C O R R E C T E D V E R S I O N

STANDING COMMITTEE ON ENVIRONMENT AND PLANNING

REFERENCES COMMITTEE

Inquiry into environmental design and public health

Melbourne — 23 August 2011

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Witnesses

Ms N. Rivers, law reform director, and

Mr M. Power, lawyer, law reform, Environment Defenders Office (Victoria).

The CHAIR — I declare open the public hearing of the Legislative Council's Environment and Planning References Committee. The hearing today is in relation to the inquiry into environmental design and public health in Victoria. I welcome Nicola Rivers and Michael Power from the Environment Defenders Office (Victoria), who are here to give evidence. I advise witnesses that in giving evidence to the hearing you are protected by parliamentary privilege; however, anything said outside the hearing is not covered by parliamentary privilege. Witnesses will receive a copy of the transcript within the next fortnight for verification and checking for minor errors.

For the record, if you would state your names, the organisation you represent and its address and then provide us with a 5-to-7-minute presentation, that would be greatly appreciated.

Ms RIVERS — My name is Nicola Rivers. I am the law reform director at the Environment Defenders Office, 60 Leicester Street, Carlton.

Mr POWER — My name is Michael Power. I am a law reform lawyer at the Environment Defenders Office, same address.

By way of intro, first of all, thanks very much for the opportunity to address the committee today. I will start by briefly talking about who we are and why we are here, and I will highlight some of the key points from our submission.

The Environment Defenders Office, as some of you may already know, is a not-for-profit organisation dedicated to public interest environmental law. We both practising environmental law by giving free or low-cost legal advice to the community and promote it and advocate for it through our law reform program by advocating for better environmental laws. We are here today in the second capacity but will be drawing on the first from our experience with the planning system over the last 20 years and with members of the community who have had direct contact with that planning system.

The reason why we are interested in the inquiry into environmental design and public health is not only because it involves the planning and environment law that we use every day but also because there are a lot of ways, we think, that planning law could be changed so as to better protect the environment and improve public health at the same time. It is that link between environment protection and public health promotion that runs throughout our submission, underscores all the points in it and that we will be raising today. That is where we are coming from. Without wanting to rehearse everything in the submission, there are three points that it would be worth highlighting here as points that are particularly important to us.

The first is that we need a planning system that is based less on discretion and more on strict legal requirements. That means more certainty, stronger protection for the environment and clearer requirements to promote public health. There is a range of specifics in our submission, but in particular it means limiting, through legislation, the ability of the minister to call in planning permit applications and limiting the minister's ability to exempt planning authorities, including himself, from the planning scheme amendment process, but it also means changing the rules themselves to make them less based on discretion and to have stronger, stricter, clearer protections for the environment and public health. Things like the urban growth boundary and green wedges are what we are talking about. That is the first point.

The second point worth highlighting is that to protect the environment and promote public health, we need a strong EPA that can prevent harmful pollution — and will. The experience with the Cranbourne landfill has shown us how pollution is a direct risk to human health. It has also shown us why we need a strong EPA to prevent those sorts of instances recurring. We recognise that the EPA has made a lot of changes and is changing the way that it enforces environmental laws. Our point is just to reinforce the importance of that and reinforce the importance of the government supporting the EPA in making those changes.

The last point worth highlighting here is that, again to protect the environment and promote public health, we need a planning system that addresses the threat of climate change. Climate change is a public health risk. Floods and bushfires will be more common and more intense, and they are a risk to human health. It is important that the planning system takes account of this, both by encouraging planning that does not exacerbate climate change but also that adapts to its inevitable impacts. In our submission this is a responsibility of the state government.

It is one of the areas that will not be addressed by a carbon price and one of the areas where it is important for the state government to take action — and for planning law — where responsibility cannot be deferred to the federal government. That is where we are coming from, and they are three points to highlight, but we are happy to answer any questions about the rest of our submission.

Mr SCHEFFER — Thank you very much for your presentation and also for the submission, which is really thorough. I want to focus in on part 2 of the submission, which is headed 'Create an open, transparent, inclusive planning system'. You say in that section of your submission that you attempt to draw a link between the community's participation and engagement in the planning process and their wellbeing because their having some role in positively shaping their environment is a good thing. I want to ask you to comment on a tension that you draw out here when you talk about how we do not want a process that falls victim to political caprice or backdoor lobbying, a tension between having an open participatory process that can get out of control because it is prey to community lobbying, jockeying and politicking that is against the community interest and then a more top-down model that contains that but can also perhaps be draconian or non-engaging.

