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STATE DEVELOPMENT, INFRASTRUCTURE AND INDUSTRY SUBCOMMITTEE

Members present:

Mr BC Young MP (Acting Chair)
Mr MJ Hart MP
Mr SA Holswich MP
Ms J Trad MP

Staff present:

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

PUBLIC BRIEFING—INQUIRY INTO THE SUSTAINABLE PLANNING (INFRASTRUCTURE CHARGES) AND OTHER LEGISLATION AMENDMENT BILL 2014

TRANSCRIPT OF PROCEEDINGS

THURSDAY, 15 MAY 2014

Brisbane

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Subcommittee met at 10.13 am

ACTING CHAIR: Good morning ladies and gentleman. I declare open the public briefing for the committee's inquiry into the Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Bill 2014. Thank you for your attendance here today. This briefing is being conducted by an authorised subcommittee of the State Development, Infrastructure and Industry Committee.

I am Bruce Young, the member for Keppel and Acting Chair of the committee. The other subcommittee members here with me today are: Mr Seath Holswich, the member for Pine Rivers, and Ms Jackie Trad, the Member for South Brisbane, who is replacing Mr Tim Mulherin, the member for Mackay, for the duration of this briefing. Mr Michael Hart, the member for Burleigh, is stuck in traffic. As this is a subcommittee we have a quorum so we can proceed.

The briefing is being broadcast live via the Parliamentary Service's website and a transcript will be made by parliamentary reporters and published on the committee's website. The aim of the briefing today is for the committee to gather preliminary information in relation to the bill. For the benefit of Hansard, can I please request that each representative state their name and position when they first speak, and to speak clearly into the microphone.

This briefing is a formal committee proceeding and as such you should be guided by schedule 8 of the standing orders—a copy of which has been provided. I welcome representatives from the Department of State Development, Infrastructure and Planning and the Department of Energy and Water Supply.

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

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

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

NOONAN, Ms Sally, Executive Director, Futures Unit, Department of State Development, Infrastructure and Planning

SEDGWICK, Mr Ken, Deputy Director-General, Water Supply Division, Department of Energy and Water Supply

WILDE, Ms Natalie, General Manager, Government Land and Asset Management, Department of State Development, Infrastructure and Planning

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

Ms Wilde: I would, thank you. Good morning, Mr Acting Chair and members of the committee. I would like to thank you for the opportunity to brief the committee today regarding the Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Bill 2014.

The principal purpose of the bill, if enacted, is to amend the Sustainable Planning Act 2009 and the South-East Queensland (Water Distribution and Retail Restructuring) Act 2009, which I will refer to as SPA and the SEQ water act respectively. The purpose of these amendments is to establish a long-term, local infrastructure planning and charging framework in Queensland that supports local government and distributor-retailer sustainability and development feasibility in Queensland.

The bill also proposes amendments to the State Development and Public Works Organisation Act 1971 to facilitate the successful negotiation of a bilateral agreement that enables Queensland to make environmental approval decisions more efficiently in relation to the matters to which

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Commonwealth legislation applies. Mr Acting Chair, with your permission I propose to briefly summarise the proposed infrastructure planning and charging framework amendments and the department's engagement with stakeholders when developing the framework. Michael Allen will then summarise the proposed amendments to the Statement Development and Public Works Organisation Act.

ACTING CHAIR: By all means.

Ms Wilde: The proposed amendments to SPA and the SEQ water act are a result of the government's commitment to removing Queensland's local infrastructure planning and charging framework. The reform process has been underway since 2013 and has been supported by extensive stakeholder consultation and engagement. The focus of the reform was to deliver an infrastructure charges framework by 1 July 2014 that is certain, equitable, supports the sustainability of local governments and water distributor-retailers and provides confidence to the development industry when planning and developing projects.

The objectives of the amendments contained in the bill are to: streamline, simplify and clarify the operation of chapter 8 of SPA and the supporting appeal and dispute resolution processes; remove superseded and redundant provisions from chapter 8 of SPA; and align the distributor-retailer infrastructure charging and planning arrangements under the SEQ water act with the local government framework under SPA.

Some of the key amendments in the bill that achieve these objectives are: the requirement to recognise the existing use of land and reduce charges to take account of that use; the requirement to be more transparent about why an infrastructure condition is opposed; the introduction of a process for an applicant to apply to convert non-trunk infrastructure to trunk at the time a development approval is received—this new process also impacts where the developer is entitled to an offset or refund of their infrastructure charge; clarify that the payment of infrastructure charges cannot occur before plan sealing for a development approval or before time of connection of water approval unless agreed to by the local authority and applicant; and provide clarification about the type of infrastructure appeals that can be lodged and the introduction of new appeal rights for the abovementioned conversion process.

There are a number of other components of the infrastructure planning and charging framework that were also the focus of the reform process, including the maximum infrastructure charges schedules and the new priority development infrastructure co-investment program. While these components are incorporated in the overall infrastructure framework, they are not included or affected by the bill.

Since the start of the infrastructure framework review in early 2013 there has been a strong commitment to genuine and robust stakeholder involvement in the reform process. On 1 July 2013 the discussion paper titled 'Infrastructure planning and charging framework review' was released for public consultation. The paper proposed options for reform of key elements of the infrastructure planning and charging framework. More than 80 submissions were received from a range of stakeholders in response to the discussion paper. In general, the submissions demonstrated support for the introduction of a more equitable and certain long-term framework.

In addition to the discussion paper, between February 2013 and April 2014 the department held 13 workshops with key local authority and development industry stakeholders. These workshops focused on identifying key framework issues and testing options for reform. Feedback received through the discussion paper and stakeholder workshops has informed decision making about the reforms included in the bill.

During the most recent stakeholder workshop the department released a consultation version of the bill. In response, the department has received informal submissions from 13 stakeholder groups. To summarise the feedback received from the development industry so far, it indicates general support for the reforms in the bill, including the requirement: for more information to be provided for infrastructure conditions imposed on a development approval; for the establishment of a process to apply for non-trunk infrastructure to be converted into trunk infrastructure; and for the introduction of mandatory crediting. However, the development industry has also expressed concerns about some aspects of the bill, such as the risk of development approvals being held up by the conversion process and the potential for infrastructure plans to be manipulated, resulting in additional costs being imposed on applicants.

Concerns outlined in the submissions received from local authorities include: the potential finance and administrative impact of the conversion process; the need for clearer provisions in relation to offsets and refunds; and the lack of automatic annual indexing of the maximum charge.

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As these submissions have only recently been received by the department, we are yet to consider all feedback. However, this input will be used to inform decisions on subsequent amendments to the bill during debate.

I will now hand over to Michael to outline the proposed amendments to the State Development and Public Works Organisation Act.

Mr Allen: Thank you, Natalie. In October 2013 the Australian and Queensland governments signed a memorandum of understanding to create a one-stop shop for environmental approvals. The key outcome of the MOU is the negotiation of a bilateral agreement that enables Queensland to make environmental approval decisions in relation to matters protected by the Commonwealth Environment Protection and Biodiversity Conservation Act 1999, which I will refer to as the EPBC Act. The approvals bilateral agreement is to be concluded by September this year.

ACTING CHAIR: Can I hold you there for a minute, Mr Allen. I welcome Mr Hart. For those who do not know Mr Hart, he is the member for Burleigh.

Mr HART: Sorry I am late; the traffic was terrible.

ACTING CHAIR: Please continue, Mr Allen.

