STATE DEVELOPMENT, INFRASTRUCTURE AND INDUSTRY COMMITTEE

Members present:

Mr DF Gibson MP (Chair)
Mr MJ Hart MP
Ms KN Millard MP
Mr BC Young MP

Staff present:

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

PUBLIC HEARING—INQUIRY INTO THE STATE DEVELOPMENT, INFRASTRUCTURE AND PLANNING (RED TAPE REDUCTION) AND OTHER LEGISLATION AMENDMENT BILL 2014

TRANSCRIPT OF PROCEEDINGS

THURSDAY, 3 JULY 2014

Brisbane

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Committee met at 12.19 pm

HUNTER, Ms Sarah, Senior Planning Officer, Gladstone Ports Corporation

CARTER, Mr Gary, General Manager, Port Planning and Development, Gladstone Ports Corporation

SHERRIFF, Mr John, General Manager, Safety Environment and Risk, Gladstone Ports Corporation

CHAIR: Good afternoon everyone. I declare open the public hearing for the committee's inquiry into the State Development, Infrastructure and Planning (Red Tape Reduction) and Other Legislation Amendment Bill 2014 and I thank everyone for their attendance here today. I would like to introduce the members of the State Development, Infrastructure and Industry Committee. I am Dave Gibson, the member for Gympie and chair of the committee. The other committee members here with us today are: Mr Michael Hart, the member for Burleigh; Ms Kerry Millard, the member for Sandgate, Mr Bruce Young, the member for Keppel; and Mrs Jo-Ann Miller, the member for Bundamba, who is replacing Mr Tim Mulherin, the member for Mackay, for the duration of this hearing. Mr Michael Crandon, member for Coomera, and Mr Rob Katter, member for Mount Isa, are apologies.

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 public hearing will form part of the committee's examination of the bill. The hearing is being broadcast live via the Parliamentary Services website and is being transcribed by Hansard. The hearing will conclude at 4.15 pm. Before we commence, I ask that any mobile devices be switched off or placed on silent mode. For the benefit of Hansard, I ask that witnesses state their name and the position by which they are appearing before the committee when they first speak and speak clearly into the microphone.

This hearing is a formal committee proceeding. The guide for appearing as a witness today before the committee has been provided to all witnesses and the committee will also observe schedule 3 of standing orders. I now welcome via teleconference representatives from the Gladstone Ports Corporation. Would one of you care to make an opening statement?

Ms Hunter: I would like to thank the chair for the opportunity to comment on the State Development, infrastructure and Planning (Red Tape Reduction) and Other Legislation Amendment Bill. Of particular interest to GPC is the proposed amendments to the State Development and Public Works Organisation Act which relates to increasing the forms of development to be regulated within the state development area by the state development schemes. In Gladstone GPC currently has approximately 200 hectares that will increase to 375 hectares of strategic port land which is within the Gladstone State Development Area. This area mainly consists of half of the Wiggins Island Coal Export Terminal, land which adjoins the LNG precinct on Curtis Island, a material transport corridor and a portion of land which adjoins the RG Tanna Coal Terminal. Currently GPC's land use plan is the planning instrument which regulates development on all strategic port land. However, there is an overlap between strategic port land and the state development area. The land use plan recognises that the state development scheme regulates the land use with all other forms of development being regulated under GPC's land use plan. This approach is essentially the same as the existing arrangement between the state development areas and local government planning schemes. It is considered that for areas which are of strategic importance to the operation of the port and are located within the state development area that GPC is in the best position to assess and determine the land configuration and operational conditions for matters relating to core port activity rather than the local government or, in this instance, the Coordinator-General. After talking to the department, it is understood that the amended provisions may not be enacted for all state development areas. However, GPC is cautious that once the provisions are in place that any development control which GPC currently has for strategic port land in the state development area

may be lost. The purpose of our submission was to flag that there will be an impact on GPC's ability to regulate port activities within the state development area and to gain a better understanding from the department on how they propose to address that. Thank you.

CHAIR: Thank you very much for that. It is quite timely, because this morning we were looking at a regulation with regards to state development areas and the Gladstone State Development Area was something that was brought up as an example of one of the oldest. For the benefit of the committee and perhaps just for some historical context, the current arrangements as they stand, can you flesh those out for us and whether there has been any challenges or any difficulties in operating in the current context as to how it sits at the moment?

Ms Hunter: There has not really been too many instances where we have had to test the land use plan versus the state development scheme. Probably the only one that has been, and it probably isn't a big issue, is the development of the Wiggins Island coal terminal with half of the site being within the state development area and half of the site being strategic port land, but the whole site being strategic port land, so you have got those two planning authorities. I think from a learning side of things we actually dealt with it relatively well. There were some teething issues that we had to sort out, but in general the way that the two planning instruments talked to each other seems to be quite well at the moment. I think they work well together at the moment.

CHAIR: Just to expand on that, under that current arrangement, and accepting it is a rather unusual one where you explain to us it sits all within the Gladstone port land use plan but only half within the state development area as it is declared, was there any discussion early in the piece about changing the boundary of the Gladstone State Development Area to incorporate all of it or was it understood that you could work through it without needing to make those kinds of changes?

Ms Hunter: In terms of the boundary, it is GPC's preference that none of our strategic port land be in the state development area. By having the two planning instruments it does add another level of confusion, I guess. But I think the Gladstone State Development Area is currently going through an amendment at the moment. It was the request of Wiggins Island coal terminal that the boundaries remain as is. It was their preference that it stay as it is.

Mr Carter: If I may add, in the discussion that had been held around the revised areas of state development also I think at an officer level there were acknowledgements that there were some areas that were probably better connected to the waterfront port type activities and they were possibly identified as being pulled out of the current GSDA and there are other areas which we currently hold which, whilst not strategic port land, would be better served being under the full control of the GSDA, being one of the corridors that is in our ownership at the moment. It has been a working relationship between the parties, the officers, at this stage, but it is just trying to get that clarity and work through to ensure future direction is understood.

CHAIR: Before I go to my other committee members, if I could tease out with regards to this bill, if the bill was to pass as it stands, your concern is really again about how that working relationship would be and whether that would be tested or are there some other elements? I think in your submission you talk about clause 52. Is there anything in particular that raises a concern or is it more about we just want to make sure it works as well as it has been working?

Ms Hunter: I think that that is the main point of the submission. At the moment we, as the port, determine the configuration of our land and operationally what conditions are best suited for that land and we want to maintain that. We definitely do not want to lose that ability. That is really what the purpose of the submission was.

Mrs MILLER: I note that you said in your submission that the bill as introduced would—

> … remove the ability of the port (to regulate port activities on strategic port land which are within the Gladstone State Development Area).

Are you seeking to have amendments to the bill as it stands?

Ms Hunter: I do not know if an amendment is—I think it is more clarity. The way that we interpret the bill is that strategic port land as it sits in the state development area we will lose any potential control that we have over it. So it was just clarity. When I spoke to the department about that they did say that there is a level of interpretation that each development scheme for each area can take and it may not necessarily mean that the full provisions of the act is in force, in Gladstone in this instance but for any state development area.

Mrs MILLER: Have you had legal advice in relation to that, because interpretations finally go to the courts obviously. Would it not be better if it was clarified in the bill itself?

Ms Hunter: Yes, that is probably right, what we are seeking is some clarity. So if the bill could be amended to recognise that strategic port land in the state development area has some rights that would be our preference.

Mrs MILLER: That is exactly what I was trying to get at because you can talk to officers as much as you like, in the end their interpretation does not matter because the bill itself is the most important. I think if we have got that clear for this committee that that is really what you are requesting that gives us some level of comfort and direction as to where we are going. Thank you so much for that.

Mr YOUNG: Sarah, I see this as a perceived threat more than anything else. I think that the direction of government is to assist you in your operational matters, and that is the purpose of the SDA. Perhaps we probably should outline with more clarity what you are really concerned about. I know you do not want to lose control of your operational duties down there, but I am seeking more clarification.

Mr Carter: I think in that respect the overlying areas and the proximity to the true port activities are probably the areas that we are concerned with the most. With the limitations on significant port development areas that have come under the Queensland Ports Strategy that has been released of recent times, there is a real need from the port's perspective to ensure that the most practical application of land areas adjacent to the port are developed for the best benefit of the true marine activities of the port—this is stockpiling areas and whatever, the interchange of products and the like—so it is just trying to ensure that we have probably that greater control at those waterfront areas versus the state development. It may be that the whole issue can be addressed by ensuring a separation of the two land areas to address the situation rather than necessarily through legislation and having it overlap.

CHAIR: Gary, just to be clear, you are talking about amending the boundaries of the Gladstone State Development Area not to include the strategic port land; is that correct?

Mr Carter: That could achieve the outcome that everyone is looking for.

CHAIR: I appreciate that.

Ms MILLARD: I am not quite sure who to direct the question to, so please feel free to speak up, whoever feels they can give the correct answer. Do you know what percentage of land that you manage is covered by the SDA?

Ms Hunter: The percentage of land? In the overall scheme of Gladstone it would be small; however, the land is considerably significant to port operations. So the land at Wiggins Island Coal Terminal the land beside RG Tanna Coal Terminal, going forward in the future they are pretty important parcels of land for the port, and alternatively the parcel of land on Curtis Island has a significant importance to the port's growth as well. So although percentage-wise it is small, it makes up for it in its importance.

Ms MILLARD: So it is more about the location of the land, not the percentage of—

Ms Hunter: Yes.

CHAIR: For the benefit of the committee, how large is the strategic port land? You can take it on notice.

Ms Hunter: Yes, I will take it on notice.

CHAIR: That is fine. And if you could then perhaps give us how large the strategic port land is and what area of the strategic development area that overlaps that is; and then of that, which is key to your future operations. So we can get a good feel to say: okay, it is X number of hectares; of that, this number is SDA; and of that, this number of hectares is critical to our future operations. Would you be able to do that for us?

Ms Hunter: Yes.

Mr Carter: Absolutely.

Ms Hunter: I think it is important to note, though, that the port authority can only designate land which it owns as strategic port land. We cannot go out and just go and put a cross on a piece of land and say, 'That is of importance to us.' We have to have some form of tenure over it, so it may have a bearing on consideration.

CHAIR: No worries. Thank you for that. Are there any other questions from any other members?

Mr HART: Sarah, what level of planning control does the port corporation have over its own land?

Ms Hunter: We act the same as a local government, essentially. We have the same powers under the Sustainable Planning Act to regulate development on strategic port land as what the council would have on any other parcel of land in the local government area. The instrument that regulates that is the land use plan which is developed under the Transport Infrastructure Act. The Transport Infrastructure Act and the Sustainable Planning Act talk to each other about what is appropriate development on port land.

CHAIR: Just to be clear, the planning instrument for a state development area takes precedence over whatever planning powers you have?

Ms Hunter: In a land use sense. That is the same for the local government as well. The state development area has the ultimate decision, I guess, on what land use happens in that area; but as it currently sits, that is as far as the development scheme regulates. Reconfiguring of a lot, building works, environmentally relevant activities and operational works fall (a), back to counsel; or in our instance, back to us.

CHAIR: Are there any final comments or anything that you would like to bring to the committee's attention?

Ms Hunter: No, just thank you for the opportunity to voice our concerns.

CHAIR: Thank you very much. We do appreciate your submission. When you have a bill like this one that we are looking at, there are key areas of concern that vary from region to region and group to group. So your submissions are particularly valuable to us, and we appreciate your time today, Gary, Sarah and John, and also the submission that you made to the committee. We would appreciate it if the answers to question on notice could be provided by Wednesday, 9 July.

I would now like to call forward the Urban Development Institute of Australia, Queensland branch.

MACLAINE, Mr Duncan, Director of Policy and Economic Research, Urban Development Institute of Australia—Queensland

Mr Maclaine: I would like to thank you for inviting us to speak today. We strongly support the government's commitment to red tape reduction across the property and development sectors, and we acknowledge the efforts and successes to date in that respect.

Our interests in this bill largely lie with the amendments to the Economic Development Act. We support those amendments that strengthen the purpose the act so that it can deliver on its purpose; for example, ability to amend, flexibility, ability to amend land use plans, notification of revocation of areas and greater ability to declare provisional PDAs. We supported the Economic Development Act when it was first introduced. We made a submission and we made some recommendations at the time that we believed would strengthen and improve the ability to deliver on the policy intent of the act. We welcome some of the changes in the bill that in fact reflect some of those initial concerns that we had.

I guess the changes in the Sustainable Planning Act really are technical amendments to master planning provisions and simply clarify what was originally intended, so we have no concerns with those. Party houses: although it was interesting internal discussion in our policy committees, I do not think we have a strong position on those.

The Economic Development Act, there are a few items in our submission. I do not know whether you would like me to talk through them now or whether you have specific questions on them.

CHAIR: I would be happy for you to talk through them, because we appreciate it when organisations, rather than just saying that something is wrong, put forward their proposals as to what amendments should be considered. One of your proposals with regards to the Economic Development Act regarding the declaration of a provisional priority development area and provisional land use plans is that they be deleted to maximise the ability to declare a PPDA to foster economic development. Can you just explain to the committee why it is the organisation's view that the deletion of those provisions would generate greater economic development?

Mr Maclaine: I guess the bill acknowledges that the current provisions were restrictive to some degree. I believe they required that type, scale, intensity and location of proposed development on the site are consistent with the relevant local government's planning scheme for the area. Often the motivation for declaring a PDA is that the relevant planning scheme was not achieving facilitating development, and that view would be held by the council and the state given that there is a requirement for consultation between the two.

The change suggests that the wording be changed to 'do not compromise' the implementation of any planning instrument applying to the area, so I guess that is a much tougher test and probably does go some way towards providing that additional flexibility. A couple of examples that we provided when the act first came in would be more around the fact that local planning schemes and other planning instruments sometimes take a long time to be amended, even when there is an accepted view that land is going to be used for a different purpose than what it is currently zoned or planned for. An example might be community based land that is no longer used for community purposes and the council and others have intended that land to be used for another purpose for some time, but because of the internal processes and the time that it takes to amend a planning scheme, the planning scheme has never been amended to reflect that. So the current provisions would potentially preclude a PDA on a site for land use for community purposes in the past because it is inconsistent with using the land for community purposes.

Now, 'it does not compromise' would probably allow that to happen, but we had a bit of a discussion about what legally 'does not compromise' mean? The conclusion that our members reached was that given the requirement for local and state governments to consult and given the requirement to consult with the community when developing a scheme for an area, we believe there are sufficient protections in there to avoid a piece of land being declared as a PPDA for a purpose that is against public interest or it is against the wishes or desires of the council and the state. Given that a planning scheme could be amended by the council or a regional plan could be amended by the state at any time to change a land use requiring consistency or ensuring it does not compromise, we just question whether that is even needed at all given the degree of consultation and the fact that different parties have to be on board before a declaration.

CHAIR: Clearly the state is not going to declare a PPDA in any area if it is not supportive of what the intent is. Acknowledging your points about the time it takes for councils to amend their planning schemes, is this more about the concern that the state may be overriding a local government area and saying, 'We want X to be achieved in this place,' and the council not being as supportive of that?

Mr Maclaine: I think it is more the uncertainty that the state and local government declare an area and they want something to happen and a third party comes along later and says, 'That area should not have been declared because under the act it is compromising or is in conflict with a planning instrument.'

CHAIR: Can you give us an example?

Mr Maclaine: I guess there are those examples I provided before. Another one could be let's say there is some rural land that is currently zoned 'rural'. The state identified it as an area for future urban expansion through a regional plan quite some time ago and the time has come where both parties and the community want that to be developed for urban purposes, and that goes ahead. Someone could come along and argue that that compromises the planning scheme because the planning scheme might have a strategic outcome around protecting rural residential land, lifestyle et cetera. So I guess it is more the legal risk that someone could come along and say, 'This area should not or ought not to have been declared,' and the belief that there are sufficient protections through the consultation process.

CHAIR: I understand.

Mr YOUNG: Didn't Blackwater fall under this regime? They identified that we had to have that priority development area in Blackwater. Are you aware of that?

Mr Maclaine: I am probably not enough aware of the facts about that to make an educated comment.

Mr YOUNG: As I understand it, and I hope I am not wrong, what happened in Blackwater was—and this is the purpose of the bill—that we had this mining boom and there was no-one building houses up there and naturally rents skyrocketed, up to $2,000 a house. There just was not the housing available. This is why this came about so that we could provide that area in a very short space of time so that we could get some housing in there to give rent relief. Would that be a fair comment?

Mr Maclaine: Yes, that would be a fair comment. I guess the old Urban Land Development Authority had a slightly different policy objective. It was more focused purely around housing and affordable provision of housing. The Economic Development Act is a bit broader in facilitating development in general. I guess having that flexibility to declare an area regardless of the status of existing planning instruments is important.