It is not a simple issue. We have seen that over the last few years where quite good developments of affordable housing have been prey to very vicious campaigning — on other grounds but basically I think on the basis of class and the kinds of people that would be moving into an area — that has been really counterproductive. In terms of community health and planning, how do we find our way through that? How do we structure that engagement?

Ms RIVERS — I think the level of discretion in the planning system is a concern for us for two reasons. There is the reason that you have highlighted, which we have mentioned in the submission, which is that we find with our interactions with the community on the planning system there is a huge level of concern and frustration with the planning system that does impact on communities and their wellbeing. For example, the government is currently doing a planning system review, and the EDO has been conducting workshops in local communities to help people understand the review and help them make submissions, so we have been talking to a lot of people about it, and there is a huge level of frustration and, I guess, a feeling that the planning system will not necessarily result in an open and transparent result or decision for the community. At that level, the level of discretion currently in the planning system is a problem.

Secondly, we find the level of discretion is a problem for good environmental outcomes. If there is a certain part of the environment that needs to be protected, there needs to be stronger standards around that to ensure that it is protected. The planning system currently provides a decision-maker with a huge level of discretion around the different factors that have to be considered in a particular decision. It becomes very confusing for a decision-maker in some circumstances. There are inconsistent considerations that have to be taken into account, and it is not clear in some cases that a particular section of the environment might need to be protected through that decision, so those are the two levels at which discretion is a problem. We advocate for strong environmental standards, and they, in some cases, could be set at a state level. Sometimes it would be appropriate for — —

Mr SCHEFFER — What if those standards themselves become the subject of dispute and local campaigning and misinformation? How is a way through found on that, because that is what we founder on all the time? When people say there is consultation, which they suspect, it is because they think it is really just being hoodwinked — —

Ms RIVERS — It is a difficult issue, but I think there are certain issues where it is more appropriate at a state level, particularly when it comes to the environment where you have the problem of cumulative impacts building up in different areas. It is very important to have those state-level controls and then have them applied at the local level. In other cases it is very useful for the local government themselves, who know their local environment, to also be able to apply some controls. There is always discussion about what those controls should be, and there is always debate in the community. I think all you can do there is have the most transparent process you can. When it comes to individual decisions around that, our feeling is that it would be better for those decisions to be made by an independent decision-maker, so that it is not subject to political lobbying or, in a way, political bias. I think, for example, the planning institute in this planning review are recommending a new position of estate planner, who would make those decisions rather than a minister. We would support that kind of change, so that you have an independent decision-maker who is basing it on the facts and is less open to those political processes.

Mr ELSBURY — I will also be taking up the second part of your submission 'Create an open, transparent, inclusive planning system', especially around the powers of the minister to be able to call in a decision. Given that you are calling for a much more rigid planning system which has rules and regulations set down on what can and cannot happen, I am worried that we are creating a place where basically these things will be fought out in the courts rather than a decision being made which will be for the benefit of communities.

We see it already with some aspects of planning decisions that are made already. I will take an example from around the corner from where I live. The overlay was made for the estate that I live on, and then some of the people in our estate decided that they would suddenly go and put houses in the back of their properties or even beside their houses, which increased the density even further than had already been catered for by the road networks and such around the place. There was nothing council could do about that, because state government regulation said that that was perfectly fine, but the community was not happy.

How do we allow for the certainty that you are seeking with a rigid system whilst allowing for the flexibility that is needed for community concerns and for the odd out-there situation that occurs, where a developer comes up with a brand-new idea that no-one has thought of before and there is nothing in the books that says what can or cannot happen?

Mr POWER — We have asked for some more rigid requirements, but of course it has to be a balance between some strict state-level controls or local-level controls and a high degree of flexibility at a local level. It is always a balance between those two, and we would not advocate for either all one or all the other. In section 2 of this submission we have talked about the importance of involving communities, and I guess that plays into the flexibility part of what you have said, but I do not see it as inconsistent with a lot of the other stricter controls you have asked about either.

Mr ELSBURY — I mean the issue that I have is that not every community is going to be the same. As soon as you make a rigid set of rules right across the board you are going to have a community out in country Victoria that has absolutely no connection with someone who is in Fitzroy, and yet we are expecting them to have the same principles of planning.