Mr Allen: The initial priority is to develop an in principle agreement for major project approvals. Yesterday the federal environment minister announced the release of draft approvals bilateral agreements with Queensland and New South Wales for statutory public consultation. The draft Queensland agreement has been developed around the EIS processes in the State Development and Public Works Organisation Act and the Environmental Protection Act.

The one-stop shop concept requires maintenance of the high environmental standards as set out in the EPBC Act. It is designed to streamline assessment and approval processes by simply removing duplication by Commonwealth and state decision makers. When in operation the approvals bilateral agreement is anticipated to reduce the time and complexity to get an approval decision, therefore reducing costs and increasing certainty for industry while maintaining EPBC Act and state level environmental standards.

Mandatory requirements for an approvals bilateral agreement are specified by the EPBC Act. These include the need for an authorisation process to be made in state law and for this authorisation process to adopt minimum criteria for approval decisions. Additionally, the federal government has produced a document detailing the standards for accreditation of environmental approvals under the EPBC Act. All states and territories pursuing approvals bilateral agreements with the Commonwealth are required to meet the standards which include requirements for assessment processes, decision making criteria and requirements for transparency, public participation and rights of review.

The bill proposes amendments to the State Development and Public Works Organisation Act to establish the necessary authorisation process that meets the standards of accreditation. Proposed new part 4A of the State Development and Public Works Organisation Act is designed to work in conjunction with the existing coordinated project assessment process, which is part 4 of the act, but is focused entirely on matters protected under the EPBC Act. The range of protected matters will be ultimately specified by the bilateral agreement and are anticipated to include a wide range, including listed threatened species, migratory species, Ramsar listed wetlands, world heritage properties, the Great Barrier Reef Marine Park and certain nuclear related actions.

The existing coordinated project assessment process in part 4 of the act is not proposed to be amended by this bill. This is the well-established EIS process that has been operated and administered by the Coordinator-General for many years and has been applied to most of Queensland's large scale infrastructure and resource projects. The part 4 provisions will continue to be used to assess impacts on state environmental matters. Therefore, in the future if part 4A commences, the Coordinator-General will issue two decisions for a project assessment. The first one being the Coordinator-General's evaluation report under part 4 and then an environmental approval for Commonwealth protected matters under part 4A.

In summary, the proposed amendments are designed to do the following: enable the Coordinator-General to accept an application and make a declaration for a coordinated project that initiates the assessment and approval process; specify the necessary information requirements for proponents to fully assess impacts on protected matters; ensure public notification of the impact assessment occurs as part of the public notification before an EIS; provide the necessary linkage to decision-making criteria in the bilateral agreement; enable the Coordinator-General to issue an approval and impose conditions; and manage post approval actions, including variations to approvals, compliance and cancellations.

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Before I conclude, I should note that I am aware that the Environmental Defenders Office has expressed concern about a perceived lack of consultation regarding the State Development and Public Works Organisation Act amendments. The office of the Coordinator-General wrote to industry, local government and key conservation groups and consulted with interested groups between 28 February and 31 March 2014 on a range of proposed amendments to the act which were then proposed to be included in a different bill. The following environmental groups were included in the mail-out: the Queensland Conservation Council; Friends of the Earth Brisbane; the Wilderness Society Australia; and the World Wildlife Fund Australia. The Environmental Defenders Office was not contacted.

The letter sent to stakeholders highlighted that proposed amendments would 'make amendments, if required, subject to ongoing negotiations with the Commonwealth to the environmental impact statement process under part 4 of the act to enable the signing of an approvals bilateral with the Australian government under the EPBC Act'. Due to timing considerations, the proposed State Development and Public Works Organisation Act amendments relating to the approvals bilateral were moved to the current bill. The letter invited each organisation to call a toll-free number to arrange a meeting during March 2014 to discuss further details on the proposed amendments. No comments were received from the environmental groups that were contacted.

That said, however, there will be an opportunity for further consultation. A formal consultation process facilitated by the Commonwealth on the draft approvals bilateral agreement commenced yesterday and will continue through to 13 June this year. I am happy to provide specific details of this consultation process to the committee if this would be of benefit to members. That concludes our overview of the legislation. We are happy to answer any questions the committee might have.

ACTING CHAIR: Is there anyone else who would like to make an opening statement?

Mr Sedgwick: Yes, just a minor one. Our role here today is largely in relation to the consequential amendments that the proposed changes to the infrastructure charging legislation would have on the two water and sewerage distributor-retailers in South-East Queensland; namely, Queensland Urban Utilities and Unitywater. The reason for that is that both of those entities are set up under separate legislation in the water portfolio, and the proposed changes to the broader state-wide planning arrangements would need to flow through if passed by the parliament. So there would be a consequential amendment to our legislation.

ACTING CHAIR: I think we may now go to questions if there any no further statements. Does anyone want to start? If not, I have a couple of questions. Mr Allen, you said that four groups were contacted by the Coordinator-General's office. For the Hansard, can you go through again the names of those organisations that were contacted, please? There was the WWF.

Mr Allen: There were four environmental groups contacted: the Queensland Conservation Council, Friends of the Earth Brisbane, the Wilderness Society Australia and the World Wildlife Fund Australia.

ACTING CHAIR: Is there any reason or was it just an oversight that the Environmental Defenders Office was kept out of the loop?

Mr Allen: We basically dipped into our contacts database. So as part of the normal business of the Coordinator-General, we often have contact with a range of groups mostly in relation to our EIS processes, and we keep those details in a database. Basically they were just pulled out as a cross-section.

ACTING CHAIR: It was just an oversight.

Mr Allen: There was no particular reason. The chances are that EDO was not actually on our database. I am not sure about that.

ACTING CHAIR: That is understood. Getting back to the consultation process, I see that there were 85 submissions in the original consultation that took place between 1 July and 9 August. Are those submissions online?

Ms Wilde: No, they are not. The submissions are held on department records. We used, I guess, the key outcomes of those submissions to then inform the future workshop content, and then also they were certainly critical in guiding the draft bill in how it was put together.

ACTING CHAIR: We know that the stakeholders were local government and other bodies, but what was the ratio? Undoubtedly local government would have been major stakeholders. What was their percentage of that consultation?

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Ms Wilde: I do not have off the top of my head the number of local governments that provided submissions, but I am certainly happy to provide that information if you would like me to take that on notice and come back to you.

ACTING CHAIR: If we could just get a breakdown of those organisations—I am told that we have that, so we probably do not need to take that as a question on notice. I just wanted to see the list of that consultation, but it certainly sounds pretty substantive.

Ms TRAD: But not their submissions?

ACTING CHAIR: No. We did not see their submissions. We just saw the list of people, as Ms Wilde said. Do we have any idea when the federal public consultation on the draft approvals bilateral agreement will be finalised?

Mr Allen: Yes. It was released yesterday and it closes on 13 June.

ACTING CHAIR: Does anyone else have any questions?

Mr HART: I am interested to know about the trunk and non-trunk infrastructure. How does the process of converting from non-trunk infrastructure to trunk infrastructure work? Was that able to happen before? Was there a process in place that allowed people to convert that? Also, what is the benefit in doing that?

Ms Wilde: I am happy to answer that question. I might start with the latter part of your question first, if that is okay. So was there a process to convert non-trunk to trunk? There is currently a provision in SPA that allows local government to identify infrastructure that is not within its priority infrastructure plan as trunk. At the moment the way the system is set up is that trunk infrastructure is anything that is identified within a local government priority infrastructure plan. If it is not within that priority infrastructure plan, then it automatically becomes non-trunk. But there is a provision within the act currently today that allows a local government to call things that are not in that plan trunk.