Mr YOUNG: As I understand it, within mining towns there was, for whatever reason—and I am not going to nominate those reasons—a genuine reluctance to get in and do further development. People were getting very good returns on their properties. But anyway we will not go there.

Mrs MILLER: I would just like to make a comment there. There are currently 2,000 houses that are empty in the mining towns across Queensland, and for every mining boom there is a mining bust.

Mr YOUNG: To take that one further, I was a miner and wore a hard hat.

Mr Maclaine: The property industry is extremely cyclical and you cannot predict the future.

CHAIR: Member for Keppel, can we focus on the bill that is before us? We are all very aware.

Mr YOUNG: There was a bust in 1984, 1996 and 2012.

CHAIR: Do you have any other questions you would like to ask, member for Keppel?

Mr YOUNG: No, I am right.

CHAIR: The bill talks about amending various sections of the Economic Development Act but, if I am reading this correctly, it does not talk about amending section 45 of the Economic Development Act, but that is something that you or your organisation have some concerns with and have put forward some proposed amendments. Full points for initiative because it is not in the bill, but I will grant some latitude because we have some time. What is it about section 45—I do not have a copy of the Economic Development Act, so I am at a bit of a loss as to what exactly section 45 says—of the Economic Development Act that raises concerns and how is that you believe your proposed amendments would address those concerns?

Mr Maclaine: Yes, it is not addressed in the bill but, in looking at the policy objectives of the bill of strengthening the purpose of the act and red-tape reduction, it was an issue that was brought to our attention by an individual member after a court case, which was Flagstone. I then consulted with our policy committee and other members to get some comfort that it was not just a unique situation for that development and came to the conclusion that this is something that could occur in other places. We believe it was not an intended effect of the provisions.

In a nutshell, the case itself found that, where a previous SPA approval and conditions of approval had been provided and then a PDA is declared in that area, those conditions of approval run with the land and continue regardless of the rights that a development scheme may provide in a PDA. We understand the section is important to protect existing use rights, but we believe there is an unintended consequence that it then prevents further development that is consistent with the PDA by virtue of a condition of approval that is continued.

The example here was a sensitive example around vegetation. There was a requirement to keep a certain amount of vegetation and keep it in good order. The development scheme in the area was not quite so onerous I guess in terms of vegetation management and had addressed the issues in its development scheme, and if that application had gone forward under that scheme there would have been an ability to clear those areas. You can debate the merits and appropriateness of that individual case.

Another example that came up in discussions was where hours of operation were a condition of approval under SPA and the development scheme has a different provision in that respect. It would be difficult to go back and make use of that flexibility to have different hours of operation that may have been imposed under a previous approval.

CHAIR: Again, for the benefit of the committee so we can clearly understand, is it possible where you may have a PDA declared for a large area there is a previous approval for a portion of that area with conditions attached to it and next to it is a piece of land that had no previous approval. So you could have a situation where the approval that comes in under that PDA for one is bound by the previous conditions approved but for the new one, which does not have any previous approvals, they would have greater flexibility based on the PDA.

Mr Maclaine: But there could be some unfairness or competitive disadvantage consequences. I guess with any drawing of a line on a map with a planning scheme or a zone or a PDA there will be winners and losers on the boundary.

CHAIR: This would be within the boundary.

Mr Maclaine: Within the PDA, I do not believe it is an intention of the act to bind people to future conditions.

Mrs MILLER: So you want the bill amended to provide clarity around those issues.

Mr Maclaine: The court case actually found that the act does not allow for development to occur consistent with the PDA development scheme when a previous condition of approval is in conflict with that.

CHAIR: Again, for the benefit of the committee, what was the timing of that court case decision? Was it recent?

Mr Maclaine: It was December last year. I believe the department had been aware of the case. In fact, when consulting with a couple of members who were aware of it, they assumed that it was being looked at. I am not aware exactly. From what I have been told, it was something that was brought to the attention of the department and was being looked at.

CHAIR: I promise you we will ask the department who are last today. We are happy to do that. Are there any other questions from committee members? No. Are there any final points that you would like to bring to the committee's attention?

Mr Maclaine: I guess the only other point I wanted to make was with regard to the infrastructure recoupment charge. We did not specifically speak to that in our submission because we have some comfort that it is there to perform a similar function to what could currently occur under a special benefited area levy. But the special benefited area levy is really more designed for discrete sites, so it may not result in any change necessarily in practice. But we are I guess cautious that upfront charges to cover infrastructure and having the tools to do both do not have a net increase in the infrastructure cost burden placed on the home buyers in that area. So we are happy with the flexibility to be able to provide an ongoing charge in lieu of an upfront charge that

can price people out of homeownership, but we have some concerns about how this is applied in practice. I just wanted to flag that because we did not touch on that in terms of concerns with the bill in our submission.

CHAIR: I appreciate that. Thank you very much. You have not taken any questions on notice, I do not think.

Mr Maclaine: I do not believe so.

CHAIR: We appreciate your time. Thank you very much. I call forward the Queensland Tourism Industry Council.

HARRINGTON, Ms Kim, General Manager, Business Strategy and Deputy Chief Executive Officer, Queensland Tourism Industry Council

CHAIR: Welcome, Kim. Would you like to make an opening statement?

Ms Harrington: Yes, thank you. We would like to confirm that the submission is addressing only one aspect of the bill—party houses.

CHAIR: Uncontroversial, quiet, discreet activities.

Ms Harrington: Quiet, discreet activities that are fantastic for media attention—yes, absolutely. What I will do is quickly run through some of the key issues that we raised in the submission. I will just read directly from that. The key issue for us is that party houses produce unacceptable noise and behaviour but they also are an undesirable subset of short-term accommodation houses that really impact on providing a negative impact on public perception and also concerns for safety for consumers as they come through into to our state. Party houses are short-term rental holiday homes that in essence are being misused and certainly contrary to what the accommodation provider intends. Party houses which are repeatedly housed to host wild, uncontrollable parties which disrupt neighbourhoods we understand to be run by rogue operators.

The second issue was really brought to our attention by our association's council, specifically three of our members—the Australian Timeshare and Holiday Ownership Council, the Accommodation Association of Australia and the Australian Resident Accommodation Managers Association. They are three of our members. They also raised the issue with us around the use of penthouses or large apartments, not just stand-alone homes, which are being used as party venues. Many of the problems associated obviously with the issues around capacity and the behaviour of occupants when you get into a high-rise setting with higher density is absolutely amplified, and that is a particular concern for us in terms of the impact on communal space in relation to parking and sharing the same floor, same ceiling, same access and entry points. So there is a critical concern there.

The third issue we raised in our submission is the creation of a separate land use for the purpose of a party home which we feel may worsen the issue as operators may see this as a licence to get out there and operate in any way, unless there are absolute controls which are not only notified but also reinforced. That is a key concern for us because, in essence, approval of a party house means that you can have parties. So we do have some concern around that.

A risk associated with giving approval for such land use is that it could promote the ongoing and increasing offensive behaviour because residents and attendees in the properties are self-supervised, which is an issue for us. We do want to reinforce that short-term rental holiday homes which are appropriately managed and located in our traditional tourism hot spots are absolutely critical to the accommodation stock in Queensland. That is really important to reinforce. They are the key concerns. You will note that we have made some recommendations. I am not sure if you would like me to take you through those or if you have specific questions in regard to that.

CHAIR: We might take some questions. If we have not addressed any of those key areas at the end, I will make sure you have a little bit of time. We are ahead of time so we can afford to do that. I would like to touch on the issue of rogue operators and party houses. Yesterday we had the opportunity to travel to the Gold Coast and engage in a round table discussion with some residents who are in a street with two or three party houses. The operators sound like they are creative—'innovative' might be the right word to use—and are obviously causing them a great deal of concern. There was a fair bit of discussion at that round table about the definition of a party house and how people who are currently engaging in party house rentals are making significant money from them, and for them to do that they need 20 to 30 people to be in that venue to cover the costs they are charging. Some views were put forward that the definition was not robust enough and people would be able to get around it by having to stay longer than 10 days. Do you have any views with regard to the definition as it is presented in the bill?

Ms Harrington: That is one particular area that came up because there was the suggestion of a minimum of 10 nights stay as a control measure. Based on the average length of stay in Queensland, which is three to seven days, that is a particular statistic which Tourism and Events Queensland use. That is where our data comes from. One of the other areas that is important in terms of definitions is having clarity to ensure that when a regulation comes into force it is clearly understood by all operators in terms of what that impact is. That is certainly something on the Gold Coast that our association members have identified. People can be very creative and opportunistic. What we are really seeking is to tighten any loopholes that may exist in the regulation and then go

through an educative process using sources such as industry bodies and the communication mechanisms to educate our operators on what the requirements are rather than necessarily bringing in more red tape. We are very keen to ensure that we tighten any loopholes and that we look at the way in which the agencies and industry are able to work together. That does require a commitment of resources. We are very mindful that compliance comes with monitoring, and the issue of monitoring is a particularly serious one and has a big impact on local government.

CHAIR: Just to be clear, the definition that is proposed of a party house is contained in clause 77. You do not believe there would be any unintended consequences for operators of short-term accommodation? You think that is robust enough to capture those operators who are renting out a party house?

Ms Harrington: We have not received any feedback contrary to that.

Mr YOUNG: You touched on commercial zoning.

Ms Harrington: Yes, we did. The direct feedback from our accommodation is that if the land used for the party house is deemed commercial, which in essence it is rather than residential, we feel there is the opportunity through the legislation process itself to give local governments the appropriate opportunity to ensure there is effective monitoring and activity, particularly where local laws come into effect. Rather than it being residential, a party house obviously is not fit for purpose in terms of residential; it does move into that commercial space. We know that there is more opportunity under commercial zoning to look at areas in a more holistic or strategic position when making decisions around allocation of that.

CHAIR: Can I pick up on the commercial zoning? If a local government were to look at an area and say, 'We would designate that to be a party house,' the challenge with commercial zoning is that when you think of it you immediately think of warehouses and that is obviously not what we are talking about.

Ms Harrington: No.

CHAIR: So they look at an area and they designate this is where we should see party houses. Within that, currently it is residential. There would be some people who have enjoyed living in that space. What you are saying is that, if it were commercially zoned as opposed to residentially zoned with that party house provision on top of it, that would give greater power to the local council to be able to undertake enforcement activity or do other things?

Ms Harrington: Absolutely, yes.

Ms MILLARD: To touch on commercial zoning, are you specifically suggesting that that party house should go under commercial zoning or perhaps that street?

Ms Harrington: To be honest, I do not have a view on that. I would have to seek advice on that.

Ms MILLARD: That is okay. I was just curious as to what your industry thought.

CHAIR: I appreciate that it is not within your membership base, but are you aware of whether councils are supportive of that view to zone areas as commercial?

Ms Harrington: No, we have not.

CHAIR: We can discuss that later.

Ms Harrington: We are able to go back to our council counterparts and take that on notice if that is of assistance.

CHAIR: We have them appearing at 3.05. So you have loaded us with a question for them.

Mr HART: In your explanation I think you said you thought that penthouses and large units may not be covered by the definition of party house.

Ms Harrington: Of residential. Penthouses obviously are not stand alone in terms of residential, so just to ensure it is understood that is the practice now. The Gold Coast is definitely having that happen. The penthouses come under that criteria.

Mr HART: My understanding is that it will apply to penthouses and large units, but we will clarify that with the department this afternoon.

Ms Harrington: Thank you.

Mr YOUNG: I have a point of clarification. When we talk about commercial zoning, I see it differently: they are going to nominate that premise as being commercially zoned and that would then be subject to a material change of use and then the council would bring down a determination as to whether it was allowed or not allowed. Does that sound adequate?

Ms Harrington: Yes, it would be because that then provides an opportunity for local government to have a view for the positioning of party houses.

Mr YOUNG: Understood.

Mr HART: Typically, are people like internet providers who provide these sorts of things members of your council?

Ms Harrington: We have internet providers who are the technical providers and, yes, they are members. Often those who are the providers of this—Airbnb et cetera—are not members of industry associations. We are having a fairly widespread debate in relation to Airbnb and the issue of unregulated activity and how that has an impact for consumer safety, which is one of our critical concerns. The lack of regulation is a major concern not only in lost revenue to government but also because of the potential negative impact on our tourism market. In approximately two months we have invited Airbnb to come to Queensland to engage with us in the broader discussion around different types of business practice and the impact it has on our economy.

Mrs MILLER: What about schoolies? The whole of the Gold Coast is a party house, isn't it?

Ms Harrington: Exactly. It is very heavily regulated, as you know, in terms of the support coming through there. We do see that as quite different in that it has a designated use, it has gone through the due processes and city council is heavily supportive of the area. It is quite a different scenario to that of a party house.

Mrs MILLER: In terms of regulation, if there were any regulation would it be specific excepting for schoolies week?

Ms Harrington: I would not expect so. Regulation is regulation.

Mrs MILLER: It would be very difficult to draft a regulation around that.

CHAIR: Another point made at our round table discussion was concern about enforcement. These particular residents were saying, 'It is all well and good you are bringing this in, but who is going to do the enforcement?' They expressed a view with regard to whether that would happen or not. From your organisation's perspective, with regard to the issue of enforcement should the bill and these particular provisions be passed, how can that be achieved by local councils?

Ms Harrington: We would certainly echo the concerns of the residents. We understand that regulation in itself is fine, but it is the actual monitoring and evaluation of that which really makes a difference back in the community. Residents are the ones who are living right next door and they know what is coming through and how many times an officer may or may not come. So that is really critical. One of the recommendations that we have made in our submission relates to control and there is a suggestion for a register. Should a register come forward, a register could have some guidance and guidelines around that in terms of what needs to be met. That certainly would bring it in line with other short-term rental accommodation provisions to ensure there are measures in place such as safety if there are pools, because ultimately we are wanting to make sure we have a safe environment for visitors to our state.

CHAIR: Currently, for short-term accommodation there is a register in place. So you are suggesting that party houses would be included in that register or a separate register?

Ms Harrington: Yes, be included into a register so you have consistency of service coming through the system.

CHAIR: This bill is more about defining areas where you can have party houses, and it is about the effect if you are undertaking a party house in an area that has not been approved for that. Would the rogue operators be in that register or are they still going to sit outside? The great thing about registers is that it is the honest people who are doing it.

Ms Harrington: Correct.

CHAIR: I do not think it is the honest people that we have to address here.

Ms Harrington: No.

CHAIR: Would the register really capture the rogue operators?

Ms Harrington: From our members' perspective, they felt having a register is the first step towards ensuring that you have compliance. None of this will work without very clear coordination and commitment for all agencies to be working on that issue. We certainly advocate having a standard that is well understood and clearly promoted. That is critical. There is a key role for communication and education around the standards.

So with anything like the introduction of any bill, that component of it is a critical area that needs to be supported. So you really do rely on ensuring that your networks, your industry, your peer, having somebody talk to, somebody in a system to pull it through with rogue operators, that typically is the way in which the pincer movement works. Where we come unstuck is where there is not clarity and there is not enough support there for people to then enforce. That monitoring and that resource, which is required for monitoring, is a really critical area.

CHAIR: The head of power for the registration for short-term accommodation, where does that sit?

Ms Harrington: I am sorry—

CHAIR: So there is a register. What forces people to sign up? Is it a particular piece of legislation or is it a council or local government area register, or is it something that is state-wide? Is it industry best practice that people do on a voluntary basis?

Ms Harrington: I will have to take that on notice back to our members on that one.

CHAIR: If you could?

Ms Harrington: Yes.

CHAIR: The other thing is the cost of being on that register. Is there a fee for being on the register?

Ms Harrington: Again, I will take that on notice.

CHAIR: I appreciate that.

Mr HART: Just to clarify that point, the Gold Coast City Council—and I do not know if it happens elsewhere—charges a different rate levy if you are short-term accommodation. So there must be some sort of register at least there. I am just wondering whether your council supports the existence of party houses at all and whether you see a place in the state where they would be appropriate?

Ms Harrington: We have not canvassed our members directly on that. Certainly, from a tourism perspective, what we support is bringing people here to the state to be able to have a fantastic holiday safely. Where our concern sits is that tourism will not survive in this state without the support of our resident communities. So it is absolutely critical that there is a partnership between residents and visitors in Queensland. We are pretty supportive of most opportunities if that means that people can come in, be safe, have a fantastic time and drop a bucketload of money in Queensland thank you very much, but do it safely and do it within the agreed constraints of good business operations. So if we fulfil those criteria, yes, absolutely, party houses are fantastic and great for the economy, but on the basis that we still have residents who can happily live and feel safe in their communities. So that is the conflict that we need to manage—to ensure that we have safety.