Ms RIVERS — We are not advocating for the same rules right across the state in every situation, but there are certain situations where you do need to have the state-level controls for things like sea level rise. We currently do have some of those state-level controls, where in some cases the local council does not have the expertise or the capacity to deal with those kind of issues. Similarly for the native vegetation clearing state-wide controls, we know what we need to do at a state level and that is where it needs to be implemented. As Michael said, it is not that we would have every rule imposed at a strictly state level; it is just that there are certain things that are better regulated at that level, while still allowing local communities to have some flexibility within that. Certainly some of the planning controls can be done at a local level, and it is more appropriate for that to happen. What we are saying is you need to have the clearer, stronger standards.

In relation to having decisions end up in court, I think the discretionary system that we have now actually leads to that outcome. You find as a lawyer, from our perspective but also from that of the lawyers representing councils and developers who respect you as well, you often cannot tell your client what the likely outcome will be when a planning process is going ahead. It is so based on discretion from the local government level, and then if it proceeds to VCAT, it is very difficult to know in some cases whether a development can proceed or not based on the law, because it is so discretionary, so that results in more court cases as well.

Mr POWER — Can I just add that a couple of the recommendations we have made here are very much about supporting communities to have a say in their local planning system. The EDO strongly supports third-party rights; it is in the planning system. We have also supported the importance of having a normal planning scheme amendment and planning permit application process rather than giving the minister too much power to call those things in or exempt them. So when we say that we support public consultation on planning decisions and we support third-party rights in planning decisions, we are very much talking about what you are talking about, which is letting communities have a say in what they need in their own area.

Mr ELSBURY — I did have another question, but I will let one of my colleagues take the next one.

Mr TEE — I wanted to pick up the point that Mr Elsbury makes, which is: how do you get that sort of certainty? Ultimately the community wants certainty and the business community wants certainty. I think that is

the point you were making in terms of what is happening at the moment. Because of the degree of discretion, nobody knows what the outcome is, and that is why we spend the amount of time that we do in litigation around some of these issues. Is there a capacity to deliver that certainty for the development community but not compromise community consultation? How do you get the balance right?

Ms RIVERS — Community consultation is very important, and there need to be clear processes for that. It is a difficult question, and I guess it is a question that the planning system review, to which we are also making submissions, will be looking at. We would be happy to forward our submission from that inquiry to you as well, if that is of use, because that submission relates to the broader system as a whole. I think decisions need to be made about which elements of the planning system really do need to be set at that statewide level, where it really is a statewide issue, and which elements for which it is really appropriate that there be local government control. I think that is one of the things that is not really happening at the moment. It should not be all of one or all of the other; there are some things that are significant issues to the states which need those state-level controls, but it also needs to include local communities in other aspects.

The other issue that comes up a lot in the planning system is the need to have better strategic planning at the earlier stages so that can be mapped out quite clearly early on and involve the right people so that you can ensure that land uses are not clashing — or you can at least minimise those as much as possible. I think sometimes that falls by the wayside to an extent as well, or sometimes when there are processes that have clear and good strategic planning they then get eaten away by decisions after that because the controls themselves were not strong enough in some cases. It is a difficult question to give a simple answer to.

Mr TEE — That is right, but I suppose part your submission answers it in the sense of saying, 'If you get the framework level right and if you amend the legislation so it has health as an objective, that then influences the decision-making process. That does not stop the community deciding where they want the bike path, but at least someone is thinking about designing a healthy community because it is in the objectives of the act.

Ms RIVERS — That is right, and that community health element and public health element is absent from the Planning and Environment Act at the moment.

Mr TEE — The issue of contamination which you pick up here is an issue. We had the anniversary of Coode Island. We have a number of major hazard facilities which are defined as such but are in our inner urban development. We have a lot of pressure and a government policy which encourages more development around those facilities. There is talk about buffer zones, such as a 300-metre buffer zone, and I know the UK has had a look at that. Is that something that you have had a look at? Do you have a view on it? Is it something you think the government should have a further look at? What sort of responses would you like to have from government in relation to that issue?

Mr POWER — We had a bit of talk about this in our submission. We do think it needs to be looked at, particularly if the government is taking the approach of encouraging more brownfields development. This is good in one sense, because urban sprawl is a big problem for the environment and for public health. The contaminated land legal framework at the moment is complex and unclear, and often there are gaps in it. There have been cases in which we have acted where there simply was not a strict buffer zone for a particular contaminated site. At this point we have not yet gone so far as to lay out a comprehensive vision for how it all should be reformed in this submission. We do think it needs to be looked at, and we are happy to keep talking and thinking about ways it should be reformed. The important thing for the moment is to make it a lot clearer and a lot more consistent.