What is not there at the moment is a process by which the development sector can then bring forward a submission and the actual parameters for that. That is what we are creating with the new bill. We are setting up some detailed steps about how a developer comes forward and says, 'Local government, we realise that, in accordance with your priority infrastructure plan, our piece of infrastructure is not trunk; it is identified as non-trunk. We actually think it is trunk, and we would like to go through this process with you now to have a discussion about that.' The purpose of the bill is to outline that process so that both the local government and the developer know what the steps are in order to go through that conversation.

The decision to turn a non-trunk piece of infrastructure into trunk still sits completely with local government; it is their decision. In considering the application for non-trunk, when they make a decision as to whether they have or have not deemed it trunk they need to provide a reason and give that to the developer.

Mr HART: It is still not real clear in my head what a trunk or non-trunk piece of infrastructure is. Can you give us some examples?

Ms Wilde: Absolutely. I will take a step back. As far as the infrastructure framework is concerned, the infrastructure that we are talking about are roads, sewers, water pipes, parks and stormwater. So within that then, any piece of infrastructure that falls within what we call those five networks, if it is only going to serve the purposes of that development—so a new suburb that is created and the internal roads within that and the internal water pipes within that—is called non-trunk. The road that would connect that suburb to another suburb—so a major arterial—they are called trunk.

Mr HART: Have there been disputes in the past about 'This bit of road is not trunk and we think it is'?

Ms Wilde: This was certainly a strong point from the development sector. Going back to the concept that if it is not in the priority infrastructure plan it automatically is non-trunk, developers were concerned that in some instances the infrastructure plan, because it has to be updated every five years, may not be reflective of what is actually happening now. So then the developer might say, 'I am opening up this area. The council had not necessarily foreseen it at the time they did their plan. My trunk infrastructure is not in there, but really for all intents and purposes it is trunk, and I think that I should be able to have a discussion.'

Mr HART: That could change their overall infrastructure charges by moving infrastructure from one pile to another.

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Ms Wilde: It can have implications for the local government as far as offsets and refunds are concerned, because there are rules that if a local government conditions a piece of trunk infrastructure to be provided by a developer then that piece of infrastructure is now the subject of an offset against their charge or a refund. To answer your question simply, it can have financial implications for the local government if they have not identified it in their original planning as being trunk.

Mr HART: I have it in my mind that in some cases this is grey and now we are making it black and white. Am I right in saying that?

Ms Wilde: There definitely is a grey area right now. What we are doing is providing an avenue for the local government and the developer to have a conversation about it and to put some rules around how that conversation happens.

Mr HOLSWICH: On that same issue, you have talked about the concerns that the developers raised. Were the concerns raised by the local authorities and, if so, how have those been addressed?

Ms Wilde: The local authorities raised a couple of concerns—one was in relation to priority infrastructure plans and the way the rules are currently set about how a priority infrastructure plan is updated to take account of changing development fronts. They are quite onerous, so that is something that the department has taken on board and is making amendments to its statutory guideline to ensure the local government can keep that document to be more a living document and more reflective of what is happening in its local area. That was one of their concerns.

The second concern that has been raised by local governments—and is still a concern with the way the current bill is drafted—is that developers coming forward with applications for non-trunk to be converted to trunk where the local government have not identified it as trunk could potentially have some financial implications which they have not foreseen or budgeted for. The decision to deem something trunk still very much sits within the control of the local government. They do have the ability to say, 'No. We believe that piece of infrastructure is not trunk. We believe it is still non-trunk.'

Mr HOLSWICH: Whilst this is an improvement, at this point in time it is not solving every scenario.

Ms Wilde: That is correct. It does not address all key concerns. Unfortunately, it would be almost impossible, I think, to provide a provision that would do that.

Ms TRAD: Good morning, everyone. Thank you for your contributions. Ms Wilde, in relation to proposed section 478A of the bill—that is the ability for proponents to appeal infrastructure charges in the Planning and Environment Court—can you advise whether this is something that was requested through the stakeholder sessions with developers and was it a commonly held request?

Ms Wilde: If I can just confirm, is 478A the section you were referring to?

Ms TRAD: Yes.

Ms Wilde: To answer your question, yes. There were some concerns raised by the development sector about what could actually be appealed as far as an infrastructure charge is concerned. There were concerns raised by both the development sector and local government that in the way the provisions are currently drafted it is not clear exactly what is appealable, and what people were wanting was further clarity about what exactly can you appeal in terms of an infrastructure charge.

So what we have made very clear in here is that the infrastructure charge amount that the local government sets through their resolution—for example, say it is $20,000 for a three-bedroom house—is not appealable. The developer cannot appeal the fact that the local government has chosen to set it at that amount. What the developer can actually appeal is the way that rate has been applied. A better example is for commercial and using GFA. So the rate could be $180 per square metre. The council has applied it to, say, 200 square metres of GFA. The developer says, 'My actual plan is only 150. I want to have a discussion about how you arrived at that amount.'

So it is really about the way the council has applied the charge rate to that particular development. That is what they are allowed to now question. That is completely clear now in the act, whereas previously there were concerns that it was not clear about what you were actually appealing.

Ms TRAD: So the right of appeal is not new.

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Ms Wilde: No. That is right.

Ms TRAD: So the right of appeal to the Planning and Environment Court is not new.

Ms Wilde: That is correct.

Ms TRAD: It is just a clarification within the act. Does the department see that this may create a bottleneck in terms of some of the developments on the horizon?

Ms Wilde: No. We are not foreseeing that it will. There is also the ability for the developer to take their appeal to the building and development committee. This is something we have strengthened through the provisions in the act, that the committee can hear these matters as well. So we are seeing that there is that more cost-effective and time-effective avenue for developers to go through, rather than taking it through to the Planning and Environment Court, but of course the court is also an option for them should they choose to.

Ms TRAD: Is the committee much more of a mediation environment?

Ms Wilde: It is, yes. So it is one where there is generally no representation from solicitors allowed. There is a referee appointed and then the issue is heard, and the referee makes a call as to has the application of the legislation been applied properly.

Ms TRAD: I have a few more questions; in fact I have quite a lot. I am happy to flick to someone else for a while.

ACTING CHAIR: No. By all means, keep going.

Ms TRAD: I have a question in relation to the co-investment program because there is not a lot of detail around the co-investment program. Could you please explain how the department perceives that to be rolling out?

Ms Wilde: Would you mind if I refer to my colleague?

Ms TRAD: Not at all.

Mr Chemello: The co-investment program correctly is not part of the bill; it is a policy process of the government. We will have that clarified and operational by 1 July. So there will be published guidelines on the co-investment program. The focus is about identifying and assisting major infrastructure items that are a catalyst for a development to occur. So it is the state investing some money into that infrastructure that really unlocks development that otherwise would not occur without the infrastructure being in place. It is not a grant scheme or a loan scheme. The government is not granting money. It is literally co-investment with local governments, developers, water distributors and possibly other state agencies. The key focus is about unlocking the infrastructure and unlocking the development. I cannot give you any specific examples; we are still working up the program, but our program is by 1 July to have that nailed.

Ms TRAD: So it is not envisaged that this is a funding program that proponents can access in order to offset infrastructure charges that are set by local government; it is more about state funds being used to assist all of the players within an area to unlock the structure?

Mr Chemello: Correct. It is not linked to the charges other than that participants in the program, if they are a local government, cannot access the program unless their infrastructure charges are at or below the fair value charges.