Mrs MILLER: I have a couple of questions in relation to this so-called register—whether it is lawful or not, that may or may not exist under whatever legislation, or may be there, or whatever. It is quite amazing to me. This current government in power talks about red tape reduction, yet what you are talking about is actually bringing in red tape—in other words, having a register of party houses. My concern is this: particularly in relation to residents who live nearby, for buying and selling of houses, surely if there was a register of party houses a buyer, for example, would look up whatever is happening—

Ms Harrington: Absolutely

Mrs MILLER: Whatever is happening in that street, see that there are going to be party houses there and probably run a mile. So I think that really this issue needs to be thought through.

Ms Harrington: Correct.

Mrs MILLER: However, I am concerned. Do these registers actually exist?

Ms Harrington: I will take it on notice. I know certainly in Victoria one of our members has spoken about that existing in Victoria.

Mrs MILLER: I want to know if they exist in Queensland and do real estate agents actually have a register of party houses, or do any tourism authorities.

Ms Harrington: Not party houses. They certainly would not have one at the moment—a register of party houses. It would be known where they would exist and that would be—

Mrs MILLER: Or a list. Do not call it a register; let us call it a list. Could you find out whether tourism authorities have a list or whether real estate agents have a list of party houses?

Ms Harrington: Yes. We will see if we can do that.

Ms MILLARD: You talk about capacity control in your submission and putting a cap on the number of guests. That was something that was discussed vehemently yesterday at the roundtable—as to whether it should be, or whether it should not be, and what that number could be, would be et cetera. What is your industry's thought on the capping of guests? Yes or no?

Ms Harrington: Certainly, the feedback that we had is that, if the cap is placed there, then you would then certainly have the conditions there to monitor. It all still comes back down to having a regulation is fine, but what do you have? What resources do you have to enforce? That is an overarching concern that the industry does have. We certainly want less red tape, but we need to be mindful that red tape or regulations themselves are good. Regulations are introduced to ensure that we have a consistency of standard and that consumers understand and businesses understand what is the minimum requirement. We would probably have to go back again to our three core members around that to canvass a view as to whether or not there is an agreed number or what that position would be.

Ms MILLARD: As an industry state body, would you be able to do that and come back to us if possible?

Ms Harrington: Yes, we will try to get that data.

Ms MILLARD: It would just be interesting to see from your perspective what you think, because we did not really come to much of a conclusion at yesterday's roundtable.

CHAIR: One of the things that was discussed yesterday as a methodology of determining the capping was to look at the building code and what the building code would approve as the number of people who could stay overnight. It was acknowledged that in some cases—and I think the example was given to us of a wedding—a party house was used basically as a function centre. People obviously stayed overnight but the number of guests who attended for the wedding and the reception was far greater than the people who then stayed overnight. Would that address the problem or would we be simply shifting it into a different area? We would appreciate your views particularly in that space.

Ms Harrington: Yes.

CHAIR: I do not want to go into a hypothetical, but I note that you touched on it in your submission and that is the ability within the planning scheme to identify a party house area and to be able to do that. I think it is acknowledged that there could be some unintended consequences. I think any reasonable person would see that there is an upside in that that land may become particularly valuable for a particular purpose, but there is a downside for those people who are currently in there. From an organisation perspective, what are your views on that?

Ms Harrington: Certainly, just to reinforce, when a new law is introduced the importance of having communication out through the specific areas is critical. If there is clear guidance—and we certainly feel that there needs to be more research placed into this—our three members have stated that they would need to do further research directly with their members in order to get an accurate understanding of the range of this. It is not something that has been prioritised as such with the committees. The critical thing is bringing it back down again and ensuring that, once that due process has gone through, that there is clear communication again.

CHAIR: Okay. Excellent. Are there any final points?

Mr HART: The member for Bundamba asked you before about coming back to us about a list of party houses.

Ms Harrington: Yes.

CHAIR: I think it was broader than that.

Mr HART: We were talking before about short-term accommodation. They are two completely separate things.

Ms Harrington: They are.

Mr HART: So if we could just make sure that it is party houses versus short-term accommodation.

Ms Harrington: Yes.

CHAIR: Yes. I certainly did not interpret it as being restricted to just party houses. You were interested in the register of whatever is in place, whether it includes party houses or not. Do you have any final comments that you would like to make?

Ms Harrington: No. Thank you.

CHAIR: I appreciate your time appearing before the committee. In relation to the questions on notice that you have taken, if the information could be provided by the close of business on Wednesday, 9 July, that would be appreciated.

Ms Harrington: Yes.

CHAIR: We will now take a five-minute break and we will be coming back by teleconference with the Atherton Legal Service.

Proceedings suspended from 1.24 pm to 1.31 pm.

ATHERTON, Mr Trevor, Solicitor, Atherton Legal, representing Holiday Rental Industry Association

CHAIR: I welcome everyone back to this hearing. I would now like to welcome the representative from Atherton Legal on behalf of the Holiday Rental Industry Association via teleconference. For the record, could I please ask that you state your name and the position by which you are appearing before the committee today.

Mr Atherton: My name is Trevor Atherton. I am a partner in a tourism law and policy firm called Atherton Legal and I am appearing on behalf of the Holiday Rental Industry Association.

CHAIR: Would you care to make an opening statement for the committee?

Mr Atherton: The association was launched in February 2013 as the national peak industry body representing the holiday and short-term rental industry. We have members around the country and represented on the board are some 40,000 of the leading holiday rental properties around the country. Our organisation firstly supports the objectives which the bill is trying to address, but we do not support the methods. We support the objective of trying to deal with out-of-control parties and unacceptable behaviour and noise impacts on neighbouring communities, so we are on the same page with that. Secondly, we are concerned about the lack of consultation and involvement of stakeholders in the development of this bill and this policy and I am very glad that we can be here today to actually express our views and our ideas. Thirdly, we think that there will be severe collateral damage from the bill on the short-term and holiday rental industry and this counters the stated objective of the bill which is to promote tourism and development. Fourthly, we believe that there was a failure to consider alternatives. There are better ways of regulating the adverse impacts which, because of the lack of consultation, we do not think have been properly addressed. Fifthly, we object to the retrospectivity of the bill. Sixthly, we object to the taking away of property and planning rights without compensation. Seventhly, we think that there is a loophole in the bill so it will be completely ineffective and all you will be left with is the severe collateral damage on the holiday and short-term rental industry and, lastly, we think there is a better way forward which we can talk about more in the proceedings if you wish.

CHAIR: Thank you very much. The challenge we have as committee members is ensuring that there are not any unintended consequences with any particular bill that we consider as a committee and it is part of our role to assess the bill and to make recommendations to the parliament. Party houses is but one section of the whole bill. The retrospectivity provisions, can you bring that to our attention as a committee? Where is that contained?

Mr Atherton: It is in part 7A and it is in section 755D and you will see that subparagraph 2 says it was never authorised. Subparagraph 3 says it is not and never has been a natural and ordinary use of a dwelling. What we see is that if at any time, whether before or after it was, that is now undone. So the planning scheme, whatever it has said, does not and never has authorised these things.

CHAIR: I was looking for a retrospectivity clause where it dates it back to 1 January.

Mr Atherton: This dates it back to the settlement of the colony.

CHAIR: Thank you for that. As you were discussing your points, you mentioned as your third point collateral damage. For the benefit of the committee would you like to expand on that a little bit more?

Mr Atherton: We all know that dwelling houses and apartments are from time to time used for parties, whether it be wedding celebrations or birthday parties or whatever. We know that from time to time they get out of control. The thing is that this happens whether the people at the party are the owners or the tenants or the guests or the visitors. This is a problem around the country. In Queensland you have all the usual measures to deal with this, including noise abatement and, more recently, the special police powers to deal with out-of-control parties. It is a problem. It does not only occur in short-term and holiday rental, it occurs in all dwellings, but this bill particularly targets holiday and short-term rental. In trying to wipe out parties in holiday and short-term rentals, the unintended collateral damage will be it will eliminate holiday and short-term rental wherever you take these measures, it will eliminate it in houses that are completely well behaved along with houses that are rogue operators.

CHAIR: Is it the view of the Holiday Rental Industry Association that the definition of a party house as provided within this bill is not restrictive enough and the unintended consequence would be to pick up people who were having a party in short-term accommodation or in other holiday-type accommodation and we are not dealing with the rogue party house operators?

Mr Atherton: Rogue party houses can be owner operated or tenant operated or short-term guests. There could be that problem in all those areas, but this bill by its definition only deals with it when it happens in a short-term rental. It specifically excludes a completely out-of-control raging party where the owner is present or where a tenant is present. It only attacks that activity or that problem when it is in a short-term rental and that is what we say is going to cause the collateral damage, because within the precinct then where there is one rogue operator or one unfortunate series of rogue guests, a council may clamp down and declare that a party house restricted area so that all of the short-term rental properties within that area will then be effectively out of business.

CHAIR: Effectively out of business? The short-term accommodation operators would still be able to operate, it would just put the onus on them to ensure that they are leasing to people who are there for short-term accommodation and not for a party type activity. Wouldn't the majority of your members' facilities be used primarily for accommodation purposes not for party purposes?

Mr Atherton: Absolutely, and the whole objective of our organisation is to weed out rogues. In our code of conduct we prohibit party house activities. The conditions of rental of properties of our members prohibit party house activities. We are putting in place a series of measures, including a complaints hotline and a delisting procedure so that those sorts of properties will be taken out of the holiday and short-term rental business.

CHAIR: I am not trying to be difficult here, I am really trying to get my head around this, if I come back to the definition, Part A of the definition talks about the premises or any part of the premises is regularly used by guests for parties, don't you feel that that wording would provide the protection to your members and their businesses in enabling that one-off party to occur as opposed to the party house operator that regularly has a buck's night in a property every weekend and other activities.

Mr Atherton: I do take the force of what you say, but the word 'regularly' is a very vague term. Does it mean twice? Does it mean twice in one week, one month, one year, one decade?

CHAIR: A fair point.

Mr Atherton: What does it mean?

CHAIR: If we were looking at that definition, what would you propose would provide less of the unintended consequence to short-term accommodation and be more powerful in addressing those rogue operators who are doing it regularly, being on a weekly or fortnightly basis?

Mr Atherton: We come to the problem from a different angle and we say a person who regularly uses a property for that purpose will be in breach of the code of conduct. Our membership comprises all the main online portals that actually provide the customers and our code of conduct provides that when members breach the code of conduct they will be delisted. So we have a more effective solution to the problem. It just has not been given time to work.

CHAIR: Yesterday we held a round table forum down on the Gold Coast and spoke to some residents. On one street there is a series of party houses and these people live next to them. One of the points that was made to us is that the operators of these particular party houses are utilising their own websites for bookings, et cetera. If they are not members of your organisation, aren't they just circumventing the control that you have and they are still able to get the bookings and operate without any restrictions?

Mr Atherton: I think with great difficulty.

CHAIR: Could you expand on that for us?

Mr Atherton: Because the online portals, I don't have exact numbers on it, but they would provide three quarters or more of the guests of most holiday and short-term rental properties in the country and in some properties 100 per cent of the custom comes that way. A person going onto Google with his own website advertising as a party house will appear on page 10 of Google in the search engine and no-one will ever find them.

CHAIR: I am going to open to other committee members.

Mr YOUNG: In section 8 of your submission, 'A better way forward', basically they have to be members, but as David said there are many people out there who could start their own website tomorrow and online advertise these party houses.

Mr Atherton: I acknowledge the force of what you are saying and our industry association obviously is to get members directly as members and to get members behaving who indirectly come through any of our members through their listings. If someone wants to set up a website and advertise themselves as a party house venue I think you have some other measures that you could take against them, particularly under the police powers act. I do not think you need to have a

planning approach which captures the entire population. I think you could have a more targeted and a more effective approach of dealing with a rogue. We want to get rid of the rogues. The rogues are damaging our industry. We are probably even keener than you are to get rid of the rogues.

Mr YOUNG: I understand what you are saying, but by using police powers you are addressing the issue whilst it is happening. What we want to do is get the front end of it so that we circumvent these party houses becoming party houses in the first place.

Mr Atherton: Unfortunately we are trying to control human behaviour and when people go on holidays or have a birthday or become engaged they do celebrate and I do not think we can legislate to prevent celebrations. I do not think we can make planning laws which will effectively prohibit celebrations. I think they are just a fact of life. We have to deal more, I believe, with the behavioural impacts of that with more targeted and precise measures like your police powers amendments.

Ms MILLARD: This is along the lines of what the member for Keppel asked you, but in part 3 of your submission you do say that the bill you feel targets only short-term and holiday rentals and that it punishes the owners of the residential dwelling rather than the people at the party. I feel there is even a conflict within that paragraph because you are talking about punishing the owner of a residence but then you are talking about short-term and holiday rental. We are definitely not looking at short-term and holiday rental per se, but once again looking at punishing the owner of the residence or the manager of that residence versus the people who are having the party is certainly something that we discussed yesterday at the roundtable meeting.

Mr Atherton: I accept what you are saying, but I will give you an analogy. A car rental company who hires a car to a person who goes out and breaks the road rules is not responsible for the person driving the car, hiring the car and breaking the road rules. What this bill is trying to do is exactly that: make the car hire company responsible for the sins of the driver.

Ms MILLARD: No, but that car hire company would certainly be responsible for making sure that that car was fit and suitable to be driven and safe.

Mr Atherton: But not necessarily up the street the wrong way or exceeding the speed limit or—

Ms MILLARD: No, and that is where the police come into it. Because if people are running around doing the wrong thing driving a car recklessly up the road, running down the street naked, whatever it may be, all the different analogies we heard yesterday, that is where the police will come into it and address those people. However, we are looking at targeting the owners or the managers of that residential dwelling, that party house, because they are the ones—

Mr Atherton: I believe the police have a very important role.

Ms MILLARD: Absolutely.

Mr Atherton: Perhaps the most important role in the whole thing. But a reality of holiday and short-term rentals, which many of our members have done for decades, is that even with the best management systems in place and the strictest controls where you turn away anyone who looks like they are going to have a party—you ask them and they assure you that they are not going to have a party—even with all of those controls in place and the best measures in place, from time to time people slip through. People are dishonest; they disguise what they are going to do, and then when they enter the premises they then misbehave and carry on, and that is a fact of life. Our industry acknowledges that, and we have every measure we can think of in place to deal with that and prevent that. But from time to time it will still happen, particularly on places like the Gold Coast, which is advertised as a party destination by everybody involved in business on the Gold Coast. It has a reputation that attracts that kind of person.

Ms MILLARD: I see them as quite separate things: short-term holiday lets versus party houses; owners versus people at the party. Can I just ask one more question, which was the same question I asked a previous witness: do you believe there should be a cap with regards to the amount of people at a premises?

Mr Atherton: That is a very interesting question. It is a question that we have struggled with as an organisation as well, whether it is two persons per bedroom or two persons per bedroom plus two. That is the formula that is in our code of conduct: in terms of adults, you must have not more than two persons per bedroom plus two. That is another way in which we are trying to deal with this party house problem. I think that is a very good idea, and that is something that you could restrict under the planning laws more effectively than I think you can restrict regular parties. If you reduce the numbers of guests at the premises, I think at least you reduce it down to small parties rather than large out-of-control parties.

Mr HART: Trevor, the analogy that you used before with the rental car, what we have actually got on the Gold Coast is car rental places renting people a V8 and they are sending them out on the street to race that V8. So wouldn't you think that the person who rents that V8 is responsible for the issue that they are creating?

Mr Atherton: No. In fact, I cannot disagree with that. If person is deliberately renting premises out and advertising and promoting them for parties and out-of-control events, they obviously are aiding and abetting and facilitating this and they should bear the full force of the law.

Mr HART: So they are basically running a business in a residential area; you would agree with that?

Mr Atherton: The thing is that holiday and short-term accommodation is changing dramatically around the world because of the internet. In the old days this used to happen: people would just rent their beach house from time to time for holidays and no-one noticed, but with the advent of the internet now it can be done in a more systematic way, but it is still exactly the same activity.

Mr HART: But Trevor, these guys are not renting out a house for accommodation purposes; they are actually renting it out for party purposes.

Mr Atherton: I agree. In fact one of the arguments we put is that if people are regularly—let's use a word I am trying to avoid, but by 'regularly' I mean every week—holding a bucks party or a wedding or a function, then it is clearly being used not as a dwelling; it is being used as a function centre.

Mr HART: Exactly. So if you are running—

Mr Atherton: But I would have thought you have provisions under the existing planning scheme to deal with that.

Mr HART: Let's cover that. If they are running a reception centre, then shouldn't they meet the same planning conditions everybody else has to meet?

Mr Atherton: I cannot disagree with that. Our code of conduct says that we prohibit party houses and if people want to hold celebrations and events at their party, it must comply with the planning scheme.