Mr TEE — So at the very least you would want to have the government look at that issue in some more detail?

Mr POWER — Yes.

Ms RIVERS — I think that would be good.

Ms PENNICUIK — Thanks very much for your submission and for coming along today. You were talking a little bit about strategic planning, and I was wondering whether you have any views about how well Victoria is going, on a scale of 1 to 10, on strategic planning in terms of having a strategic vision for Victoria. The other issue you could comment on, if you feel like it, is that during planning disputes local councils get taken to

VCAT by developers — for example, when they are trying to maintain their development overlays. That is a huge problem that local communities often complain about: they go to VCAT, and the developers always win. You do not mention VCAT in your submission, but it certainly is the elephant in the room. I wondered whether you think that is a problem with the laws or a problem with VCAT, or both?

Ms RIVERS — In relation to strategic planning, I think there are probably strategic planners out there who are better qualified to answer that question. I think at times Melbourne and Victoria have done some good strategic planning, and I think that has been eroded. The urban growth boundary was, in our view, a good, strong element of strategic planning that recognised that Melbourne could not continue to grow in this sprawling way and that the green wedge zones were really important for the health of Melbourne and the health of a large city. I guess that has been eroded over the last few years, and it continues to be eroded. It is a concern that we had a reasonably good strategic process there and that is being reversed.

In relation to VCAT, yes, we have views on that and we will be putting those into our planning submission, which, as I said, we are happy to forward to you. There are issues with VCAT and the imbalance of power of, say, developers going to VCAT and the community going to VCAT, and that is difficult. In some ways VCAT is designed for community members to be able to represent themselves, and that is great, but they are often up against very experienced senior counsel on the other side and sometimes a team of senior barristers, so it can be difficult.

There are different views on how that could be achieved. One of those thoughts is to lock all the lawyers out of the room and not let them into VCAT so that everyone can fight it out for themselves. I think VCAT tries to address that to an extent with things like having experts who are VCAT-appointed give their expert testimony to the court rather than advocating for either side. It is one thing that could even the balance up because it is very hard for community groups and individuals in the community to afford good experts, and sometimes a VCAT case will be lost or won because of the experts. Those kinds of things would help, along with having duty lawyers who could assist in those kinds of cases. They do not address the systemic issue, in that they assist in a circumstance of actually having to [inaudible].

Mr POWER — We put together a position on the planning system review for the Underwood Review, and I think there are probably three points in that which are really relevant to what you raised about VCAT. One is that it is good that communities have the right to go to VCAT. Third-party rights are a great way to get communities directly involved in their own planning system and to improve the quality of decision making as well. The second is that it is good that VCAT is informal, cheap, quick and easier to use than the Supreme Court. That is a good thing, within reason. The third thing is that there are limitations to VCAT. In particular, a lot of VCAT members do not have the expertise in environmental matters that our clients need. That has been a recurrent issue for us. What we have suggested in our position paper on the planning system is that all those good features of VCAT be retained but the whole institution be strengthened as well by moving to a land and environment court in Victoria.

Mr ELSBURY — You mentioned in your presentation just a moment ago the idea of an independent decision maker being created — a bureaucrat who would be in charge of making decisions about planning matters rather than the minister so that it removes the political element of planning. However, I did not find anything — I do not think there is, and you can correct me if I am wrong — about that in your submission. I am just wondering, because considering that this is about the interaction of people within the local environment, usually, that would suggest to me that it is the most political thing of all. It is the interaction of people with other people, and therefore it becomes political. Having the power given to the bureaucracy to make decisions about planning removes the responsibility of a minister to then make a decision that is correct for the community rather than a bureaucratic decision. I am just concerned about that.

Mr POWER — I can speak to that. We made two comments on the power of the minister to make planning decisions in here. One is that the more legislative criteria that I can impose on the decision and the less the minister has carte blanche to make the call on basically any planning matter, the better, both because it provides certainty and it removes the scope for impropriety.

Mr ELSBURY — I agree with that to a degree, but I am just concerned about the bureaucracy suddenly being given this power with no basically recourse for the general public. If you remove the power from the minister, the bureaucrat does not lose his job at election time. They can be there ad infinitum or they can be

there for 20 years and live out a very nice career, whereas if a minister makes a poor planning decision, 9 times out of 10 they lose the pretty white car and the lovely office because their government falls. I have seen that happen on numerous occasions in relation to several planning issues.