Ms TRAD: Mr Allen, Ms Wilde said that the primary purpose of this act was about reforming the infrastructure charges and that the decision making or the statutory effect of the bilateral process is something that was moved into this act because of the timing considerations. What timing considerations are you talking about?

Mr Allen: Originally it was proceeding through another bill.

Ms TRAD: What was the name of that bill?

Mr Allen: The red-tape reduction bill. The time frames of that did not meet the time frames necessary for the public consultation on the draft approvals bilateral, so we had to have the proposed amendments in the state development act ready for the announcement yesterday for the draft approvals bilateral.

Ms TRAD: Why did it have to precede the announcement of the bilaterals?

Mr Allen: Because the bilateral agreement nominates which authorisation processes are to be accredited. To allow full consultation, you need to display what those authorisation processes are which are contained in this bill.

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Ms TRAD: If the MOU details who the head of power is going to be or where the statutory provisions will reside, surely you allow the full consultation that needs to happen and then introduce legislation? The legislation is coming before the consultation on this matter on the MOU and the bilaterals. We are putting the laws before the consultation, are we not, on this?

Mr Allen: Kind of, yes. We are consulting together on it. The MOU did not nominate which authorisation processes were to be covered. The MOU was really about trying to get the most coverage from current Commonwealth responsibilities to the state. At this stage we are only looking at two authorisation processes—one under the State Development and Public Works Organisation Act and the other one under the Environmental Protection Act, which are both around the EIS processes that we already run. There will be further consideration for other authorisation processes later, but the idea is that to get the draft approvals bilateral agreement out for public consultation we needed to have some information around what those authorisation processes are.

Ms TRAD: Why couldn't that be in a discussion paper rather than introduce legislation or statute that has not been consulted?

Mr Allen: That was the advice we received from the Commonwealth government.

Ms TRAD: Could you provide that advice to the committee?

Mr Allen: I will pass that to Sally Noonan to answer.

Ms Noonan: Thank you for the question. The question really relates to the requirements of the EPBC Act and through our negotiations with the Commonwealth on the approvals bilateral agreement it became clear that the processes we are seeking accreditation for have to be made in state law. As you may be aware, under the State Development and Public Works Organisation Act as it currently appears the Coordinator-General has the ability to make assessments and to coordinate assessments with other agencies in state government—most notably, the Department of Environment and Heritage Protection—but there is no actual approval power that is in that piece of legislation. The Commonwealth requires under the EPBC Act for there to be an approval process that, once the federal Minister for Environment is satisfied meets the standards of the EPBC act, he will make a decision about accrediting that process for the purposes of the approvals bilateral. So there is a requirement under the EPBC Act for an approval process to be made in law and that approval process with respect to the assessment and approval of Commonwealth environmental matters was not in the State Development and Public Works Organisation Act.

Mr HOLSWICH: Is that something that is unique to Queensland, or are other states facing a similar situation that you are aware of?

Ms Noonan: Thank you for the question. As you may be aware, the MOU that has been entered into between the Commonwealth government and the Queensland government is not unique. The Commonwealth government has entered into an MOU with every state and territory to pursue an approvals bilateral agreement. As you will be aware, each state and territory planning and development approval system is very different. Some jurisdictions, for example, will have approval processes that are made in law that are appropriate. Again, that is a decision for the federal environment minister to make a decision about approving that process if he believes that is adequately made in law and meets the standards of the environment as per the EPBC Act requirements. In Queensland's case, there was not that approval process that could be considered by the federal minister under the EPBC Act requirements. So it was a legal requirement that there be an approval process for the federal minister to consider if it meets the EPBC Act standards. He will make the decision about whether the approval process that has been proposed should proceed, if the State Development and Public Works Organisation Act meets the EPBC Act standards for the requirements of an approvals bilateral agreement.

Ms TRAD: Ms Noonan, in relation to the approvals process, we do have an approvals process in place in the state; it just does not reside within the legislation that is currently being amended by this bill. We do have processes under the Environmental Protection Act. Is it a policy decision of the government that the head of power needs to reside in the Coordinator-General's office as opposed to the environment minister's office?

Ms Noonan: Thank you for the question. It has not been a policy decision as such. As part of the negotiating process for the approvals bilateral, I have been heading the Queensland negotiating team. That negotiating team has included senior officers from the Department of Environment and Heritage Protection as well as from my department, from the planning group that Greg and Natalie are representing today and also from the Department of the Premier and Cabinet. We looked at various options around how we could not add to any administrative or regulatory burden and how we could most efficiently use existing Queensland legislation.

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We worked very closely with the environment and heritage protection agency. Minister Powell, as you may be aware, is a co-signatory to the MOU on the approvals bilateral. The matters for which the Department of Environment and Heritage Protection can assess are not the complete list of matters of national environmental significance as required under the EPBC Act—the Environment Protection and Biodiversity Conservation Act—so there needed to be a very explicit connection to those matters of national environmental significance, which is also being made in terms of the proposed amendments to the State Development and Public Works Organisation Act.

ACTING CHAIR: The member for Burleigh has a question.

Mr HART: Thanks, Sally. I think that is a very clear and very concise answer. I wanted to go back to local government infrastructure plans. They are priority infrastructure plans at the moment; they are changing to local government infrastructure plans. How clear was the process for charging infrastructure charges? Were there plans in place for some things that people were charged infrastructure charges for? Was there any planning that said, ‘I need a road that goes from here to there,’ or were people able to be charged an infrastructure charge because a council suddenly thought maybe it would be a good idea if we had a road go from here to there? How will these local government infrastructure plans be put in place? What sorts of transitional arrangements are going to be made for those going forward while those plans are put in place? How long do you think they will take for councils to put in place?

Ms Wilde: Regarding the transition from a priority infrastructure plan to a local government infrastructure plan, for local governments that have a priority infrastructure plan today, as of 1 July they will automatically transition under the transitional provisions in the bill and will become local government infrastructure plans. In accordance with the bill, the way it is drafted today, and also SPA itself today, those local government infrastructure plans need to be reviewed every five years from the date the plan was developed. It is not the date they transitioned from a priority infrastructure plan to a local government infrastructure plan; it is the day the actual plan was developed.

For local governments that currently do not have a priority infrastructure plan in place and are in the process of developing their planning scheme now, what will happen from 1 July 2014 is that local government can still continue to develop its planning scheme. Our recommendation to the local governments is that they then start to develop their local government infrastructure plan in accordance with the new framework—the rules that we will set out in a statutory guideline—because on 1 July 2016 all local governments who wish to charge and condition for local infrastructure will require a local government infrastructure plan.

There are some local governments that we are aware of that do not charge infrastructure charges at all today because their development fronts are not such that they feel they need to do that, and there is nothing stopping them from doing that into the future. If they want to continue not charging or conditioning for trunk infrastructure from 1 July 2016, then they do not need to have a local government infrastructure plan. So it is only those that really do have development fronts in their area and then have a need to be providing infrastructure who will need to have a local government infrastructure plan from 2016.

Mr HART: Do you have details on how many councils have those plans?

Ms Wilde: Sure. From the 78 local governments that we have, we are aware there are approximately 30 that are charging very minimally, if nothing at all. There are a lot of Indigenous councils that do not charge and a lot of remote rural local governments that are not charging at all. We certainly have not received any advice that with the changes in this bill they would then be wanting to start charging or conditioning because the development is not going to change in their area as a result of this bill.

Mr HART: Is the state government offering any assistance to councils which want to move in that direction?