Mr HART: Just on the loophole that you mentioned in your submission, you raise an interesting point there. Is your reading of it that if someone was to issue a seven-day tenancy to a person they could skirt around this particular legislation because of the way it is written?

Mr Atherton: Exactly. They are excluded. It is very easy to rent a tenancy. Even though the residential tenancy agreement excludes holiday and short-term rentals from compulsorily using the residential tenancies act, there is nothing to stop an owner giving a tenancy or a lease for a very short term—a few days—and for a series of short terms for a few days to a series of tenants, which creates legally a tenancy, and legally it falls straight outside of your legislation. So that is our main point under part 7, that there is a clear loophole in the legislation, and the loophole is going to let the rogues slip through, but it going to cause all the collateral damage.

CHAIR: Thank you for that, Trevor. We will certainly pick up on that point with the department later on.

Mrs MILLER: I was wondering if you could expand on your comments in relation to the Police Powers and Responsibilities Act?

Mr Atherton: The police powers legislation which has just come through in the last couple of months makes it an offence to have an out-of-control event. An out-of-control event is defined as an event where a certain number of people engage in a series of antisocial behaviours. In the case of an out-of-control event there are very severe fines and penalties placed on the people at the event and also anyone who has aided and abetted the event. So we believe this is a very good rifle shot, targeted measure to deal with party houses, and we strongly support it. I know it has had a lot of complaints from civil libertarians and whatever, but we support it because it deals directly with the problem and it deals directly with the perpetrators. It deals with the rogues or the people who are misbehaving at the party, and it deals with any of the owners or intermediaries who are facilitating and setting up and promoting this kind of activity.

The problem is that this legislation has not been allowed time to work. It has only been on the books for a couple of months, and we have not been able to see whether it is effective or not. We believe this legislation, properly enforced, will go a long way to eliminating the problem for you, for us and for everybody.

Mrs MILLER: In other words, you want Queensland Police Service officers to be the party police.

Mr Atherton: To be the policemen, yes.

Mrs MILLER: To be the party police.

Mr Atherton: Well, they are under this legislation.

CHAIR: Trevor, we are almost at the end of our time. Are there any final questions from any of the members?

Mr Atherton: Thank you very much for giving us a hearing. We are very pleased to have our ideas and perspective heard. I would just once again caution that this bill will cause a lot of collateral damage, unintended consequences, and it will damage Queensland's reputation as a safe investment and tourism destination. Because of the loophole, I do not think it will be effective.

Mr YOUNG: You are quite right, Trevor; it is very good legislation, but unfortunately you have to have more than 12 people there before the police will come around. There are parties that get out of control with fewer than 12 people.

Mr Atherton: I appreciate that. You could reduce the number of people.

CHAIR: Thank you very much, Trevor. Can I ask you to pass on to the Holiday Rental Industry Association our thanks, both for the submission and for your time to be involved in our public hearing today. As always, we as a committee benefit from the interaction and being able to hear what the potential unintended consequences are of any particular piece of legislation.

Mr Atherton: Thank you. It was our pleasure.

CHAIR: The committee will now adjourn for a short private committee meeting and a break, and we will return here at 2.25.

Proceedings suspended from 1.55 pm to 2.25 pm

SEELIG, Dr Tim, Queensland Campaigns Manager, Wilderness Society

CHAIR: I welcome everyone back to the hearing and I welcome the representative from the Wilderness Society. Would you like to make an opening statement?

Dr Seelig: I would, thank you. Thank you for the opportunity to present to you. I first want to acknowledge the traditional owners, the Jagera and Turrbal people, on whose land we are occupying today. The Wilderness Society has sent in a detailed submission focusing exclusively on the Wild Rivers Act repeal, although we did also reference the submission that we understood was forthcoming from the Environmental Defenders Office. So we endorse the other submissions that you will hear shortly.

There are four things that I wanted to touch on. One of them was a really practical issue about the mapping that is connected to the State Development's website that is related to the Regional Planning Interests Regulation, which is itself related to the Regional Planning Interests Act and also references various other pieces of the legislation. I do not know how many members of the committee has had success in locating the maps that we are talking about when you come to look at strategic environmental areas.

CHAIR: It was discussed this morning and I do not know if you were watching online—

Dr Seelig: I was not, unfortunately.

CHAIR: The issue came up—sorry to interrupt your opening statement—and the department acknowledged that they have failed in that area and they assure us that they are making changes to provide better hyperlinks to where the mapping is so that people can find it.

Dr Seelig: The location is one issue. The two other ones are, one, confirming which maps are actually applying right now, because there is a wealth of material relating to the draft regional plan for Cape York which is also on the State Development website and I suspect that you will find that most general members of the public would struggle to work out which map was relating to which piece. So I think in terms of red tape reduction and in terms of transparency of protocol and policy, you have a great example of the very opposite of that.

The most concerning thing about the mapping, though, is that we could find nothing to restrict how those maps get changed. There seems to be no protocol, no policy, no legislation, no regulation of how those maps are formed and how they are subsequently amended. There seems to be nothing to restrict State Development changing the maps the moment this inquiry is completed and we have all been led up the garden path on which maps we are talking about. Again, I think that is a serious issue that needs consideration.

CHAIR: It again was discussed this morning. If you were not listening, grab the transcript. The issue is there.

Dr Seelig: It is reassuring to hear that being confirmed.

Mrs MILLER: You are right. They basically said that there are no policies and procedures in place.

CHAIR: They said that they were internal, yes.

Mrs MILLER: No, no, they certainly were not internal.

Dr Seelig: I guess the point being is that, if wild rivers is being attacked on the basis of lack of transparency, lack of consultation, lack of good process, then how ironic, how paradoxical that the alternative that has been put up is far worse.

There are three points that I wanted to touch on. Firstly, the bill and inquiry process itself—and this is no slight on the committee; certainly not on the chair—this process seems to have been followed with undue haste and an unnecessarily expeditious attitude. The bill was introduced on budget day—a good day to bring in something that you do not want to get an awful lot of news attention. The time frame for the committee referral was changed dramatically from December to the end of July with very little notice. I was lucky to pick it up in *Hansard*. I do not know how many others would have done. There was no public issuing of invitations for submissions as far as I could tell. I never received a letter. I did yesterday about the regulation, but I did not on this particular—

CHAIR: Okay. We will take that as a failure on our part if you did not receive it, because we certainly did put it out to our usual stakeholders. So I will take that point on board and it was definitely not intended.

Dr Seelig: The same day the submissions were due—this is last Thursday—the committee announced it was inquiring into the Regional Planning Interests Regulation. We were one of the parties that suggested the committee do that. I guess we did assume that that would be done

before it commenced. As I understand it, the regulation commenced several weeks ago along with the act. So everything we have said in our submission about the regulation assumes the regulation is as is but of course that may change. You may decide that the regulation needs amendment, you could recommend that. So, again, we have put the cart before the horse in terms of this process. Again the level of transparency around this whole legislation and exercise I think is seriously questionable. I thank the committee for the opportunity come here today. There was only 48 hours notice in school holidays. I am having to subject my children unfortunately to sitting in a parliamentary process.

CHAIR: They may never get over the scars. I assure you they are both very interested in what they are doing at the moment.

Dr Seelig: I guess the key question is what is the big rush here? The government issued revocation notices for wild rivers back in December last year. That process has seemingly gone absolutely nowhere and all of a sudden out of left field comes a proposal to repeal the whole Wild Rivers Act. What is actually really going on here? Why do this with such speed and obscurity? I think the committee itself should feel entitled to ask that of the Deputy Premier and of his department.

Secondly, in terms of intent of the bill, with reference to wild rivers, the Wilderness Society believes this has been misconceived and that the explanatory notes are actually misleading in that they claim that wild rivers and the alternative essentially achieve the same outcomes. The explanatory notes say on page 9—

The Wild Rivers Act 2005 (Wild Rivers Act) can be repealed because its policy objectives can be more effectively implemented through Queensland's existing land use planning and development assessment framework and the new Regional Planning Interests Act 2014.

It goes on to say on page 12—

The wild river policy outcomes are now achieved through Queensland's existing land use planning and development assessment framework and the RPI Act. Consequently, the Wild Rivers Act is no longer required.

Section 3(a) and (b) of the Wild Rivers Act itself says the purpose of that act is to preserve the natural values of rivers that have all or almost all of their natural values intact and provide for the preservation of the natural values of rivers in the Lake Eyre Basin. The thing it is being compared with is the Regional Planning Interests Act. Section 3 of that act says that the purposes are to identify areas of Queensland that are of regional interest because they contribute to or are likely to contribute to Queensland's economic, social and environmental prosperity and says, inter alia, the impact of resource activities and other regulated activity on regional interests and the co-existence in areas of regional interest of resource activities and other regulated activities. In other words, the Regional Planning Interests Act is premised on the principle of co-existence between mining and environmental protection and assumes prima facie that those activities are compatible, where the Wild Rivers Act is premised on the precautionary principle which implies prima facie that those activities are incompatible. The policy presumption, as well as the guiding philosophy under these two pieces of legislation, are completely different. The claim in the explanatory notes that they are of equivalence and you don't need one act because you are picking up on exactly the same functions elsewhere I put it to the committee is completely wrong. I should add that the real policy intent surely of the government is actually to scrap wild rivers because it wants to see more mining in river areas. That is the real intent. That seems to be what the government has been talking about in the last three years or so of policy pronouncements and public statements. Why the bill does not come clean and say that I do not understand.

The final comment is about wild rivers. Wild rivers should be retained and the Wild Rivers Act should remain on the statute because the last remaining pristine free-flowing rivers in Queensland deserve the highest level of protection. The derogatory terms about red-tape reduction and slashing green tape essentially mask the real agenda of removing strong and vital environmental protections in Queensland which are there to protect the state's nature. To undo those regulations, remove those protections, is to the detriment of people and the environment. I sincerely believe that future generations will regard the actions of governments that remove environmental protections with contempt. It will look at the winding back of land clearing, the walking away from the South-East Queensland forest agreement, allowing mining to occur in sensitive areas and extending mining on North Stradbroke Island and the general failure to arrest biodiversity decline, amongst a number of other things, as something that should be regretted and will be regretted by future generations. Failure to protect the state's most sensitive rivers will now be added to this list unless the committee—that is you—challenge the government to re-think its approach and I would urge you to take that task very seriously and to do so.

CHAIR: Thank you for that. We acknowledge the concerns you have about the repeal of the Wild Rivers Act. This morning we had the opportunity to have a departmental briefing on the Regional Planning Interests Regulation and we will have an opportunity for a public hearing on that.

Dr Seelig: We did get an invite for that one.

CHAIR: We are just checking where your invite went on this one. What I wanted to pick up on, and you may not have had a chance to look at the regulation so if you have not I will not pursue it and we can perhaps discuss it later, but one of the things that was discussed this morning when we looked at obviously this bill and the repeal of the act and the regulation and what that is bringing in, we heard from the department with regards to the strategic environmental areas duplicating what the wild rivers areas were with some modifications, including an expansion with regards to the Steve Irwin Wildlife Reserve and we also had discussion with regards to how certain things were termed unacceptable uses in designated precincts, such as in the strategic environmental areas, and one of those was open cut mining. I guess I wanted to draw your thoughts, acknowledging your concern on the repeal of the Wild Rivers Act, but identifying what is being provided in that regulation of the regional planning bill and the prohibition of open cut mining certainly amongst other things within designated precincts in the strategic environmental area. Is your view that the changes are like for like or are we seeing a greater or a lesser as a result of the regulation that is coming in v. the repeal of that act?

Dr Seelig: We did look at this issue. In fact, it is discussed in our submission. There are several points. Firstly, I am not convinced that the Regional Planning Interests Act or its regulation have the sufficient head of power to trump the Mineral Resources Act. That is something you may seek to get legal advice on, but that is one special feature of the Wild Rivers Act, it overrode the Mineral Resources Act when it came to mining in sensitive river areas. The Sustainable Planning Act does not have that power and I am not sure where the Regional Planning Interests Act would get that power from. I am happy to stand corrected, but that is a key question in my mind.

CHAIR: We will ask the department.

Dr Seelig: The second feature is that the regulation, if it did not change and if the maps were exactly as they are, then it could be, with that question being addressed, that this is not a bad attempt to replace aspects of wild rivers—not all aspects of wild rivers because wild rivers brings everything together, it brings water issues, riparian management issues, in-stream activity issues and it stops big development whilst allowing sustainable development. In terms of aspects of mining, on Cape York all forms of mining are included in the regulation clause you are talking about, in Western Queensland it is only open cut mining and the major threat is actually gas—conventional and unconventional gas. I guess our biggest problem with the way the regulation is structured at the moment is it loosely refers to maps on the state development department website. As we have already heard, who knows which maps you are really referring to and, more importantly, how easily can they be changed? If there was an absolute guarantee here and now that that map today referred to exactly the wild river areas, which it does seem to with some modifications, and it did absolutely restrict mining activities on Cape York then I would say that is a very good start. I am just not convinced that that is actually what we are going to end up with. You look at how many iterations the Cape York Regional Plan has gone through in the last 12 months. I don't think we can assume anything about where something sits today with where it will be in three months time.

CHAIR: I will open up to other members. Member for Keppel?

Mr YOUNG: In relation to the Cape York Strategic Plan, you have obviously seen the maps. I want to point out a couple of things. The maps made themselves available on the 13th and submissions closed on the 26th—a window of 13 days. If you looked at the Cape York map and you said okay those boundaries were not going to move, would you be happy with that?

Dr Seelig: There is a whole series of features about wild rivers that have made it a holistic, comprehensive piece of legislation. All the science tells you that if you want to protect rivers properly you have to have a whole-of-river-system approach. The Regional Planning Interests Act disaggregates out water issues and puts them back in the Water Act. It takes out vegetation management issues. It comes to some aspects of regulating some mining activity, although again I would question the head of power to do that, but it breaks up the most sensible approach to river protection, which is to treat the whole river system as one entity. That does not mean lock it up. Nobody is having land taken away, no tenure changes are happening, no native title is affected, it is simply a regulatory approach, but it brings it all together. That is why wild rivers was created. That is why it had the support of parliament. It was not just a Labor Party initiative, it had the support of parliament. It goes some way. If it is correct and if it can be relied on, it would appear to go some way, but it still has a long way to go and I don't personally trust that that is where it will end.

Mr YOUNG: You have seen the maps?

Dr Seelig: I have seen the maps online. I had to ask someone in state development to give me a link to where they were because all the old maps, all the regional plan draft maps, are also still up on the website. Radically different. So it looks to me like all the wild river areas have just been remapped as strategic environment areas with minor exceptions today. Let us see where they are in three months.

CHAIR: That is a good point. Other questions?

Mr YOUNG: What are your comments on the protection of the Steve Irwin Wildlife Reserve?

Dr Seelig: We led the campaign to have the Wenlock River protected and part of that was to protect the Coolabah Springs Complex in the southern part of the Steve Irwin Wildlife Reserve. We were very happy to see the Steve Irwin Wildlife Reserve protected and the public statements seemed to include the Wenlock River at the time so we were very happy with that because we were criticised for stopping a bauxite mine on the Wenlock on the Irwin reserve by the Liberal National Party, but now they seem to have embraced the very concept that we have been promoting for a long time. So, very happy to see that outcome. It seemed very strange at the time though that they just picked one particular area out of a whole range of areas that could have been, and some are, protected and said that they would protect that one bit. The expansion of that into all the wild river areas at the moment again is a positive encouraging sign, but I do not trust that that is where it will end. That seems to be where it is today. If you look three months ago where the regional plan for Cape York was, it was radically different from where it is today, so it is a moving feast. Every week something different seems to be put up.

CHAIR: The time for this session has expired. I thank you for your attendance here today. We had checked and we did send the invite to info@wilderness.org.au. If you would prefer for us to use your direct email?

Dr Seelig: If it is easier. That goes to Hobart.

CHAIR: We might modify that so that in future we are sending it direct to you. I note that, as you indicated, you provided the committee with a very detailed submission and we understand your passion on this issue and we appreciate the submission that you have provided to us so thank you very much for that.

HAMMEN, Mr Evan, Solicitor, Environmental Defenders Office.

CHAIR: Would you care to make an opening statement?

Mr Hammen: I would very much, thank you. I am quite underprepared for today so I might just read off here.

CHAIR: Nothing like a bit of honesty at the beginning.

Mr Hammen: Let us lay our cards on the table.

CHAIR: We will not be too tough.