Mr POWER — The other thing we said about the minister's decision-making capacity in planning decisions is that the more the public are involved in those decisions, the better those decisions will be. That is directly whilst making the decision, consulting with the public and allowing them to have a say in their decisions. When the minister exercises the power to call in development proposals or to exempt the planning authority from the normal planning scheme in the process, that extra level of public involvement is taken out. That is why we would like to see some limits on that.

The CHAIR — Just in terms of clarification, do you support the call of the Planning Institute Australia for a planning commission?

Ms RIVERS — Yes, it is a recent issue that we have been talking about. I think the Planning Institute Australia is recommending that in the planning review. We have not come to a final view on that yet, but I was just really mentioning it to highlight that as an option. It would remove some of the problems around the ministerial discretion issue.

Our view is that the planning framework should be a clear framework. There should not be decisions that are exempted from that framework for various reasons, and the planning system should be able to deal with those situations. If we are going to have a process that recognises that there are, in very limited circumstances, some extraordinary decisions that should not be made by local government and that are better made at the state level, then there should be controls around that and the political process in that should be reduced to an extent. Having a state planner, for example, is one option there. We set out more detail in our planning submission about what we think a planning system framework should look like and how it should deal with those kinds of circumstances. The key thing is that the current system of allowing certain decisions to become removed from the planning system is not a good way to do planning.

The CHAIR — In your submission you call for amending the act to mandate the health impact of assessments. What do you say about the costs involved with that and the potential delays? Are there other jurisdictions where that is the case, and if there are, what has the experience been?

Mr POWER — We had an eye to that when making that recommendation. That is why we have made it in a certain way. We said the best way to deal with health impact assessments is to have a planning decision maker be required by legislation to consider public health and wellbeing when making decisions. Rather than requiring them to go to a full-blown health impact assessment for every decision, you require them to consider public health and wellbeing and then you leave flexibility to be used on a case-by-case basis to work out exactly how much health impact assessment you need. Not all planning decisions will need the same degree of impact assessment, so it is important to have that flexibility.

In terms of other jurisdictions, we have not looked at that. We are the Victorian EDO, and we are only experts of Victorian law.

Ms RIVERS — In regards to understanding the health impacts of certain decisions, although there is in some cases more costs up front, in the long run it really is a huge benefit because you can prevent those health problems. For example, in relation to the problems around the Melbourne area that we have had in terms of landfills, which are a legacy issue from some bad planning decisions previously, it is better to prevent those things at the start. For those kinds of decisions where it is pretty obvious from the start that there could be big health impacts, it may be a useful tool.

The CHAIR — Could you see something like an assessment that looks more like a checklist for certain things and a more of a comprehensive assessment for others?

Mr POWER — I would be still hesitant to say what the impact assessment should look like. We are not experts in planning or public health. We are experts in the law that applies to it. I think the important thing for us to point out would be that I would imagine different assessments would be required for different decisions. A degree of flexibility in exactly what is required would be good in each case.

Mr TEE — I have just a couple of things. It is again about the point that Mr Elsbury made about the minister giving up the power and therefore the right of democracy to have a say. The way I saw it, and I just want to get your comment on this, is that it is more about the minister setting up a framework and saying, 'These are the parameters within which the decision is made', rather than the minister calling in particular decisions, whether it is the Surf Coast shire or the Footscray tower, where they seem to get unstuck and where you lose a bit of confidence in the community. Is that where you are coming from?

Mr POWER — That is pretty consistent with what we have said. There is a role for the state government and the planning minister to set state-level planning policy, for sure. Things like the urban growth boundary are best set by a state government. Having said that, it is best that a process be followed for individual decisions, individual permit decisions and scheme amendments. That is why we asked in our submission for legislative limits on when permit applications can be called in and when the minister can exempt a planning authority from the scheme in the process.

Mr TEE — Can I just ask about one more issue? This morning I was a bit late as I had to go to Attwood, where there is a community that has a green wedge area that is being considered for development. Their concerns were that the terms of reference were really about looking at green wedges in terms of employment and commercial development. I saw in your submission that you were talking about getting more of a balance in terms of the lens through which you look at the green wedge and development there. I wondered if you could talk me through that a bit, because that community was particular concerned about what is occurring out there.