Ms Wilde: Certainly. With our regional officers based throughout the state, the regional officers do work with local governments to help them in the development of their planning scheme. Because the local government infrastructure plan is a component of that there is assistance and guidance that can be provided as to what are the types of things you should be putting in your plan. We will also ensure there is enough guidance and fact sheet type material available to these local governments?

Mr HART: How detailed do the plans get? Do they drill right down to how many swings in a park?

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Ms Wilde: They do not tend to get down necessarily to that level of detail for a park, but especially with the local governments that have a lot of development going on in their areas it will show where the new areas that the local government is wanting to see development go and it will identify, 'In a growth horizon of 10 to 15 years, over that period we are expecting we will deliver X amount of trunk roads and X amount of trunk pipes.' It will map it all out. So a developer can go to the map and see what the local government is proposing to place into that area over what time period.

ACTING CHAIR: I have a question on mandatory credits. Can you give us a clarification or more detail on mandatory credits?

Ms Wilde: Certainly. I will start with an example. The whole concept of a credit is that today there could be a block of land with a residential house on it—that is one block—and the homeowner could then decide that they want to split the block and create two residential housing blocks. The idea is that the person who is purchasing that land should not have to pay infrastructure charges for both lots because there was already an existing house on there and charges have already been collected on that particular lot. Now what the legislation is making very clear is that a credit needs to be given and acknowledged for that first house but a charge can still be levied for the second house lot because there was only ever one house there.

ACTING CHAIR: Thank you.

Mr HOLSWICH: Can I ask about the adoption of infrastructure charges. I want to ask about the change to the date that the charges become effective. I may have missed this; I just cannot find it anywhere. What are the benefits in making that change?

Ms Wilde: I am not sure if I completely understand your question, member for Pine Rivers. As far as a transitional goes, what we have said is that from 1 July 2014 any application that has not been decided. So a developer may have lodged their development application with council on 25 June, the application is not decided come 1 July, so the decision that is made from 1 July needs to be made in accordance with the new framework.

Mr HOLSWICH: This is more around what it says in the explanatory notes where it states—

> Local governments currently adopt infrastructure charges ... with the charges taking effect from the date the resolution is made ... a distributor-retailer adopts infrastructure charges ... with the charges taking effect from the day of the decision. The Bill amends these requirements to provide that adopted infrastructure charges do not take effect until the charges are uploaded to the local governments or distributor-retailers website.

It is that specific change.

Ms Wilde: Sorry, I beg your pardon. This is to help with the transparency of local government infrastructure charges so developers know what it is that the local government has actually set as their charge rate. To assist achieve that, what we have said is that, in order for that charge to actually have any effect, that resolution has got to be uploaded on to the local government website, and from that date of upload unless the local government stipulates another date—so they might upload it on the 5th but for whatever reason the local government says, 'We don't want it to commence until the 10th.' The default position is, where that does not happen, that it is the date it is actually uploaded, so then there is a level of transparency to the community as to what that charge is so people know what they can expect to get.

ACTING CHAIR: It sounds pretty fair.

Ms TRAD: Ms Noonan, just so that I have got this clear in my head, the Commonwealth's advice to Queensland in terms of progressing the bilateral is that Queensland needed to have a statutory framework in place, passed by the parliament, before negotiations or consultation on the MOU could proceed.

Ms Noonan: Thank you for the question. The advice from the Commonwealth throughout the negotiations was that, for a process to be accredited by the Commonwealth for the purposes of an approvals bilateral, that process needs to be made in law. That was the specific advice from the Commonwealth throughout our negotiations, so that was a requirement of the EPBC Act, and I have a copy of the relevant chapter here which I am happy to hand over to the committee.

Ms TRAD: No, that is fine, I understand.

ACTING CHAIR: Are we happy to table that? Do you want to have that tabled?

Ms TRAD: Sure.

Ms Noonan: Thank you. As I said, the requirement was that a process be made in law to the satisfaction of the federal environment minister.

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Ms TRAD: So when is the deadline for accreditation?

Ms Noonan: The process of accreditation is—well, the deadline for the MOU is—

Ms TRAD: September.

Ms Noonan: Yes, September this year is the process with respect to when the MOU will be satisfied. Throughout that process, the federal minister must be satisfied that the approvals bilateral agreement is consistent with EPBC Act standards, and that, as a part of a package, the processes made in law from a state or territory government must also be consistent with the approvals bilateral agreement, consistent with the framework of standards for accreditation and also consistent with the EPBC Act. So it is really a package that is presented.

There is an expectation that in July the federal minister will be able to put forward a package of legislation that is made by the various states and territories that are pursuing approvals bilateral agreements, alongside those agreements for consideration by both houses of federal parliament. As I said, we really had a requirement under the EPBC Act that we had a process made in law prior to the statutory public consultation process that commenced yesterday. So the advice that we have received from the Commonwealth was that, if there was a need for a legislative amendment—for example, amendment to primary legislation—that legislation must be in bill form prior to the public consultation process, the statutory consultation process that the Commonwealth would run on the approvals bilateral. Or, if there was an amendment required to a Queensland regulation to give effect to the legal requirements under the EPBC Act for an approvals bilateral, that must be gazetted. There have also been minor technical amendments made to the Environmental Protection Act that have been gazetted. They are changes to the EP Act regulation that have been publicly gazetted as part of the package to give effect to the approvals bilateral.

Ms TRAD: Thank you, Ms Noonan. I understand all of that. This is in bill form but the expectation is that this is actually going to pass Queensland parliament before the expiration of the public consultation period on the MOU. So given that the bilateral does not need to be signed off until September—and I understand the Commonwealth's concerns regarding having a statutory framework in bill form or in place before the statutory consultation period takes place—I do question what the rush is in passing these statutory provisions that give effect to the MOU before the MOU has finished being consulted on widely and publicly. That is a very real concern I guess, and I still do not understand what the rush is.

Ms Noonan: Thank you for the question. In relation to the time frame, as I have indicated, this is guidance that has been provided from the Commonwealth government in terms of what is required given the legal processes and the legislative and also parliamentary processes that are required under the EPBC Act. Because approvals bilateral agreements are disallowable instruments, they must be tabled in the federal parliament for a minimum of 15 parliamentary sitting days. To be able to meet the expected time frame of the conclusion of the approvals bilateral—which has been agreed by state and federal governments to be September this year—working back from that, taking into account the 15 days disallowance period for both houses of federal parliament to consider the approvals bilateral agreement, it takes us to a date in early July where processes must be made in law. So for the purposes of the statutory public consultation period on a draft approvals bilateral agreement, as I have indicated, processes must be either in bill form or gazetted, but when we get to that date in July where processes need to be tabled in the federal parliament, they actually need to be in act form for primary legislation.

ACTING CHAIR: Understood. I think that is the policy objective. Can I throw to the member for Burleigh.

Mr HART: Again, Ms Noonan, I think you have explained that very well. My reading of that seems to be that the federal government had some requirements of all the states to get certain requirements ticked off and those things needed to be in bill form and some of the states have obviously already got that in place or are working on getting that in place and Queensland is now moving towards that. Is that correct?

Ms Noonan: Thank you for that question. As I have outlined, the various processes of the different states and territories differ somewhat. Some are made in primary legislation; some are made in subordinate legislation. The advice that we have had from the negotiations with the Commonwealth is that we needed to have these processes made in law. Where there were gaps in our legislation, so to speak, to give effect to the requirements of the EPBC Act, we have needed to make those amendments.

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Mr HART: Thanks. Moving on from that and back to infrastructure charges, the state is able to levy some infrastructure charges at the moment, as I understand it.