Mr Hammen: Thank you for the opportunity to present to the committee. I have a short opening statement to make on behalf of EDO Queensland. Firstly, I acknowledge my colleague, Ms Rana Koroglu, who has prepared our submission but unfortunately is unavailable to present further today. She sends her apologies. I am pleased to appear in her place on behalf of EDO Queensland and will try to answer any questions that the committee may have. In principle, EDO Queensland is not opposed to removing duplication and unnecessary regulation in our laws. Efficiency, clarity and certainty should, of course, be a key goal of any government. In our view, as long as environmental protections remain strong and the rule of law is adhered to there are likely to be win-win outcomes for both industry and the community. Of course, the million dollar question in all of this is is regulation being removed because it is duplicative and unnecessary in this instance or is the removal an erosion of community rights to participate in democratic processes? In other words, is this truly red tape or are these fundamental protections that need to be adhered to or need to be addressed? That is the question for the committee in regards to certain aspects of this bill. The participation of communities in statutory processes like environmental impact statements, the new impact assessment report, mining lease applications and development applications is, above all, a fundamental process of transparency and accountability. It is all the more fundamental in a society like ours with no bill of rights and no guarantees in our constitution except that property can only be acquired on just terms. We have all seen the movie *The Castle* so we know what happened there.

That is the question for the committee in regards to certain aspects of this bill. The participation of communities in statutory processes like environmental impact statements, the new impact assessment report, mining lease applications and development applications, is above all a fundamental process of transparency and accountability. It is all the more fundamental in a society like ours with no bill of rights and no guarantees in our constitution except that property can only be acquired on just terms. We have all seen the movie *The Castle*, so we know what happened there.

Procedural justice is not a concept I have made up before coming in today. Access to information, public notification and public appeal rights are all recognised as international best practice the world over. They are in fact only one of a handful of accepted principles of international environmental law, the others being sustainable development, the precautionary principle—which we already heard about from Tim—the 'polluter pays' principle and the principle of intergenerational equity. These are not my principles; they are accepted under international environmental law. The implementation of these principles, for instance, the requirement to publicly notify an EIS, or the new impact assessment report, or a law which might make the Coordinator-General subject to a court challenge, imposes a cost on industry or government, and that in our view is a cost which must be borne. It is a fair cost of democracy and living in a great community orientated state such as Queensland.

Turning to the current bill, our main concerns are with the amendments to the State Development and Public Works Organisation Act contained in part 3. In relation to the repeal of wild rivers, we do no more than endorse the comments of the Wilderness Society and highlight that in no way is the Regional Planning Interests Act framework a like-for-like swap for wild rivers legislation. When the State Development and Public Works Organisation Act was introduced in 1971, most would accept the world was a vastly different place at that time. The act makes an unelected public servant one of the most powerful figures in Queensland. In almost every way he is in effect untouchable. Despite this, if you stopped 10 people on the high street or Queen Street Mall, they would have little idea of who the Coordinator-General is, let alone what he does.

To review the fairness or otherwise of the changes in this bill we need to understand the context in which the Coordinator-General already makes decisions in Queensland: he can declare vast areas to be state development areas in which he can compulsorily acquire land and where all land use in the area is under his complete discretion and control; he can declare certain projects to be prescribed projects to speed up approval processes which he thinks are taking too long,

including stepping in and taking decisions away from other departments; he can also declare coordinated projects to control the environmental impact assessment process—and now the new impact assessment report process—for low to medium coordinated projects in Queensland; he can impose any conditions he sees fit irrespective of the views of other departments. What is more, none of his decisions in relation to coordinated projects can be challenged by way of merits or statutory judicial review. Controversially, he has also recently been exempted from Queensland's new environmental offsets law, giving him total and complete discretion to apply whatever offsets policy he sees fit.

In this bill the proposed changes to the state development act in part 3 further add to the lack of transparency and accountability in decisions by the Coordinator-General. They have placed an enormous amount of trust that he will do the right thing by Queensland, even though there is no requirement in the legislation for him to consider principles of international environmental law like sustainable development, intergenerational equity, or even the precautionary principle. As the department concedes in explanatory notes at page 13, if this bill is passed in its current form none of the following decisions will be subject to independent review: a declaration that a project be a coordinated project for which an IAR applies; a decision on a staged EIS; a decision whether to accept a draft EIS to be the final EIS; a decision on whether a draft IAR is satisfactory for public notification; a decision whether to accept a draft IAR as a final IAR; a decision whether to approve an SDA application or change to an SDA approval.

The department argues that reforms in this bill which breach fundamental legislative principles are justified, and indeed they have mentioned they are deliberate. They argue that it is okay to refuse public appeal rights because they do not exist anyway for coordinated projects under the State Development and Public Works Organisation Act, and that is inconsistent with the objects of that act. In our view this is a weak argument. For starters, there are no clearly identifiable objectives of the State Development and Public Works Organisation Act; and secondly, if the act is already in breach of fundamental legislative principles, why is it that we continue this tradition?

In the end, if the committee is minded to recommend passing this bill it has an opportunity to recommend a few important changes to increase transparency and accountability in relation to decisions being made by the Coordinator-General. For example, it can make the new IAR process 100 per cent accountable to the public; that is, open the process for public notification, challenge and debate on the merits as well as the law. Secondly, it can ensure the new staged EIS process is 100 per cent accountable to the public and that the proponent is required to take into account cumulative impacts of the stages rather than viewing each stage in isolation, which might disadvantage communities trying to grapple with exactly what is being proposed. Thirdly, the committee could recommend making the criteria for approving a staged EIS stronger and clearer so that the public will know in what circumstances one is required. Fourthly, the committee could recommend that the criteria for deciding whether to publicly notify a draft IAR becomes stronger and clearer again. Fifthly, it could make a recommendation that all relevant information under the State Development and Public Works Organisation Act is available on a public register.

At the end of the day justice must not only be done but must be seen to be done, and the laws and processes they implement must ultimately reflect this. There is a prime opportunity in considering this bill for the committee to require certain procedural safeguards to be met. We urge the committee to implement the proposed changes that we have suggested. We again thank you for the opportunity to present, and I am happy to answer any questions in relation to the issues I have mentioned.

CHAIR: Thank you very much. For someone who was not prepared, you did a good job.

I would like to pick up on that staged EIS process, if we could, and tease that out just a little bit more. I understand the submission and the concern with a piecemeal approach to it. I just want to understand what the government is trying to achieve in its policy direction here. Have you thoughts as to other ways that that could be achieved, or is it a staged EIS process with better transparency that would enable the government to achieve its policy objectives whilst at the same time ensuring that cumulative impacts are not ignored or dismissed?

Mr Hammen: I think at the core of it our position is transparency and accountability. So if you go through the proper processes and you get a result that perhaps is the result that happens in practice, provided you have gone through the processes, then that should be the result that you get. So even for a staged process I guess there are two aspects to it: there is the accountability of the process; and then there is also, I guess, letting the public know what your overall goal is in a staged EIS process; for instance, a coal seam gas project where you might have 10,000 wells, and another 10,000 wells, and another 10,000 wells, and you are testing each one to see whether it is viable or

whether you have got the funding coming from overseas or whatnot. The community should be entitled to information upfront as to what your overall end goal is so that if they are going to engage in the processes, as tough as they are—if anyone has tried to read an EIS—then they can at least go in knowing potentially what the impacts are. Does that answer your question?

CHAIR: It does to a degree. It is not the committee's role to question policy. We are looking at how the legislation gives effect to that policy and better ways that we might be able to do that. So are there any amendments that you might suggest, particularly with regards to the staged EIS, that would increase that transparency or would increase that level of accountability so that we are getting the same policy outcome, but perhaps in a better way?

Mr Hammen: I do not know off the top of my head. I would have to get back to you tomorrow.

CHAIR: Are you happy to take it on notice?

Mr Hammen: Yes.

CHAIR: Quite genuinely we would be very keen to hear.

Mr Hammen: Yes. If it is about transparency, you could have a statement out in the front saying, 'This is a staged EIS process. This is one stage of a broader project.' The very point of a coordinated project is that it is the biggest, most significant project in Queensland. So breaking it down into little stages, does that benefit the community at the end of the day, or does it benefit the industry as to how they need to factor in their costs? Which is also something that needs to be considered, but they have got to weigh that up. But I have to take that on notice and try to come up with some solution.

Mr YOUNG: You said that the Regional Planning Interests Bill sort of reduces the level of protection for wild rivers. I understand the boundaries have not moved. Can you just elaborate on that?

Mr Hammen: Yes. From our point of view looking at the framework—and I suppose this is what the previous speaker was talking about as well—it is not necessarily where the areas have been transferred to maps—and it looks like there have been areas that have not been like-for-like replacements—it is that the framework that existed under wild rivers was totally different to what exists under the Regional Planning Interests Bill framework. That is the government's policy; there is not much you can do about that. But in the explanatory notes they should have come out and said, 'Our policy is to totally change this approach to wild rivers and mining and the coexistence of things.' So really it is the framework. For instance, in the Wild Rivers Act you have got the precautionary principle which sits as the object of the act, which basically says you cannot do something unless you have got enough scientific research to go ahead with it and you know the impacts. Whereas in the Regional Planning Interests framework it is all about this coexistence which says, 'We can do it and we can find a way to do it'. Which may be acceptable, I do not know; but I am just merely making the point that those are two totally different frameworks for approving activities in those areas.

I guess the other point to note is that the wild rivers permeated all these other types of legislation such as the mining legislation, the EP act, coal seam gas legislation, petroleum and gas. You could not do things in those areas. Or you could do things, but you could only drill a certain way or take out a certain type of mineral; whereas I think the Regional Planning Interests Act is a bit more expansive. But I think really it is to do with the two legislative frameworks rather than the mapping of the areas as such.

Ms MILLARD: Were you with the EDO when the Wild Rivers Act was being consulted on?

Mr Hammen: No, I was not.

Ms MILLARD: But the EDO would have been consulted with regards to that?

Mr Hammen: I am sure they would have, yes. This was 2005, was not it, when it came in? Yes, in the years before that I imagine it would have been.

Ms MILLARD: You have just been talking about process, but process was not followed by the previous government with regards to wild rivers, and that is why three areas have been declared invalid, which I think is the Stewart, the Lockhart and the Archer. So we perfectly understand that process needs to be followed, because we certainly do not want a High Court ruling, which has just happened, of course, up on the—

CHAIR: We will stick to what this committee is looking at. Do you have a question?

Ms MILLARD: Yes, it was just about the consultation really and about the process.

Mr Hammen: Yes. I suppose I am not talking about process in the sense of government processes to consult on laws; I am talking about the processes of making decisions within laws themselves, so it may be slightly different. But I just wanted to take the opportunity to raise the point about the Coordinator-General, who is an unelected public servant who basically is untouchable in Queensland.

CHAIR: And has been for some time now.

Mr Hammen: And has been for some time. So what basis is there for further expansion of his powers? That is what we have a problem with.

Mrs MILLER: In relation to your comments insofar as the explanatory notes are concerned, you obviously believe that they are misleading.

Mr Hammen: I think they are wrong. I do not know whether they are misleading. I think they are wrong. Like when they say it is a like-for-like swap, or whatever they said, the policy ambition is exactly the same—well, I just think that is wrong based on looking at the two acts side by side.

Mrs MILLER: That is very important for all committees, and I think that this committee should certainly take your views into account in relation to that. But given the seriousness of what you are saying, I also believe that you should write to the parliamentary council as well with your specific concerns in relation to explanatory notes that come before the parliament that, as you are stating, are wrong.

Mr Hammen: I am happy to take that back to the organisation as well. I suppose there is a difference between me insinuating something is misleading and there being some sort of intention to do that and something just being wrong.

Mrs MILLER: But if it is wrong, it should not even hit the parliament. That is what I am stating. That's the issue.

Mr Hammen: Yes.

Mrs MILLER: The parliament in Queensland is supposed to be the ultimate bastion of democracy. But if wrong information is coming to the parliament, then that is a cause of grave concern.

Mr Hammen: It is wrong in our point of view.

CHAIR: And we acknowledge that.

Mr HART: You mentioned before reading the motherhood statements in both the bills they are a little bit different, but have you actually gone through each of the bills and looked at the outcomes that are achieved and whether they line up? I guess at the end of the day it is the outcomes.

Mr Hammen: Yes, that is a very good point. I have not no, and I suppose the regional planning interests framework has only just been passed. So in order to look at the outcomes—

Mr HART: If the outcomes are the same from both bills, is the EDO happy with that at the end of the day?

Mr Hammen: It is all about the outcomes, is it not?

Mr HART: Exactly.

Mr Hammen: It is all about the outcomes, so in which case, going back to my point about the processes, I guess if the processes are fine and you get a particular outcome, then ipso facto it is the best outcome for that process.

Mr HART: If the explanatory notes say that the outcomes are the same from both bills and, therefore, one is repealed, does that not make sense?

Mr Hammen: That is the argument of the department, but I suppose time will tell. The ultimate test for that would be to look in 20 years time at the wild rivers and see if the degradation had occurred but then, without wild rivers legislation, I suppose you do not know whether the same thing would have happened under wild rivers. But I take your point: it is outcome focused, yes.

Mr HART: And the High Court has just set aside the existing wild rivers legislation, anyway. So that sort of would not—

CHAIR: Not the legislation—some of the areas that were declared on a process. So I do not think that the legislation has been questioned.

Mr HART: Sorry, some of the areas that have been declared.

CHAIR: The declarations.

Mr HART: So some of those. We would never know what the outcome was going to be, would we?

Mr Hammen: Sure. Exactly. I think that is why, when you are doing those objectives early on in the act, from our point of view the objectives are a lot better in the Wild Rivers Act. That is just the fact of the matter, because certain things cannot co-exist in our view.

CHAIR: I do not think you did in your statement, but it is in the submission: I just want to pick up on the new regulation-making power for SPA to be accredited under a Commonwealth bilateral agreement. I would be interested for you to tease out for us a little bit more about that and your concerns or otherwise with that change to SPA.

Mr Hammen: Sure. I am going to have to take that one on notice. I think that is something in the field of my colleague.

CHAIR: Okay.

Mr Hammen: I just make the point that SPA is about to be repealed. So I cannot see how that is going to be a smooth process to begin with. But I will have to take it on notice and get back to you if you would like some more information.

CHAIR: I am more than happy if you could. That would be fine. Any other questions from any other members?

Ms MILLARD: Just generally with regard to policymaking, do you feel as though, or does the EDO feel as though, all policy should reflect a fair balance between environment, economy and community?

Mr Hammen: That is a big question.

CHAIR: Can you pause on that? I am going to ask you if you could reword it so that it is perhaps more relevant to the bill. I think it is a very broad question at this point in time. Do you want to take a moment? I know that I am putting you on the spot.

Ms MILLARD: No. That is okay. Obviously, for the Environmental Defenders Office your No. 1 concern is the environment.

Mr Hammen: Sure.

Ms MILLARD: But, as any government, we also need to be aware of economic and community outcomes as well.

Mr Hammen: Sure.

Ms MILLARD: There is always that balance of trying to make it even and fair wherever we can.

Mr Hammen: I do not envy your job in that regard.

Mr YOUNG: We like to hit the middle of the road.

Mrs MILLER: And you are not successful so far.

Mr Hammen: People who are far better than I am have tried to deal with that concept and have been grappling with it for the last 30 years. At the international level, that is exactly what the principle of sustainable development is about. Here, we have used it as ecologically sustainable development and tried to fit it into SPA and the EP Act and certain other pieces of legislation like the Nature Conservation Act. But that is the generally accepted approach—that development that is sustainable—and then within that there are certain principles like the precautionary principle, which came up in wild rivers, and the principle of intergenerational equity and so forth. That is the best available at the moment. That is the approach. I cannot speak for the rest of the office, but that is the one that I would go for.

CHAIR: Okay. Anything further? No. Again, thank you very much for your time. For someone who was not prepared, I think that you have done a sterling job. So thank you for that. We appreciate it. For those questions that you have taken on notice, it would assist the committee if you could provide the answers by the close of business on Wednesday, 9 July, so that we can then proceed with our work. I would now like to call forward the LGAQ and the representatives from the Logan City Council, the Cairns Regional Council and the Gold Coast City Council.

CALDWELL, Mr Ben, Partner, CBP Lawyers, assisting the Logan City Council

COHEN, Mr John, Manager, Health Regulatory and Lifeguard Services, City of Gold Coast

COOK, Ms Sarah, Acting Team Leader, Strategic Planning, Cairns Regional Council

HANNAN, Mr Luke, Manager, Planning, Development and Natural Environment, Local Government Association of Queensland

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

HULSE, Mr Matthew, Manager, City Development, Gold Coast City Council

JAMES, Councillor Terry, Deputy Mayor, Cairns Regional Council, Chair of the Planning and Economic Development Committee

JONES, Mr Anthony, Manager, Growth Management and Urban Design, Logan City Council

WAGNER, Mr Jeremy, Executive Coordinator, Contributed Assets and Development Compliance, Gold Coast City Council

CHAIR: I welcome you all to our committee hearing today. Thank you all very much for appearing before us. We may start with the LGAQ, if you would like to make an opening statement, and then I would be happy if any of the others would care to add to that as well.

