company under the current legislation could easily be dealing with the Land Court in relation to the compensation issues or any of the other issues that the Land Court deals with in relation to the granting of a lease and they could be dealing with the Planning and Environment Court in relation to development applications that may be required ancillary to the project that they are seeking to develop. I could go on but we do not have enough time. Some proponents seek to incorporate all of those activities within a mining lease to avoid that duplication. That is a response that is not always possible and it is quite possible for the current situation to lead to that two-court involvement.

In relation to affected persons, we have very deliberately limited that to people who are affected and, once again, it enlivens the debate about the definition of 'affected'—who is actually affected—because we want to, not just in this instance but more broadly, put an end to the situation where somebody in California, Melbourne or somewhere else can unduly hold up the consideration

of an assessment process here in Queensland, and that is happening. It is happening within the existing resource legislation and we are considering ways of preventing it from happening. There is absolutely no intention, nor will we allow an outcome, that takes away the ability of a genuinely affected person to have their right of appeal, and that is consistent across all legislation.

CHAIR: Thank you very much, Deputy Premier, and also the departmental officers who have come along. Thank you also for your briefings earlier in the piece. They provide assistance to the committee. Finally, I echo the words of the committee. Having the responsible minister appear before the committee, I believe, is a very good evolution of our committee process. It enables us to address these things that perhaps otherwise would cause confusion in reports.

Mr SEENEY: No worries.

CHAIR: In conclusion, I need to flag that the committee may be writing to you, Deputy Premier, with further questions as a result of that supplementary submission process. I will certainly be providing those to the department. Issues may arise from it which we would like to clarify before we finalise our report.

Mr SEENEY: I am very happy to respond to those issues in writing and, once again, I am happy to respond to any of the issues—

CHAIR: We will encourage you to—

Mr SEENEY:—that are raised by submitters. So if someone raises a particular issue in a submission that you would like a response to, we are very happy to provide that.

CHAIR: Thank you for that. We appreciate it. We thank everyone for their attendance at the hearing today. It is an issue that has a broad degree of community interest and it is a bill that we will continue to work on. This has been a very valuable process. I thank everyone. I now declare the hearing on the Regional Planning Interests Bill 2013 closed.

Committee adjourned at 1.21 pm