Ms Wilde: Yes.

Mr HART: And we are changing that so it is only local government that levies infrastructure charges. Do I have that right?

Ms Wilde: There is an ability under SPA currently for state departments to issue an infrastructure charge. That is something that really has not been used and it is something that we are actually going to be removing from this bill. It takes account of the fact that no agency has really used this provision for quite some time and it is something that is redundant. Also, in 2011 when that framework came into play, we put a moratorium on the ability for local function charges to be levied. So this is now just really an opportunity to get rid of redundant provisions from the act and tidy it up.

ACTING CHAIR: I understand that in 2011 with those legislative changes there was a ceiling of $28,000. Is that correct?

Ms Wilde: That is correct.

ACTING CHAIR: What is the average across the state?

Ms Wilde: As far as averages go, it varies across local governments as well as within local governments, so there really is no such thing as an average I guess. What we have found is that the flexibility of the cap framework allows a local government, where they have identified a particular growth front that they want to go ahead, to be within their ability to put that charge at whatever rate they like. When there are areas where they feel it is not in the interests of the community for the development to go there, they can then charge accordingly. So there is an ability for a local government to alter the charge up and down, up to the maximum. There is no ability for a local government to go above that, but they can certainly have no charge at all in a particular area or, if they choose to, they can go up to the maximum in others.

ACTING CHAIR: So it is negotiation.

Ms Wilde: It is completely within the local government's control. The reason we have done that is that local governments know their business as far as the development fronts and where they want things to go, and it helps them then to take that ability to set the charge to reflect what they want as outcomes in their local area.

ACTING CHAIR: Absolutely.

Ms TRAD: Mr Allen, in relation to the consultation on the amendments to the State Development and Public Works Organisation Act, can you explain to me again the process you went through with the QCC, FOE, TWS and WWFA in relation to consultation on these bilateral amendments?

Mr Allen: Thank you for the question. In relation to those groups, amongst others, there was a mailing list that went out, as I said earlier, around our contacts through our EIS process. A letter went out on 28 February from the Coordinator-General inviting them to arrange meetings and to receive a briefing if required and there was a toll free phone number included in that letter.

Ms TRAD: Sorry, that letter went out in February of this year?

Mr Allen: Yes. That was back when we had the amendments proposed for the red tape reduction bill. At that stage, we were still negotiating with the Commonwealth around what the required amendments would be so we could not really give any details as to what the amendments would look like but we invited them to commence a consultation process. The expectation was that interested groups would come and ask for a briefing to understand where things were up to with the Commonwealth and we could then talk through where we were and what the future options might be but there really was not a lot of detail we could give at that point. Basically, we got no response from any of the environmental groups.

Ms TRAD: Is it possible for you to table that consultative letter that you sent out?

Mr Allen: Certainly.

Mr HOLSWICH: What was the time frame on that letter for that consultation period?

Mr Allen: I think it was four weeks.

ACTING CHAIR: I will clarify that. It was 28 February to 31 March.

Mr Allen: Correct.

Ms TRAD: But EDO was not part of that consultation? They were left off the list?

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Mr Allen: Yes.

ACTING CHAIR: For the point of clarification, they were not left off the list; it was an oversight.

Ms TRAD: They were not on the list.

ACTING CHAIR: They were not on the list.

Ms TRAD: Ms Noonan, you have been heading up in an official capacity the negotiations with the Commonwealth around the bilateral. So you would be across all of the submissions that were received by the Commonwealth late last year in relation to the establishment of the bilateral process. You have read those Queensland submissions?

Ms Noonan: Thank you for the question. The public consultation process that was managed by the Commonwealth was specifically on the remaking of the assessment bilateral agreement rather than the approvals bilateral agreement. There were negotiations between the Queensland government and the Commonwealth government to look at the assessment bilateral agreement which had been in place for a number of years and where there were opportunities to afford more streamlining advantages through the Commonwealth and state governments. As a result of those negotiations, the assessment bilateral was expanded.

In terms of the public consultation process, there were a number of submissions that raised questions that were outside of the scope of the consultation process. The consultation was specifically around the assessment bilateral, but there were some submissions that raised some questions or put forward comments around the approvals bilateral.

Ms TRAD: You seem to be across those submissions. I am just wondering whether there was any point where it gelled with the department of state development that none of the conservation groups had actually put in submissions in relation to this legislative process when they had been quite vocal late last year around the Commonwealth's consultation program.

Ms Noonan: With respect to the requirements to actually make amendments to the State Development and Public Works Organisation Act, that was something on which we received advice from the Commonwealth government fairly late in negotiations. So while, as Mr Allen my colleague has indicated, there was an opportunity to raise the issue at a fairly high level with a number of conservation groups, we were, as I had indicated earlier, quite keen to not add to the regulatory burden, to not add to the administrative burden through additional legislative changes if they were not required. It became increasingly apparent through our negotiations with the Commonwealth that they were required. That was not something that we knew from the outset.

ACTING CHAIR: Can I just throw to the member for Burleigh.

Mr HART: On the same subject, how many people were notified of this consultation process in total? Rough figures are fine.

Mr Allen: I have not got the exact number.

Mr HART: Rough figures are fine.

Mr Allen: Roughly, there would probably have been more than 30.

Mr HART: How many responses did you get?

Mr Allen: We had 11 written submissions.

Mr HART: So the other 19 did not respond?

Mr Allen: Yes.

Mr HART: Is it the department's normal process to chase up people who do not respond to notifications that submissions are open?

Mr Allen: No. I cannot really speak for the entire department, but the Office of the Coordinator-General does not do legislation amendments that often and we based this process on the way we normally conduct an EIS process.

Mr HART: So there were other people apart from environmental groups who did send in submissions that were notified?

Mr Allen: That is correct.

Ms TRAD: So the Office of the Coordinator-General sent out a letter on the 28th of the second to four environmental peak organisations in relation to the regulatory reform process that the Queensland government was undertaking, which included giving effect to the bilateral; is that correct?

Mr Allen: Correct.

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Ms TRAD: But at that stage there was not a lot of detail to give people. Was there the explicit information for them to contact the department for a briefing around where the process was up to?

Mr Allen: Yes. The invitation was to discuss the proposed changes in further detail and a toll-free phone number was given.

Ms TRAD: At any stage when the exposure draft was there—and we have heard from Ms Wilde that the exposure draft was given to other stakeholders, albeit probably more for the infrastructure reform part of the bill. Was an exposure draft given to those groups once further detail had been given, once effect had been given to the statutory framework around giving effect to the bilaterals? Was an exposure draft given to the environmental groups?

Mr Allen: No.

Ms TRAD: Why not?

Mr Allen: As I said, the timing of the bill became compressed. So we had to remove it from one bill and put it in another. Through the normal course of drafting legislation and preparing drafting instructions et cetera, the time really became so compressed that we only received the consultation version of the bill quite recently.

Ms TRAD: How recently?

ACTING CHAIR: Would it be fair to say, though, that if they wanted to comment or put in a submission currently, they could do that?

Mr Allen: Yes, correct.

ACTING CHAIR: Can I ask were they contacted in this latest round of the consultation process?

Ms TRAD: I think no is the answer.

Mr Allen: No.

Mr HART: They are on our list.

ACTING CHAIR: That is what I meant; are they on our list?

Mr HART: They are on our list.

ACTING CHAIR: So they have the opportunity to do that now.

Ms TRAD: So one week?

ACTING CHAIR: That is still an opportunity to do it.