Mr Hoffman: Thank you, Mr Chairman. The Local Government Association of Queensland welcomes the opportunity to appear before the committee and address the State Development Infrastructure and Planning (Red Tape Reduction) and Other Legislation Amendment Bill 2014. We are conscious of time and the very difficult task that the committee has in addressing this omnibus bill within such condensed time frames, so I will limit our remarks now to our specific concerns in relation to amendments to the Economic Development Act 2012. Specifically, we wish to address the proposed infrastructure expenses recoupment charge regime and, secondly, the broadened ability to declare provisional priority development areas.

Firstly, with regard to the proposed infrastructure expenses recoupment charge regime, the LGAQ has already contributed significant resources and analysis to assist the state government to better address the issues of determining and levying a special infrastructure levy on the land that is involved or was within a priority development area. These existing concerns were outlined in the LGAQ's June 2013 submission to the department and this is included as appendix 1 to our submission on the bill. Considering those efforts, we are extremely disappointed that, after an initial response to that June 2013 submission, no meaningful discussion or analysis was offered by the state government prior to the introduction of the bill. Indeed, it was only on Tuesday afternoon of this week that we had the opportunity to meet with departmental officers to discuss the implications of it for us.

In the June 2013 submission, we suggested a mechanism to recover the requisite charge on an annual basis, which we hoped would be following consultation and agreement being reached between MEDQ and the relevant local government. That submission also included detailed recommended legislative amendments to give effect to this levying and recovery model. Notwithstanding what is proposed by this bill, the LGAQ still considers that the mechanism proposed in that June 2013 submission is the most appropriate and transparent method of reducing the risk of legal challenge and threat of a special charge being declared invalid as per court precedent highlighted in the LGAQ submissions.

Irrespective of our overall preference as identified, one of the primary concerns is that this bill only proposes to address recovering expenses incurred or expected to be incurred by MEDQ only. Drawing on Logan City Council as an example, the council is presently constructing infrastructure for the benefit of the PDAs in its area. It would appear, based on the present drafting of the bill, that these costs may well be incapable of being recovered through the infrastructure expenses recoupment charge. As such, the LGAQs requests the parliamentary committee to seek clarity from

the department on these matters and recommends explicit amendments to the bill to ensure that local government costs, including financing costs, are beyond any doubt as forming part of an infrastructure expenses recoupment charge and can be reimbursed to councils immediately following the levy and collection of the charge by MEDQ.

Another of the primary concerns is that the authorising instrument does not include any local government involvement in the setting of the charge, or the amount of the charge, or the rate by which the amount of the charge can be increased. Yes, there is consultation, but our concern is, and is demonstrated in the 2013 submission, that affected local governments should be consulted and agreement reached about the amount of the proposed infrastructure expenses recoupment charge prior to it being set by the MEDQ. It is accordingly requested that provisions are included in the bill to ensure that agreement is reached with the affected local government about the amount of the proposed infrastructure expenses charge prior to determining and authorising the instrument for the making and levying of the expenses charged. This provision does not conflict with the act's objective but aligns with the LNP Empowering Queensland Local Government policy and the Partners in Government Agreement. The very absence of an agreement on the charge, particularly if below council's validly identified costs, is cost shifting and tantamount to rate capping, which is something that the empowerment policy said that the government would not do.

Another of the primary issues with the bill is the reference requiring that there be an overall plan. As mentioned previously, this is one of the very reasons the LGAQ maintains the preferred method and approach outlined in our 2013 submission. The precedent set in legal action involving both the Somerset Regional Council and the Gold Coast City Council were seemingly on a technicality, but the special charge was determined to be invalid because of the councils' failure to have an overall plan in place prior to commencing the work subject to the special charge. As such, the LGA requests that relevant sections referring to the requirement for an overall plan be either deleted entirely or amended appropriately to remove any risk of legal challenge.

Secondly, the rationale for broadening the ability to declare provisional priority development areas is insufficient. The LGAQ seeks detailed justification for why the amendments that substantially change the scope, purpose and function of the provisional priority development areas currently envisaged under the act as it is are necessary. The act's original explanatory notes state—

The declaration may only be made if the area is a discrete site proposed to be used for a discrete purpose; the type, scale, intensity and location of the development is of the site is consistent with the relevant local government's planning scheme applying in the area and there is an overriding economic or community need to start the proposed development quickly.

It is understood these changes remove the direct requirement for the provisional PDA to be consistent with a local planning instrument and therefore the community's expectations for development on that site. Contrary to advice from the department, the LGAQ is not aware of or able to identify any local governments driving the proposed amendments to the bill. As such, we ask the committee to seek formal clarification from the department with evidence on which local governments have requested the proposed changes.

The LGAQ recommends in the absence of these amendments being withdrawn that at a minimum the bill include the necessary provision that a provisional PDA is not declared without prior agreement of the relevant local authority. As stated above, inclusion of such a provision should not conflict with the act's objectives but aligns with the LNP Empowering Queensland Local Government policy and the Partners in Government Agreement. Again, the LGAQ is disappointed no meaningful discussion or analysis was offered prior to the introduction of the bill given the importance of these matters to the financial sustainability of local government and the resource implications.

In conclusion, and for the record, I advise that the LGAQ's submission and these remarks have been unanimously approved by the LGAQ's policy executive meeting here in Brisbane this morning. Thank you, Mr Chairman.

CHAIR: Thank you. Cairns Regional Council, would you care to make an opening statement?

Councillor James: Thank you for the opportunity to appear before the committee today. Cairns Regional Council has reviewed the proposed amendments as contained within the amendment bill and lodged a submission with the committee. Comments today are limited to the proposed amendments to the Economic Development Act and the Sustainable Planning Act. Firstly, with regard to the element of the council's submission that relates to the infrastructure expense recoupment charge within the proposed amendments to the Economic Development Act, council will defer to the Local Government Association of Queensland representative. The content of the LGAQ's submission is of greater detail and is consistent with council's position. Cairns Regional Council endorses the LGAQ's submission.

The remaining content of council's submission relates to the proposed amendments to the Sustainable Planning Act with a proposed new chapter 9 part 7A, which provides provisions for dealing with party houses. Council recognises that dwellings, particularly those within residential zones that are regularly used for functions, can create unacceptable impacts and disturbances. Cairns Regional Council has not experienced a significant issue with party houses, although we do receive complaints at times. The vast majority of complaints relate to noise, illegal parking and antisocial behaviour—all of which are impacts best suited to be dealt with through police powers and local laws, not through the process of enforcing a development offence under a planning scheme.

The proposed definition of a party house consists of a number of elements. The premises is used regularly and by guests and for parties for a period of less than 10 days and for a fee and the premises is not occupied by the owner. When prosecuting a development offence under a planning scheme the burden of proof is on a local government, and the definition of a party house as proposed would make this quite an onerous and complicated test for which evidence is unlikely to be obtained. The proposed provisions are 'opt in' and allow for a local government to identify party houses as assessable development and/or to declare a party house restriction area for all or part of the local government area.

The provisions where a party house restriction area has been declared give effect to clarifying that (a) an approval for a residential dwelling does not and has never authorised a party house; (b) the use of a residential dwelling as a party house is not and has never been a natural and ordinary consequence of a residential dwelling; and (c) the planning scheme does not authorise and has never authorised a party house to be carried out as part of a residential dwelling. Whilst Cairns Regional Council supports the intent of the provisions, they do not clarify the effect of council not declaring a party house restriction area within the local government area.

When a local government does not opt in and does not declare a party house restriction area, the following questions are raised: do party houses become exempt development and is an existing party house afforded existing use rights? Additionally, the proposed provisions appear at least in part to duplicate a process provided for under the Local Government Act for preparing a local law for noise nuisance from party houses. This matter should be addressed to ensure there is no duplication between local laws and planning scheme matters. Thank you.

CHAIR: Thank you. Logan City Council, would you care to make an opening statement?

Mr Jones: Thank you, Mr Chairman. I would like to make it known that Logan City Council fully supports the representations of LGAQ today and in their submission that they have made to the committee, as have Logan City Council. I would like to take the opportunity to emphasise the importance of this matter, particularly the special infrastructure levy and the recoupment charge, as it is now called, to Logan given the importance of such that more than 12 months ago we made the submission to the department around those matters that Mr Hoffman referred to earlier.

In the interests of time, council has identified a small number of matters that they would like the committee to consider in terms of its deliberations. The first of those, as Mr Hoffman did touch on, relates to the inclusion of local government or distributor-retailer expenses in what is an MEDQ expense. I believe that this is an oversight in many senses and it could be easily clarified to that extent.

Further, I would suggest respectfully to the committee that finance costs or costs of capital should be clearly articulated in that definition to provide absolute clarity for those circumstances. In terms of how the charge and the rate is established, we should be in consultation and agreement with a local government or a distributor-retailer, rather than simply consultation. Furthermore, the charge collected for an expense should be able to be passed on to a local government. So in terms of that there needs to be some better clarification around how if an amount of infrastructure moneys is spent by a council there is a mechanism there to ensure that the money is passed through to council and conversely a distributor-retailer.

Further, there needs to be some clarification around the opportunity to prepay the charge in full. This is something that we have previously asked for in our initial submission. I understand there are some provisions in the bill, but I believe they will need some clarification to demonstrate how that can apply. Finally, if a local government takes on a responsibility for levying a charge through a rates notice, we need to get greater certainty around the inclusion of that charge on the actual rates notice given that it is a charge.

One other matter that did arise that is not particularly articulated in our submission here but in our original submission to the state government in June last year relates to the future collection or the future provision for a special infrastructure levy or the recoupment charge once a PDA is

transferred back to the control of local government or other. From our perspective, this is an issue at the heart of financial sustainability of councils, and there should be a mandatory requirement that this charge continues. So we would be looking for some slight wording changes there to give some certainty to that, and we are happy for it to be an agreement and direction with the relevant minister at the time, so it is more of an agreement from council and the state. They are the main matters and we would be happy to take some questions.

CHAIR: Thank you. Gold Coast City Council, would you care to make an opening statement?

Mr Wagner: Thank you for the opportunity for the review. Our submission was in relation to the proposed new chapter 9 part 7A of the Sustainable Planning Act which deals with party houses in particular. Council welcomes the move by the state government to define party houses as a land use. However, we have some concerns in terms of gathering evidence and powers of entry.

The significant issue of concern for council in relation to the bill is the likely enforcement obligations and requirements associated with proving a residential dwelling is a party house as defined. So the definition of a party house in the new section requires that local government prove a number of elements as defined in the bill. In prosecuting the development offence, the local government carries the onus of proof and the standard of proof for matters of this kind. Again, it essentially comes down to helping council effectively administer and regulate party houses in terms of gathering the evidence.

In turn or in alignment with gathering the evidence obviously is the powers of entry. Essentially in trying to obtain the evidence to get a successful prosecution, we obviously need to attend the premises or the building, and the current means is obviously getting permission to enter the premises. So if we cannot obtain that permission it is very hard to get the appropriate evidence. Just be mindful that most of these parties or the complaints that we would receive would be after hours, and obviously that exposes some council officers to workplace health and safety issues and concerns from that point of view. Essentially they were the main issues or concerns in relation to the submission.

CHAIR: Thank you. I might start with the party house element of this bill. I am interested in the two different views that have been presented before us this afternoon: Cairns Regional Council believes that it can be achieved within the local laws and the Gold Coast City Council supports the intent of this bill but indicates that the evidentiary powers may need to be strengthened. Can I pose a question to the Gold Coast City Council. I take it you are not of the view that the Cairns Regional Council is that local laws can address and manage this party house situation?

Mr Wagner: In terms of the social behaviour and the noise associated with that, I believe it is regulatable. It is a non-planning issue and would be regulated through other means such as the Queensland Police Service and the like.

CHAIR: With regard to the ongoing nature and a business being conducted in a residential area, do you believe that your local laws can address that or do you believe that you do need these amendments that are proposed in this bill?

Mr Hulse: With regard to that, it is about the land use that you are looking at and this is about regulating land use. In terms of local laws, we have been down that path, trying to actually regulate this through local laws and we have not been really successful doing that. That is why I suppose it one of the reasons councils tried to pursue for this particular element to be put in. We are not saying it is bad. We are just saying with the evidentiary method of going through it is very difficult for councils to actually prove that a party house occurs. What is a party? The definition of a party could be two or more people out the back socialising in a rental house. So you do not want to capture a number of those issues. You want to get to the nub of the issue which is about people and their behaviour and also the annoyance factors that come into party houses within these residential areas. That really is the nub of the incident.

If a party occurs, it is usually out of hours or one of those events. For us to send an officer there we have got to gain evidence through that process of addressing those six or seven elements under that law. To gather those six or seven elements means that we have to significantly get that evidence together and say we declare you as a party house, if you want to declare that area, and say now you have to make an application to council as a party house. To prove that, you have got to have that regular activity occurring, which is one issue. So, it may happen here, it may happen there or may happen there. So, those are the points that as a regulator you try to look at and think, well, how am I going to capture this because the expectation of the people of the Gold Coast once this comes into place will be that they will be calling up saying, 'It's a party house so we want you to fix that'. In hindsight it is great. We want to do this, but we need the powers actually put in place so

we can actually do it. I haven't got the suggestions to do that. Probably all we are saying is we need maybe amendments to the Local Government Act to free up some more availability to gather evidence to gather this.

CHAIR: Before I go to my colleagues who are very keen to pick up on this, I just want to go to the Cairns City Council because you flagged that you do believe you can address this issue or manage this issue through local government laws. Could you expand on that for the committee so that we can gain a better understanding as to how you could achieve that.

Ms Cook: Yes. I think we reference that one of the impacts of party houses which are the subject of complaints to Cairns Regional Council is illegal parking which can be dealt with through local laws. The other two majority of complaints that we receive relate to noise and antisocial behaviour, which is generally dealt with under police powers. We are not saying that it is not a land use different from a dwelling, it is just that the impacts that we regularly hear of through complaints from residents relate to illegal parking which we can deal with through local laws.

CHAIR: I will go to my colleagues now. Member for Burleigh?

Mr HART: Just going back to the Gold Coast City Council, you said that you did not have any solutions to the problems, but then you went on to say loosen up the local government laws. Have you got anything specific there? What sort of extra powers in the local government laws might you need? Have you considered advertising that you are a party house might be enough evidence to prove you are a party house or is a number of police reports enough? What sort of things?

Mr Hulse: Problematic is that the police do attend on some occasions, but they are out policing other issues. We agree that it is a behavioural issue. The problem is you do not want to capture those who are just having a normal event out the back of a property that we get phone calls from the neighbours about saying it is suddenly a party house there and then we have got to go through the evidence proving that it is not a party house as well. There are two ways of looking at this. That is the issue I have got. With the Local Government Act you can amend the powers of entry in this particular area and say that the local government in these particular situations can enter the property. It is a two-pronged attack, because the issue will come—the last thing our officers want to do is go into a party where there has been socialised drinking and behavioural issues where they may feel threatened under workplace health and safety issues. Can you understand where I am coming from? It is not an easy situation. They have got to evaluate that situation and see if it is able to be entered and if they feel safe and uninhibited to enter the property to gather that evidence.

Mr HART: You must already have quite a list of places you would assume are party houses already, would you?

Mr Hulse: Yes, we have.

Mr HART: You have got some sort of evidence to base it on?

Mr Cohen: Mr Chairman, I have not introduced myself yet. My name is John Cohen. I am the manager of health, regulatory and lifeguard services at Gold Coast City Council. I guess over the last number of years it has fallen in my bailiwick to deal with party house issues, and I am very grateful for that.

CHAIR: I almost believe you.

Mr Cohen: If you would just indulge me just for a couple of minutes to give you a little bit of background and if I may just revisit the local law issue, there is no question that behavioural activity and antisocial behaviour is a QPS matter. It is firmly entrenched in the Police Powers and Responsibilities Act and that is where it should be. We have, over the years, in our previous council, endeavoured to create a local law and we amended our rental accommodation local law to expand the definition of amenity. It was basically based on the standard of premises. So, we changed the definitions and we created some other stuff so that we could deal with short-term rentals, party houses. Subsequently, after it was adopted—it was an amendment to a subordinate local law—we actually sent it to the state, notwithstanding we didn't have to, for comment. We didn't get any until after it had been adopted and we have since had a letter—it actually goes back to 2000—from the then department of local government with comments from JAG advising that it offended legislative drafting principles because we were trying to make the owner responsible for somebody else's behaviour. We kind of knew that was going to happen, but we hoped to get that advice prior to making the local law. We have made the local law 19 since the last bill around noise associated with party houses. It only deals with one aspect of the problems. It also requires QPS to issue noise abatement notices before the local law is enlivened. Since we have had that local law in place it has not been used because the noise abatement notices are not being issued and that is because the

police have other pressing priorities that they need to deal with. That local law has gone through a process but we will probably never get to use it. It is a requirement under the local law that it has to be regular. We define that as more than twice a year. So, it actually had to issue three noise abatement notices to the one premises within 12 months before we can take any action under the local law. It is just not effective and it cannot work.