Mr POWER — I guess that links back to a general point which we have made in this submission and others, which is that the planning system needs to have strong protections for the environment. In particular, in terms of the protection of the environment it must not just be to consider the environment but something that is tougher than that and something requiring decision makers to protect it. I think the terms of reference and the lens through which you view this is quite important.

We have made similar comments in our submission on the urban growth boundary. The government has appointed a logical inclusions advisory committee to have a public process about where that line should be drawn, and that is good. Public involvement in planning decisions is a good idea. However, we are concerned that the terms of reference and the way that committee has been set up are about including things in the growth boundary. I understand that the government has said that things might be excluded from it as well — that is a good thing, I think — but the terms of reference should reflect not only that the boundary need not be expanded but also that whether or not it should be expanded is a decision that should be made with an eye firmly placed on ecologically sustainable development and the need to limit urban sprawl.

Mr SCHEFFER — When you say that if the urban growth boundary is going to be moved or changed so that certain developments can be included within it the planning needs to be on the basis of ecological sustainability, are you saying, for example, that it would be all right to allow a school, church or vineyard with a restaurant attached if it could be demonstrated that it was ecologically sustainable?

Mr POWER — I am very hesitant to comment on when it would be sustainable to include a church or a vineyard. I guess what I am saying is this: we like the idea of an urban growth boundary — having quite a strict limit on urban sprawl — and we think it is important that every change to that boundary or every non-change to that boundary should be done with an eye to the reason we have it, which is to ensure that growth is sustainable and that planning is sustainable. I think that is consistent with environmental protection and public health as well.

Mr SCHEFFER — Perhaps you could take that as a comment and not a question.

Mr ELSBURY — I was going to go along a similar line to that actually, Johan, and was going to ask: if we have this urban growth boundary where — bang! — that is it and there is no more development beyond that side and we have the green wedges, what sort of development would green wedges then allow, whether or not you would have your vineyards, your olives or whatever you wanted to have out there or whether you could even have sportsgrounds?

In any case I will move to a different subject slightly, which is again about the urban growth boundary. Considering the UGB and other planning regulations that suggest a higher density of housing — I think it is 32 dwellings per hectare at the moment or something along those lines, with some suggestions being made that

we may have to ramp that up if we want to make service provision equitable and possible in some of the outer areas — would you see any future for broadacre or even low-density housing? Could there be a possibility of quarter-acre blocks or even 3-acre blocks being developed out in green wedge sorts of areas — not the green wedge but beyond the urban growth boundary? Where you have, say, your 10-storey developments that have to be built to make public transport viable to some areas, could you see that there could be a possibility to use beyond the urban growth boundary for larger properties that are self-sustaining in that the sewage does not need to be collected — it is absorbed by their own mass — and that sort of deal?

Mr POWER — What we do not want to do is say what would or would not be a planning decision. We are not planners. Having said that, however, we do work in the field of planning law, and I think it is important that the planning law framework brings those sorts of decisions back to the touchstone of what is sustainable. We have made some recommendations for how to do that, but something that decision-makers really should have to consider in every case is: is this a sustainable thing to do for the environment but also for public health?

Mr SCHEFFER — Under your 'Prevent harmful pollution' recommendation you single out the Fishermans Bend and the E-gate sites, and then you make a pretty serious remark. You say:

> At present, the laws that regulate development on potentially contaminated land are complex and fragmented, making it difficult for councils to know with confidence that they are not permitting development on contaminated land.

Would you say that is a potential for those two sites? Is that something you have looked into, or are you speaking as lawyers?

Mr POWER — No. We mentioned sites like Fishermans Bend and E-gate only because we know that the government had given them as examples of urban renewal developments. We are not talking about those sites in particular.

Mr SCHEFFER — But you do not think that the legal framework around it at the moment — I do not want to put words in your mouth — is satisfactory to appropriately deal with the potential risk?

Mr POWER — I guess it comes back to the point I made before that the contaminated land law framework at the moment is just so complex that it is hard for anyone to work out what is required, but I would be loath to comment on those two sites in particular.

Mr TEE — Just to be clear, though, is it something you think government ought to look at in terms of working through so that we can get a bit more certainty and clarity and less confusion?

Mr POWER — Yes.

The CHAIR — Thanks, Nicola and Michael, and thank you for a really detailed submission too. It was excellent. We look forward to having continued dialogue with your organisation.

Witnesses withdrew.