Ms TRAD: No, I understand; it is one week. As Ms Wilde has said, there has been consultation happening about infrastructure reforms since 2013. It appears that there has been some very good stakeholder engagement around this part of the bill. In terms of the second part of the bill, I am trying to find out why this is so rushed, why there has been so little consultation and why peak organisations will not be given a genuine, meaningful opportunity to participate in the consultation around this very big, very important issue. I am just trying to understand that and I still do not—

ACTING CHAIR: I hear what you are saying. We understand where you are going. If you want to, at the end of this, put in a dissenting report, by all means you have that opportunity.

Ms TRAD: No, I understand.

Mr HOLSWICH: That is not a matter for the department, though; it is the CLA that has set the time frames for this legislation. So that is not the department's—

ACTING CHAIR: That is right. That is correct.

Mr HOLSWICH:—concern about the time for consultation on this bill.

Ms TRAD: I am trying to understand the legislative reasons behind it. Just in relation to this—

ACTING CHAIR: Can the member for Burleigh have a question please.

Mr HART: In relation to bilateral approvals, when did that overall concept become public knowledge? My memory serves me that it was late last year sometime; is that correct? When did the federal government first start talking about this?

Mr Allen: There was a process that actually ran through 2012.

Mr HART: 2012?

Mr Allen: Yes.

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Mr HART: So it is not a secret that this is going on. It has been out in the public arena for quite a while.

Mr Allen: Correct. The whole concept of an approvals bilateral agreement has been in the EPBC Act, which was enacted back in 1999. So those provisions really have not changed since then. It is just that nobody has ever done one before.

Ms TRAD: No, there have been. Sorry, Mr Allen, there have been MOUs previously. There have been MOUs previously under the EPBC Act between the various jurisdictions.

Mr Allen: There have certainly been MOUs. There have been many assessment bilateral agreements in place for many years. Queensland has had one for 10 years. There was one approval bilateral agreement that was in place for Sydney Harbour—Opera House—but that was a different form. That was a management plan as opposed to an authorisation process.

Ms TRAD: In relation to this list that was tabled, does it contain the stakeholders for the infrastructure reform consultation period? Sorry, it does not have a title on it, Ms Wilde. I am sorry about that.

Ms Wilde: I do think so, yes. Based on who is appearing in the organisation, they do look like organisations that would have responded. Given the number—yes, 85, that is the local infrastructure. That was the response to the discussion paper that was released on 1 July 2013. This is the list of people who provided submissions whom we spoke about at the beginning of this committee hearing.

ACTING CHAIR: Is the 85 submissions—

Ms Wilde: That is correct. It was only on an infrastructure charges discussion paper. The other components were not in that.

Ms TRAD: Mr Allen, do you have a similar list in terms of the consultation around the bilateral?

Mr Allen: I do and I can provide that if required.

Ms TRAD: Perfect. That will be great.

ACTING CHAIR: Is it okay if we table that when we get that from you?

Mr Allen: Yes.

ACTING CHAIR: We will take it on notice, please. Could you provide that?

Mr Allen: Yes.

Ms TRAD: Can I clarify something for the benefit of the committee? I asked before whether or not you would provide that letter that you sent out on 28 February.

ACTING CHAIR: We have that letter now. Thank you, Mr Allen.

Ms TRAD: In relation to all of the activities, the areas for approval that will be transferred through the bilateral arrangement, one of the areas is nuclear activity; is that correct?

Mr Allen: Correct.

Ms TRAD: Queensland is currently in the process of looking at a process of opening up uranium mining in Queensland—the policy change has been made and the implementation committee has done an investigative report and provided that. The government is pursuing a process of reopening uranium mining in Queensland; is that correct?

Mr Allen: I believe so. I have seen the implementation committee report.

Ms TRAD: And the government's response?

Mr Allen: Correct.

Ms TRAD: I would assume that applications would be managed through the Office of the Coordinator-General.

Mr Allen: Possibly. The way the Coordinator-General's process runs under part 4, it is a voluntary process. So applications are made to be declared a coordinated projected.

Ms TRAD: Unless they are called in.

Mr Allen: Yes, the Coordinator-General may declare under his own power, but in general terms it is an application for a declaration.

Ms TRAD: I am just wondering about whether or not the process is mature enough that this time frame meets some of government's imperatives around the addition of uranium to the resource industry in Queensland.

Mr HART: Is that anything to do with this bill?

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ACTING CHAIR: Does it have relevance? I thought that would sit outside the scope of this bill. Having said that, it is my understanding that anything to do with nuclear sits outside and would be referred to the federal government.

Ms TRAD: That is what the bilateral does; it refers it back to the state for approval.

ACTING CHAIR: I understand that. But I understood that it sat outside that schedule. So I thought it had to be referred.

Ms TRAD: Let me rephrase the question. The legislative effect of the bilateral would allow the Queensland government to approve uranium mines in Queensland.

ACTING CHAIR: We can take that question on notice if you like.

Mr Allen: That has not been settled. Within that is a draft approvals bilateral which mentions nuclear activities as a specified protected matter, but that has not been settled. That is only a draft.

Ms TRAD: It is listed in the MOU?

Mr Allen: I believe so. I will just double-check that. It has certainly been discussed as being part of the approvals bilateral agreement.

Ms TRAD: In the negotiations between the state and the Commonwealth. I am just wondering whether or not it has been expressly detailed in the MOU during the public consultation period?

Mr Allen: Well, yes, the draft approvals bilateral mentions it as a matter that would be covered by the agreement.

Ms TRAD: The draft approvals bilateral is not the MOU. It is my understanding that the draft approvals bilateral is the paperwork being discussed between the state and the Commonwealth. Is that publicly available?

Mr Allen: Yes, that was released yesterday.

Ms TRAD: That is the MOU?

Mr Allen: Yes. No, sorry, that is the draft approvals bilateral. The MOU has been out since October last year.

Ms TRAD: Yes. This does mention nuclear activities?

Mr Allen: Yes.

Ms TRAD: I am happy to take that on notice.

ACTING CHAIR: Do we need to take that on notice?

Ms TRAD: I am happy to ask Mr Chemello a question while they are looking for it.

ACTING CHAIR: I will give Mr Allen a second to respond.

Mr Allen: Yes, I can confirm it is mentioned in the draft in schedule 1, item 2.2.

Mr HART: What does it specifically say?

Mr Allen: It is nuclear actions covered by sections 21 and 22A of the EPBC Act. The EPBC Act limits what a nuclear action can be. There is a list of what is excluded, and that is in schedule 1, item 4.2 of the draft bilateral.

Mr HART: That does not mention a uranium mine, does it?

Ms TRAD: No, you have to cross-reference it back to the EPBC Act.

Mr Allen: Exclusions are nuclear installations—so a nuclear power plant, et cetera—not a uranium mine.

Ms TRAD: But mining and processing is, I understand, what is included under the EPBC Act?

Mr Allen: Yes.

Ms TRAD: Yes.

ACTING CHAIR: Are we happy with that?

Ms TRAD: Yes, I have my answer, thank you. Mr Chemello, just in relation to the co-investment fund, the program, I know that there is limited detail, but did you have a date in mind? Does the department have a date for which details will be available around the program?

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Mr Chemello: 1 July we would like to have those details available, so by then the intention is to have the scope of the budget. Whether that is publicly available or not I could not say at this point in time, but the framework and the process we will certainly have by then. Later this calendar year, so from July to December, we would like to be working on, and hopefully have secured, some of these priority development infrastructure arrangements by then.