The local law issues we have attempted to deal with, notwithstanding we have no intention of sending officers into a party house at 2 o'clock in the morning to gather evidence because the safety issues are just too great. If we have to get police to accompany us, well they can deal with it under their own powers and they don't need us there anyway so we are duplicating. It is not necessary.

In relation to complaints, unfortunately the numbers I have got are over two and half years. From 1 January 2012 to 1 July 2014 we have had a total of 187 complaints.

CHAIR: About party houses?

Mr Cohen: About party house activities. Of those 187 complaints, that covers about 108 properties. The interesting stats are that one property has had 15 complaints, one 11, two have had seven, four have had five, one has had four, seven have had three and 12 properties have had two. The balance have only ever had one complaint about them. So, when you get down to this regular issue, we have probably got 16 properties that we could argue—actually, less than 16. You would have to take the ones with the twos out, so you are down to about 10 properties that would meet any definition of regular if you could come up with one that satisfied it. If you go to a dictionary definition you have got no chance. That regular issue is problematic because we would never get there. That is an issue for us. Again I reiterate what Matthew said, we very much support the intent and the need to deal with this. Our goal is to get something that actually will work so that we can deliver an outcome.

CHAIR: That is certainly our goal as well. I will go to the member for Keppel.

Mr YOUNG: The three-strikes policy for public housing, there is a set criteria. This is what needs to happen here. You need to have that history of police visitation and if there is something that needs to change for you to obtain that, you know what the figures are. We know what our figures are for public housing so that we work through the one, two, and three strikes. You guys then need to identify that house as being a party house, an ongoing regular party house, as opposed to people making a lot of noise on one occasion. Then you need to do your local laws against it and if that means changing the zoning then it will go to an MCU.

CHAIR: Is that a question or will we take that as a statement?

Mr YOUNG: That is basically what you need to do. You want the answer. The thing is you have to have a history of police visitation.

CHAIR: Member for Bundamba?

Mrs MILLER: Just a quick question, Mr Cohen. You are the Gold Coast party inspector as well, I presume?

Mr Cohen: I have probably been called a lot of things; that is not one of them.

Mrs MILLER: Can I just ask, has the state government given any local authorities any funding to actually implement these new laws?

Mr Cohen: Not to my knowledge. We certainly haven't received any. I am not aware of it going anywhere else.

Mrs MILLER: Have the councils asked for any additional funding from the state government to implement what is, in fact, state laws?

Mr Cohen: We have had discussions with QPS, even to the extent of subsidising additional police officers to be dedicated to responding to noise complaints around parties and party houses, but we have not been able to successfully negotiate our way to a resolution.

CHAIR: Can I pick up on what the member for Bundamba has said and ask the question generally: if these provisions were to pass as they are written, is there any figure as to what it would cost to undertake the enforcement activities? Has any council looked at that with regards to party houses?

Mr Cohen: Mr Chairman, it is actually difficult. One of the issues we have, and particularly going back to the number of complaints I have outlined to you, is because there is not a lot of success people have stopped actually complaining about it because they are not getting anywhere

so they save their money on the phone call. To actually estimate what the cost would be, it is just difficult because we really do not know where that is going to go. We would expect if we had something that worked there would be a spike and that we would have a lot of complaints coming in, but you would expect that spike to actually be a spike and then start to taper off. But we would probably be looking at, at least, I would suggest, on the Gold Coast anyway, two or three, maybe four, additional resources for a short period anyway, maybe six to 12 months, and then whatever is required after that.

Mrs MILLER: Mr Cohen, basically what the Gold Coast City Council is saying in relation to the bill as it is presently drafted is that it is unworkable from your point of view?

Mr Cohen: There are elements that require further work, I believe.

Mr Hulse: In the component of gathering evidence; that is the issue.

CHAIR: I think you made that clear. Member for Burleigh?

Mr HART: Gentlemen, you said that there was a very limited number of houses or residences that this would apply to. You must have three or four really high use venues that you know of. Have you actually talked to the QPS about providing you with the necessary evidence to proceed so that your local laws could achieve what needs to be achieved here?

Mr Cohen: We actually have an MOU with the QPS and we provide them with the stats every Monday or whatever day it is.

CHAIR: But weekly?

Mr Cohen: Weekly, of complaints that we have received for their information and part of that MOU then is they are to alert us, let us know when they have actually taken any action.

CHAIR: For the benefit of the committee, how often would you see QPS action taken on the information that you have provided?

Mr Cohen: Limited.

CHAIR: I am conscious of time and there is the important issue with regards to the Economic Development Act. Is there anything else that people would like to ask re party houses? If we could move to the recoupment of infrastructure charges. Mr Hoffman, can I just start with regards to the question that I think was in your statement, and I think it has been picked up by Logan City Council as well, about the recouping of financing costs. Does that occur in other areas, that councils are able to recoup, or is that something that is generally considered to be a cost that councils have to bear?

Mr Hoffman: Councils would recoup their financing costs within their normal financing arrangements where they see the need to raise a loan. It comes with financing costs and that becomes part of their expenses. In this case the question for us is what is the definition of any DQ expenses. There is nothing specific in the draft bill that clarifies that and we have highlighted that it must include financing costs because it is a 30-year process. And for councils to fund the cost and recover then that would involve financing and that is the fundamental point there.

CHAIR: If the committee is able to clarify that to ensure that expenses do consider financing costs that would address that concern and you would not see a need for an amendment within the bill or would you prefer to have that articulated very clearly?

Mr Hoffman: We would certainly prefer to have it articulated and our experience, as highlighted in our submission, with special charging regimes as they have previously been applied has certainly been an area of litigation and debate. We want to ensure, before this bill becomes law, that we do not find ourselves, either in the short-term or for that matter at any point, having to continue to debate the legitimacy of elements of the charge.

So our advice and our legal advice based on previous experience would suggest that there needs to be a clear articulation in the bill to that effect and not to leave the matter open and subject to challenge.

CHAIR: Logan City Council, would you care to add anything?

Mr Jones: Yes. I think the simplest solution in this case would be to clarify that MEDQ expenses includes the expenses of a local government or a distributor/retailer and—

Mr Hoffman: And including—

Mr Jones: And including finance and costs.

CHAIR: Okay.

Mr Jones: For us, in terms of Logan, we have two big development areas for about 170,000 people. So in terms of how this recoupment charge would accrue over time, there is no way that we could practically deliver the infrastructure for those people who are going to be living there in any fashionable time without borrowing money to deliver that. So that is only reasonable.

Mrs MILLER: Mr Hoffman, do you know whether any of the local governments that you represent actually requested this amendment in relation to infrastructure charges?

Mr Hoffman: We had ourselves proposed—speaking specifically about amendments to the Economic Development Act—

Mrs MILLER: Yes.

Mr Hoffman: We had proposed changes in September 2013 to address concerns that we had and the mechanism by which the then, or currently known, special infrastructure levy would apply.

Mrs MILLER: I am just wondering did any of your member local councils actually request the government to bring in the provisions of this bill?

Mr Hoffman: If you are speaking specifically in relation to the provisional PDA—

Mrs MILLER: And the infrastructure charges?

Mr Hoffman: I will separate the two, if I may. We are not aware of any council seeking the changes in relation to the provisional PDA and we would like that to be identified as it was presented to us as the reason for the change in relation to that.

On the second question of amendments to the charging recovery regime, our original submission of September 2013 arose out of our conversations with Logan City and at that time our joint submission to the department raised that issue. As I indicated in my opening remarks, a preliminary response was received to that but, subsequent to that, there was no conversation about what was proposed by government in terms of this bill. It only came to our knowledge that the government was responding to the issues when the bill was, in fact, introduced into the parliament.

CHAIR: Is there anything further? The time allocated for this session has expired. I thank you all for your appearance here today and for the valuable information that you have provided to our committee. Thank you. We would now like to call forward the department to address all of these questions that have been raised.

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

COUTTS, Mr James, Acting Deputy Director-General, Planning and Property, Department of State Development, Infrastructure and Planning

HUSSEY, Ms Elizabeth, Infrastructure Project Officer, Economic Development Queensland, Department of State Development, Infrastructure and Planning

KOHN, Mr Phillip, Director, State Development Areas, Office of the Coordinator-General, Department of State Development, Infrastructure and Planning

LAY, Ms Rachel, Principal Policy Officer, Planning Policy and Legislation, Department of State Development, Infrastructure and Planning

McCAFFERTY, Ms Sue, Director, Planning Policy and Legislation, Department of State Development, Infrastructure and Planning

NOTTINGHAM, Ms Anna, Project Manager, Regional Planning, Department of State Development, Infrastructure and Planning

ROSS, Mr James, Director, Regional Planning, Department of State Development, Infrastructure and Planning

SINCLAIR, Ms Meredith, Planning Manager, Economic Development Queensland, Department of State Development, Infrastructure and Planning

CHAIR: I thank you all and welcome representatives from the department. We would normally extend you the privilege of an opening statement but, in light of the fact of all the questions that we have, we may dispense with that. If you wish to have it tabled, we are happy to do that and we can then have that available to us, if that is okay.

Mr Coutts: That is fine.

CHAIR: Is leave granted for the tabling of the opening statement? Yes, thank you. You were here this morning and I am assuming that you have been here for the whole lot.

Mr Coutts: We have.

CHAIR: So let us go through some of the questions that we had. We are going to bounce in some various areas, but it is an omnibus bill. I would like to start with the concern that Dr Tim Seelig raised with regard to the head of power re the Regional Planning Interests Act and the Mineral Resources Act and his concern re the repealing of the wild rivers. Could you address that question? Which has the greater head of power?

Mr Coutts: I might defer to my colleagues who have been doing the work on that.

Mr Ross: Thank you, Mr Chairman. The head of power for the regional interests development approval compared to your mining tenements, or your environmental authorities under the Environmental Protection Act is completely separate to those pieces of legislation. So any approval that is required, for example, for a resource activity within the strategic environmental area, in those areas, unlike under the Wild Rivers Act where the provisions would have been entered into the actual mining tenement or the environmental authority that was issued, this is a separate approval. So an applicant would need their tenement as well as their environmental authority as well as a regional interests development approval. Without that third approval, they would be operating illegally.

CHAIR: Okay. So when Dr Seelig raised concerns about the Mineral Resources Act and the Regional Planning Interests Act, is it possible that we would have a conflict between the two and the Mineral Resources Act would take priority?

Mr Ross: No, there could not be a conflict between the two with one taking priority over the other in strategic environmental areas because, as I said, it is a separate approval and you would need all three approvals to actually operate.

CHAIR: Okay.

Mr Ross: The Mineral Resources Act is about the tenement for the access to the minerals. The Environmental Protection Act is the environmental management where, with the Regional Planning Interests Act, the approval is land use planning approval.

CHAIR: So where the Regional Planning Interests Act provides for a strategic environmental area, that approval sits on its own?

Mr Ross: Yes.

CHAIR: If that strategic environmental area covers an area where there is a mineral tenement, just clarify for me, what stops what?

Mr Ross: I will talk in the context of new approvals, because it is slightly different when you have an existing approval.

CHAIR: Yes.

Mr Ross: If you have a new application for the tenement as well as the environmental authority, the applicant would need to obtain those approvals as well as the regional interests approval. One does not trump the other.

CHAIR: One does not trump the other. Okay. That is fine. Thank you for that. I know that we have a lot of questions.

Mr HART: I just want to get that straight in my head. I understand where you are coming from. So before the Wild Rivers Act interfered with your environmental assessment; is that correct?

Mr Ross: That is correct.

Mr HART: And now it does not, but you have to get the regional planning interest ticked off as well.

Mr Ross: That is correct.

Mr HART: Right. Okay.

Mr YOUNG: And that could not happen because of the SEA?

Mr Ross: No, because the Regional Planning Interests Act approval can be obtained at any stage by the applicant. They could seek that first. They could seek their tenement and the environmental authority first. It is up to them how they manage seeking their approvals. They could conceivably get their tenement and the environmental authority and find themselves in a situation where they are unable to get a regional interests development approval.

Mr YOUNG: Right.

Mr Ross: Depending on which area of regional interest an application is going to relate to will generally dictate how the applicant seeks the environmental authority. In the case of strategic environmental areas, particularly in designated precincts because you have unacceptable land uses associated with it, it would not be in an applicant's interest to seek the tenement in their final authority and then get an interest approval that is unacceptable. For the other areas of regional interest, there is a slight difference compared to the strategic environmental area because, particularly for some activities, you may have your tenement and your environmental authority issued much earlier in the assessment process, or the detail is not known by the time you would get to a regional interests development approval. That would be particularly in the case of priority agricultural areas and priority living areas.

Mr Chairman, just to clarify one point: one situation where the regional interests approval does trump the other approvals is with regard to those two areas of regional interest. In that case, the regional interests development approval conditions would prevail.

CHAIR: Okay. Thank you for that.

Mrs MILLER: I would just like to ask whoever the senior officer here is: why is not the director-general here today?

Mr Coutts: The director-general is on leave.

Mrs MILLER: So why is not the person who has replaced the director-general here?

Mr Coutts: I am sorry, I do not know the answer to that.

Mrs MILLER: Can you find out, please? Can you take that on notice? I would also like to ask: why is not the Coordinator-General here?

Mr Coutts: I do not know.

Mrs MILLER: Can you take that on notice and provide the answer to us, please? Thank you.

CHAIR: Any other questions?

Mrs MILLER: No.

Ms MILLARD: I asked a question before—I think it was to the EDO—with regard to wild rivers and the High Court ruling with the process not being followed deeming three declarations invalid from the previous state government rulings. I just want to clarify with your department that processes are being followed because, of course, as a government we do not want to be in the same pot as that.

Mr Ross: With regard to the High Court challenge, the decision was because due process was not followed in that one briefing note was signed prior to another briefing note regarding the actual making of the declarations themselves.

With regard to the prescribed strategic environmental areas and those that were made under the existing regional plans that have areas of regional interests, these being the Central Queensland and Darling Downs regional plans, those plans did come into effect in October last year. For the actual making of those regional plans, yes, due process was followed about the briefing note going up to the Deputy Premier to actually make the regional plans and then the regional plans were gazetted.

For the strategic environmental areas which were, as I said, prescribed under the regulation, as part of the process for actually making the regulation, that had to go through the process of seeking the Deputy Premier's briefing, going through executive council for the making of the regulation itself. Does that answer your question?

Ms MILLARD: Yes. I just wanted to make sure that all the processes are being followed.

CHAIR: Whilst we are still on wild rivers, earlier today we heard with regard to the explanatory notes concerns expressed by both the Environmental Defenders Office and the Wilderness Society that the statement on page 12—

… repeal of the Wild Rivers Act … the … policy outcomes are now achieved through Queensland's existing land use planning and development assessment framework … Consequently, the … Act is no longer required.

They disputed that. Would anyone in the department care to make a comment with regard to that comment that is in the explanatory notes?

Mrs MILLER: They actually said it was quite wrong.

CHAIR: They said it was wrong. They disputed the statement.

Mrs MILLER: They said that it was wrong. The *Hansard* will reflect that.

CHAIR: The *Hansard* will.

Mr Ross: The explanatory notes talked about the policy objectives of the Wild Rivers Act and the policy objectives through the Regional Planning Interests Act, the Sustainable Planning Act and the SPP instruments. The intent is there for the policy objectives to be addressed through this process. If there is concern that it is incorrect, we gladly take the information on board to look at that further and we can come back to the committee on that.

Mrs MILLER: Can I suggest that, if it is the view of the department that the explanatory notes are, in fact, wrong or may be misleading in any way, that these explanatory notes should be withdrawn.

CHAIR: An erratum could be added to them.

Mrs MILLER: Or an erratum added to it, because we cannot have a situation where the parliament of Queensland is compromised because of these explanatory notes.

CHAIR: Are there any other questions on wild rivers? We will go in blocks because there is a fair bit to get through.

Mr HART: Yes. That particular issue was raised. I raised the point that if the outcomes are similar then there possibly is not an issue. Can you confirm that the outcomes of the wild rivers and these changes are the same or similar?

Mr Ross: The outcomes between the two frameworks—I will just loosely call them frameworks here—are very much similar, yes. The Wild Rivers Act was introduced at a time when you did not have the other policy instruments or planning instruments that do support it, and it

needed to go across the land use planning framework under the then Integrated Planning Act and the subsequent Sustainable Planning Act, but it also needed to have effect for those activities that were outside the planning act's jurisdiction, particularly resource activities. So it worked in that framework and it then filtered into all the various other pieces of legislation. With the framework that is now in place through the Sustainable Planning Act, the Regional Planning Interests Act and particularly also with the introduction of the SPP last year, those policy outcomes are now addressed.

Mr HART: So the wild rivers maps have been translated to the SEA maps and the outcomes from wild rivers are translated to the outcomes in the regional—

Mr Ross: At the policy objective level, yes, not at the prescriptive level that was—

Mr HART: Not at the prescriptive level but the outcomes—

Mr Ross: Yes.

CHAIR: There being no other questions on wild rivers, we now move to the amendments of the State Development and Public Works Organisation Act. We heard earlier from the Gladstone Ports Corporation and their concerns about the issue as to their ability to regulate port activities on strategic port land that also sits within the Gladstone State Development Area. Could you give a comment, whoever it might be—Mr Allen?

Mr Allen: I will defer to my colleague.

Mr Kohn: We have been in consultation with the Gladstone Ports Corporation for most of this year so far because we are planning to review and alter the Gladstone State Development Area. We are fully aware of their concerns. We have been talking with them about how we can best address those concerns. The primary way which we are planning to do that is to make sure there is no overlap between the two boundaries. That means we plan to change the boundary of the Gladstone State Development Area to ensure there is no overlap.

Because the Gladstone Ports Corporation can change their port land use plan at any time, they may then purchase land within the Gladstone State Development Area, and therefore overlap will then occur again. So we are in a constant process of communication with them to make sure that we try to minimise those instances. If those things do occur and the proposed bill does allow us to regulate those things that they currently regulate, we will then be in consultation with them when we do prepare a development scheme. If those regulatory changes are proposed, we will talk with them and see how we can best address those concerns. One of the ways which may address those concerns is that, where any overlap does occur, the Coordinator-General to trump their existing regulatory powers may be not enforced in that area.

CHAIR: Sorry—

Mrs MILLER: Hang on. What do you mean 'not enforced'?

Mr Kohn: We may choose not to regulate that particular type of development where those overlaps occur.

CHAIR: Obviously that is at the discretion of an individual which can change quite easily. Would you consider any amendments to the bill so that that was clearly articulated so that, where there is an overlap and a conflict about what is occurring in the state development area and their planning activities in the strategic port land area, the strategic port land area is given priority?

Mr Kohn: We could contemplate that but then that would be reducing the power of the Coordinator-General to make sure things happen in totality across the state development area.

CHAIR: But aren't you already by your admission, because you are willing to amend—

Mr Kohn: We are willing to work—

CHAIR: Yes, you are willing to work with them. You are willing to amend the state development area to exclude the strategic port land. So it sounds to me like there is already an acceptance that we want the Gladstone Ports Corporation to get on with it. Surely if we just reflect that in the wording of an amendment to what is being proposed here, it is just formalising that rather than relying on an individual's interpretation at a point in time.

Mr Kohn: We will certainly take that point on board and we will consider how we can best address that in the bill.

Mrs MILLER: Have you had any legal advice in relation to this in terms of difficulties between the Ports Corporation and yourselves?

Mr Kohn: Yes, we have. The legislation as it is currently drafted means that when a development scheme is in force it trumps all other planning provisions. It would trump a local government planning scheme. It would trump a ports corporation land use plan but only with respect to the use of the land. So a local government is the assessment manager for all subsequent approvals like operational works and reconfiguration, for example, and the ports corporation also retains those powers. What we are proposing in the bill is that under certain circumstances, the Coordinator-General may decide through a development scheme—which is approved by the minister and the Governor in Council—if he deems it necessary to ensure a seamless and efficient decision-making process to take those powers on to himself. The legal advice we have received is that the way we have written the bill is that the Coordinator-General will still continue to trump a local government or a Ports Corporation.

Mrs MILLER: Did that legal advice contain any recommendation to amend the bill?

Mr Kohn: With regard to ensuring that there is strengthening of the Coordinator-General's capacity to do this?

Mrs MILLER: No, to ensure that the difficulties that you obviously know are there—and the departmental officers are willing to talk till the cows come home, but talk is cheap as we know. I am asking whether or not within that legal advice there was any provision to simply make an amendment to the bill.

Mr Kohn: No.

CHAIR: When do you expect the Gladstone State Development Area boundaries to be amended to exclude the strategic port land as it exists?

Mr Kohn: We were planning to do it by April this year, but because of the introduction of the bill we decided to wait and see how the bill progresses and it is introduced, and then we are planning to do it hopefully before the end of the year now.

Mr HART: Are there any other GOCs that have planning carriage over their own land? I assume ports do. Are there any others?

Mr Kohn: Not to my knowledge, no.

Mr HART: Are you hearing this same sort of issue from other ports?

Mr Kohn: No. Gladstone is the only one who has raised this issue.

CHAIR: Is Gladstone the only area though that has a state development area over a port?

Mr Kohn: No. There is a minor area at Abbot Point. They have two extractive industry sites in the state development area which they also have as strategic port land.

CHAIR: Is there anything else on the State Development and Public Works Organisation Act?

Mr YOUNG: In terms of the expansion of the 200 hectares to 385 hectares, I am assuming that 175 hectares of that is the removal of the GPC land. Is that correct?

Mr Kohn: Sorry, what were those figures in relation to?

Mr YOUNG: There was an expansion of the state development area from 200 hectares to 375 hectares. I am assuming that 175 hectares of that is land that was formerly under the management or the operational control of the Gladstone Ports Corporation.

Mr Kohn: Sorry, I will not be able to answer that question. The Gladstone State Development Area is about 26,000 hectares in size. It has been amended, I believe, about seven times since it first came into effect. One of the latest amendments included the expansion of state development area on to Curtis Island to enable the facilitation of the liquid natural gas plants on Curtis Island. That included the Gladstone Ports Corporation site on Fisherman's Landing. So an expansion did occur recently—I think it was in 2012. The extent of the land which was included I cannot be certain of.

CHAIR: Could you take that on notice and find out?

Mr Kohn: Certainly.

CHAIR: If there are no further questions on this, we move to the Economic Development Act. We heard from the LGAQ and Logan City Council about the changes to the PPDA. A question was raised as to which councils have actually requested that. Could you advise the committee?

Ms Sinclair: Yes. I understand it was Bundaberg and Mackay.

CHAIR: And you are confident that it was only those two?

Ms Sinclair: As far as I am aware.

Mrs MILLER: How were those submissions received? Was it by letter? How were you aware that Bundaberg and Mackay requested that?

Ms Sinclair: I will have to take that on notice. It was a colleague at work who had the dealings with Bundaberg and Mackay.

Mrs MILLER: Could you provide the committee with any letters or any notes of meetings or any telephone conversations in relation to either the mayor, councillors or officers of those councils, please?

Ms Sinclair: Yes.

CHAIR: We also heard concerns with regard to the ability to include financing costs, whether they are considered expenses. Would you care to enlighten the committee and expand on that?

Ms Hussey: The bill has been modelled on existing legislation—the Local Government Regulation, which also has a similar type of charge. It does not specify what the expenses are, whether it is financing costs, construction, design fees—that sort of thing. An expense is a cost or a charge. Finance charges are not explicitly excluded from the bill.

CHAIR: They raised a concern with regard to the certainty and whether there would be any legal challenge. What would be the department's view on an amendment to specifically include finance charges? Would the department see that as having some unintended consequences or would it clarify that so there are not any legal challenges?

Ms Hussey: I am not sure why you would specify it because local governments when they have their special rate and charge would ordinarily pick up financing costs along with construction costs and all of that. So I not sure why this bill would be treated any differently.

CHAIR: I do not know if you were present when they were here—

Ms Hussey: Yes.

CHAIR: So you heard their concerns.

Ms Hussey: Yes.

CHAIR: Do you believe that they are unfounded?

Ms Hussey: I would not say that they are unfounded—that might be a bit difficult. It is just that it is modelled on existing legislation. I know that in those circumstances when a local government would issue the rate or charge themselves under that legislation they would pick up financing costs, so I am sure they have experience in collecting the financing costs or including it as part of the costs there. So I do not see this act as being any different.

Mrs MILLER: Can you tell me why local government was not consulted in relation to this particular amendment?

Ms Sinclair: As LGAQ and Logan have mentioned, they provided a submission in the middle of last year and that actually formed the basis for our drafting instructions. So the intent that we have carried forward was what was expressed in their submission back then. The issue that cropped up during drafting—which was fairly late in the piece—was this issue of whether or not it is a tax. So the way LGAQ suggested it our drafter believed it could be construed as a tax. The issue with a tax is that the money goes into consolidated revenue, whereas we want this to pay for infrastructure. So the drafter, based on legal advice we received, worded it such that it would not be regarded as a tax and it would be for infrastructure recoupment.

Mrs MILLER: In relation to the issues that were raised—you were talking, Liz, about the fact that you based the legislation on local government legislation—in a lot of legislation that comes before this parliament you can actually put in in terms of the charges, 'For example, this could include costs of finance et cetera.' Why can't you just do that?

Ms Hussey: Personally I had not thought of that as a solution.

Mrs MILLER: I have now given you that as a solution, so I suggest you take it back.

CHAIR: I call the member for Burleigh.

Mr HART: Is the alternative or the preferred mechanism the LGAQ put forward in their letter of June 2013 what you are talking about that could be seen as a tax?

Ms Sinclair: Yes. That was the advice from our drafter and legal advice we sought.

CHAIR: Was there any reason why you did not communicate that to the LGAQ before the bill was tabled?

Ms Sinclair: It was so late when it was raised by the drafter and then we had to get legal advice from Canberra. So there just was not the time unfortunately in that circumstance.

Mrs MILLER: Was the legal advice that it was a tax?

Ms Sinclair: The way that it was suggested could have been construed as a tax.

CHAIR: No further questions in this particular area? Okay. Let us move on to party houses. We have had a fair bit of discussion in that space. I would like to start with what we heard from the Gold Coast City Council and their concerns with regards to the evidentiary provisions. Would you care to make any comment on the difficulty to obtain evidence with the definition presented within the bill?

Mr Coutts: I appreciate that the definition appears to contain a number of quite distinct elements that would each require appropriate evidence to demonstrate an offence against the various parts. As we have heard from a number of different submitters today, wide ranging from the accommodation industry itself to councils and others, I think we have heard from them the difficulty of the different perspectives and how to actually narrow down a definition of what constitutes a party house. I might add in this instance that it needs to be borne in mind that this is not a definition that is being imposed on any council, it is a definition that councils themselves elect to give effect to where and when they see appropriate. We note Cairns does not think it is necessary and could deal with it in local laws and that is just great for them. There are places, such as Gold Coast, where local laws have not proven to be effective so we are looking at the elements that actually describe what constitutes a party house. Particularly bearing in mind the concerns of the short-term accommodation industry, we had to find a set of circumstances that all combine to create what is a party house. Interestingly, in preparing the new legislation, and that has included a significant consideration of all the matters that local government have raised as issues in giving effect to things such as enforcement, the difficulty of gaining appropriate evidence has never been raised in that context. It does not mean it does not exist, but it has not come up in that context. So, it is perhaps to us, if there are issues there that we can look at more closely, I think it would be through the amendments to the legislation we are currently embarking on. Just to be clear, and it has been mentioned a number of times, this is not meant to catch the couple of guys who are polishing off a couple of bottles of Bundy in the back yard.

CHAIR: I think we are very clear on that. We understand that.

Mr Coutts: Unfortunately I was not able to be present yesterday but Sue and Rachel were and have passed on that conversation. It is very clear from the people who are living next to these things that there is no doubt when a party is happening, and it is happening every weekend. I would have thought when it comes to those sorts of things it isn't much of a party if you have to go on the premises to see its impact. I think when it comes to gaining permission, you can gain the permission of the neighbour to stand there with a video camera and record this thing. That might not stand up in a court of law, but done often enough in certain circumstances it questions, to me, whether a power of entry onto the property at the time the event is occurring is essential to demonstrate that there was actually a party happening.

I think a number of aspects of this that have been singled out, like those by the gentleman representing the short-term accommodation industry, appear to have been a bit misunderstood. I think the direct question, 'Would something happening for seven days constitute a loophole under this?', I think the answer was yes. Well, seven days is less than 10 and so I don't see how that could possibly be a loophole.

CHAIR: Coming back to the evidentiary provisions, it is pointless having a piece of legislation if it cannot be enforced. We still have the problem of party houses. With regard to there may be a great deal of noise but you may not be able to see what is happening in the back yard, et cetera, was there any consideration by the department with regards to the right to entry powers that should be afforded to local government officers?

Mr Coutts: It is not a matter that has been raised with us as an issue in terms of how to make something like this operate. It is something that we would be perfectly happy to look at if there is a shortcoming in the ability of a local government to proceed down their path of enforcing this,

collecting appropriate evidence. We are only too happy to look at what additional powers they would need to be given to collect evidence to demonstrate that this was in occurrence.

Mrs MILLER: So at present you have a bill before the parliament that you readily acknowledge is unworkable.

Mr Coutts: I don't believe I said that.

Mrs MILLER: But it is; it is unworkable.

CHAIR: He did not say that.

Mrs MILLER: It is all talk and no action.

CHAIR: Member for Bundamba, he did not say that. If you have a question you can re-word it.

Mr HART: I ask that the member withdraw that.

Mrs MILLER: My issue is this: it is clearly unworkable in its present form so therefore I am asking whether or not the department would provide advice through to the Director-General and the Coordinator-General, whoever it is who cannot even be bothered to turn up here.

CHAIR: The member for Bundamba will ask the question and will not disparage people who are not here. You know that is unparliamentary.

Mrs MILLER: It is only for MPs.

CHAIR: As the chair of this committee, I will not have you reflecting on public servants who are not here. You may re-word your question.

Mrs MILLER: Thank you. The question is in relation to whether or not the department will provide advice to the minister that further work has to be done in relation to those particular provisions, therefore those particular provisions should be withdrawn at present before it is considered by the parliament as a whole and come back to the parliament when you have all these issues worked out?

Ms Lay: Member for Bundamba, I am very happy to answer that question, thank you very much. If you don't mind, it will be a slightly lengthy answer. I may have to answer in parts.

CHAIR: We are over the time that we have so I am going to ask you to take that question on notice, if you could, and provide that for us. Member for Burleigh, I am going to let you ask a question and then we are going to wrap up.

Mr HART: This is what the parliamentary committee system is all about, to iron these things out and get on with it. A couple of things were raised earlier that I think we really need to cover. The loophole that was discussed was what if somebody gives somebody a residential tenancy agreement for a very short period of time. Is that a loophole that we need to overcome?

Mr Coutts: In our view it is not and that is the comment that I made before. In fact, I think the time that was mentioned as the most common rental period for short-term is actually three to seven days. That is the number announced which is precisely why we had 10 and if it is less than 10.

Mr HART: But a formal lease would not be a loophole.

Mr Coutts: No. In fact, tenure has little or nothing to do with the use. The prosecution of a use that is occurring that is contrary to these provisions is at the heart of the matter and so it can be traced back to those responsible for that use.

Mr HART: The Cairns council raised an issue. If they decide to not opt in, does that set a precedent that this is a party area that party houses could crop up in?

Mr Coutts: No. It leaves them the same as any council. In fact, even a council that opts in, decides to nominate a restriction area in which the party house definition applies, is not under risk of that affecting how they might deal with what is, in effect, inappropriate behaviour in a premises outside of that area. So it doesn't constrain them in any way.

CHAIR: I am going to ask you to take these two questions on notice just because of time. They come from yesterday's discussions. The first is was there any consideration within the definition to include the number of people within a party house? I am happy for you to take that on notice and come back to us with an answer. The second question is in relation to a concern as to whether there was an ability within that definition if the accommodation was provided for a period of

greater than 10 days. The example I think that was discussed in the round table was 'I am the owner. My brother runs the business. I have a lease with him for 30 days. He then goes forward and engages in that activity.' The penalty comes back to the owner of the property, not the operator of the party house business. So if you could look at that and clarify that for us that would be appreciated as well.

The time allocated for this session has expired. I do appreciate the department's involvement. I flag that we may be writing to you with further questions that we need to have clarified, acknowledging the limited time that we have for the consideration of this bill and reporting back to parliament. I thank everyone for their attendance at today's hearings and, as always, the committee has gained valuable information that will assist it in its inquiry into the State Development, Infrastructure and Planning (Red Tape Reduction) and Other Legislation Amendment Bill. I declare the hearing closed.

Committee adjourned at 4.24 pm