Ms TRAD: So there are not necessarily dollars attached to it in the first instance, or you are unsure at this stage?

Mr Chemello: It is in the standard sort of budget process of the government at the moment about determining the exact scope, so I could not specify that at this point in time, and then I do not know whether we would actually say it would be a budget with an application process. It is more likely a co-investment model which would require us to invest $5 million, $10 million, $15 million or $20 million in the various projects.

Mr HART: Ms Wilde, just on the infrastructure charges again, I just wanted to get clear in my mind about what sort of common conditions and what sort of offsets and refunds would we be talking about? What levels of refund have been in place before? Has there been the availability for a refund before, or is this something new that we are putting in?

Ms Wilde: As far as refunds are concerned, refunds are provided for under the existing legislation. Under SPA at the moment there is a provision that says that local governments where, I guess, the cost of the trunk infrastructure is—once you have already offset it against the charge and then there is still an amount remaining, then that amount is to be refunded back to the developer. What we have done with the new act is we have transferred over those provisions and we have just said that in relation to, I guess, the discussion on when is the refund paid, that that needs to be at the agreement of both the developer and the local government. So the two need to have a conversation and agree, 'Yes, my refund, paid back at this rate over this period of time, is acceptable to both parties.'

Mr HART: Are there any changes to the way that things could be conditioned?

Ms Wilde: As far as conditioning is concerned, we have made it very clear—sorry. With the new bill, we have stated that there needs to be a reference to the provision in the act in which the local government is conditioning a developer to do something. So in relation to providing a piece of trunk infrastructure, be it a pipe or a road, the local government needs to be really clear about whether they are conditioning that under the non-trunk provisions or whether they are conditioning it under trunk and under what various permutations of trunk and non-trunk they are actually referring to so that the developer is really clear about how they have ended up with that condition in the first place. If they are unhappy about that, then—as they can do today—they can go either to the committee or the P&E court and appeal it.

Mr HART: The conditioning decisions around whether it is trunk or non-trunk, is that a negotiated process, or a process where the local government determines that solely by themselves?

Ms Wilde: This is the conversion process that I spoke about earlier in relation to agreeing that something that was conditioned as non-trunk. If the local government, due to the developer bringing it to their attention is like, 'Actually, no, we do think that that probably is trunk', then this then allows the local government to go and do that, and then they would condition the developer to provide that trunk infrastructure.

Mr HART: Wouldn't they need to alter their local government infrastructure plan to—

Ms Wilde: Ideally they need to take account of that. As I mentioned earlier, we have amended the process so that local governments can quickly and efficiently do minor amendments to their infrastructure plan to take effect of, and account for, conversion applications that have gone through so that people can clearly see that it is now a piece of trunk.

Mr HART: This is not a moving target we are setting here, is it? Is it something that only happens every three or six months, or every couple of years or—

Ms Wilde: I could not put timings around it, but what I can say is that there are a lot of people in the development sector who just get issued a charge notice. They are not of a scale, or intensity or impact on infrastructure that they are then going to get conditioned. So the conditioning does not happen for everybody, but certainly the way we have set up the act is that if the developer is getting conditioned to provide a piece of trunk infrastructure, then they are also eligible for the offsets and refunds if they are applicable.

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Mr HART: Does the government have a view that this may make it clearer for developers to understand the money they have contributed has now 'bought us' this road or this bit of infrastructure?

Ms Wilde: It is certainly about clarifying that if you get conditioned to provide a road or a pipe, then under the act—because the local government needs to stipulate what provision they are actually conditioning you for—then you can go back and clearly understand: 'Okay, I have been conditioned because I am potentially out of sequence with the priority infrastructure plan or that I am completely outside the growth area.' So you can track it back to the act to understand, 'I have been conditioned under this provision for this reason.' So that certainly provides a lot of clarity.

It also assists local government as well, because it provides them with that framework where they can quickly track back and go, 'Okay, we are going to issue these conditions. We are doing it under this particular scenario.' So it is clear for them as well, so it certainly assists both parties in being clear about what they need to do.

Mr HART: On that infrastructure plan does it have to reference the regional planning documents?

Ms Wilde: As far as developing up a local government infrastructure plan—and then because it is part of the planning scheme—the planning scheme and the local government infrastructure plan need to take regard of the regional plan and any of the projected growth assumptions that that regional plan may have placed in it and assure that there is an alignment with those things so that it is not completely out of step with the broader regional plan.

ACTING CHAIR: We have touched on accountability and transparency in these breakup agreements between these infrastructure providers and local government. Is there going to be that same transparency for people like developers? When they go in and do those trade-offs like roads, parks and infrastructure, will they be out there to be seen on their website as being transparent?

Ms Wilde: There is a requirement currently under SPA that an infrastructure charge register is kept so that people know when a particular charge is being levied on a particular lot so that a developer, if they are coming forward and wanted to check that register, can see: 'Oh, that lot that I am interested in has already received a charge.' So there certainly is that level of transparency there. We were careful not to go too far in this phase because we did not want to create an onerous administrative burden for the local government as far as recordkeeping goes.

There is a requirement though, especially when infrastructure agreements are created between various entities—and especially ones that may not involve the local government but are within the local government area—that a copy of that infrastructure agreement is provided to that local government.

Ms TRAD: Mr Allen, thank you for tabling this letter. Was this attachment included? Was it an enclosure to the letter?

Mr Allen: Yes, it was.

Ms TRAD: It has the date of February 2014 on there, as you have said before, but it has that these are proposed amendments to the State Development and Public Works Organisation Act, as is clear from the explanatory notes, and they do list the approvals bilateral in here. But I thought in February 2014, according to what you told the subcommittee earlier, it was within the regulatory reform legislation that was being developed?

Mr Allen: Well, that consultation letter was in relation to the red tape bill.

Ms TRAD: No, I understand. Well, no, I am afraid it is not. It is in relation to amendments to the State Development and Public Works Organisation Act.

Mr Allen: Which were proposed to be part of the red tape reduction bill.

Ms TRAD: Right. But back in February 2014 when this letter was sent out, it is not clear in here that it is part of the regulatory reform process. I am saying that it does not match up with what you are saying, Mr Allen. This correspondence to conservation groups in February details proposed amendments to the State Development and Public Works Organisation Act that include, according to the attachment, giving effect to the bilaterals. But you were saying at that time it was part of the regulatory reform process and that only recently the bilateral laws came in—

Mr Allen: Yes.

Ms TRAD:—to the infrastructure reform bill.

Mr Allen: That is right.

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Mr HART: It is pretty clear to me.

Ms TRAD: But you knew in February.

Mr Allen: No, at that stage it was in the red tape reduction bill.

Ms TRAD: No. It says here that it is part of the State Development and Public Works Organisation Act.

Mr HOLSWICH: That is the original bill. This is the sustainable planning that it has gone into now. So regardless of which bill it is going into, that was the original act that it is referring to.

Ms TRAD: And this attachment was included?

Mr Allen: Yes.

Ms TRAD: Because the letter does not mention the bilaterals. It is only the attachment that mentions the bilaterals. You are very sure that the attachment was included in the letter?

Mr Allen: Yes.

ACTING CHAIR: Any further questions? There being no further questions, we will close the briefing. Before we leave, could I remind you that the subcommittee would appreciate it if the answers to any questions taken on notice could be provided by the close of business on Monday, 19 May.

I would like to thank you all for your attendance at today's briefing. I believe the subcommittee has gathered invaluable information that will assist in its inquiry into the Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Bill 2014. I declare the briefing closed.

Subcommittee adjourned at 11.43 am

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