

REPORT OF PROCEEDINGS BEFORE

SELECT COMMITTEE ON SALINITY

At Sydney on Wednesday, 28 November 2001

The Committee met at 10 a.m.

PRESENT

Ms P. D. Allan (Chair)

Mr J. Anderson
Mr P. L. Black
Mr K. A. Hickey
Mr D. W. Maguire
Mr G. F. Martin
Mr A. M. McGrane

DON GEERING, Director, Natural Resources Planning, Department of Urban Affairs and Planning, on former oath:

CHAIR: We have a formidable list of questions, which we have provided to you, and we thought we might make it easier for you by inviting you to comment on some of the questions initially as well as saying the things that you would like to say. Would you like to make an initial statement and, if you want to address some of the questions in your initial statement, please do.

Mr GEERING: I am reasonably relaxed about taking the questions as they are. I suppose the only statement I would make up front is that I see tackling salinity as being very much how the State Government is working with local government. I get the perception from some of the questions that local government is feeling as if a lot of things are being left for it to manage whereas the State salinity strategy is actually aimed at how we can best marshal the resources of State and local government to tackle those issues and the sorts of initiatives being funded through the State salinity strategy are aimed at providing much better management tools, information and so on that will actually make the job a lot easier for local government.

Mr MAGUIRE: The first question is with regard to liability. There is a lot of concern out there with local government about liability. The Committee wrote to the Minister for Planning to ask his position on providing councils with good faith indemnity from liability for anything done or omitted to be done in relation to salinity affected land. The Committee has not received a response. Can you tell us what is the minister's position on this matter?

Mr GEERING: As I understand it, the minister has not signed off that response yet.

Mr MAGUIRE: What is the hold up; what is the problem?

Mr GEERING: I do not think there is any particular problem. We provided some advice. There were some aspects to do with the section 149 certificates and we were just having our legal branch check through some issues on that. Then it is just a case of the limited number of people to do the work being done, so there is not any major problem with that, we were just wanting to make sure that what we said was correct.

Mr MAGUIRE: Can you elaborate on some of the issues with the section 149 that were concerning you?

Mr GEERING: It was not concerning us, but basically there is nothing to stop councils at the moment from putting salinity information on section 149 certificates themselves. That is within their powers. What we are looking at is is it legally possible and would it be appropriate to actually remove liability from information that is provided on that. The only case at the moment where there is a waiver on that liability is contaminated lands and we were just checking with the legal people to see if it is possible to come up with a legal definition which would put salt affected land as contaminated land. We did not think that was so, but we were just getting that checked for us.

Mr MAGUIRE: What about DUAP? How are they in regard to providing or releasing councils from liability? What is their position, do you know?

Mr GEERING: Our position as the department is that I suppose we remain unconvinced by the arguments at the moment that councils should be exempted from liability for salinity. We base that on a number of reasons. The first is that the analogy has been drawn with the exemption from liability that has been given for flood plain management and for the decisions councils make in determining flood lines and planning according to that, but, as we see it, unless you are going to remove all development totally from flood plains, you are always going to have an issue. It is something that develops very quickly. You could suddenly have the one in 200 years storm and it causes billions of dollars worth of damage. That is rather different from salinity, which has been a process that has been occurring on the Australian continent since before European settlement, but it is also one that develops slowly and therefore is a lot easier to track and to plan for and make sensible planning decisions around. For that reason we are

reluctant to put it in the same category as flooding and therefore it warrants having removal of those liability issues from it.

The other concern we have is to do with, if you like, the local complexity of the salinity issues themselves, as well as managing the areas where you are going to have the discharge of salt and where you might have damage to property and so on. In some cases that is a direct result of activities being carried out on other land. Those people do not have the salt problem, they are higher up on the landscape, they are up the ground water gradient, but their use of water is the thing that might actually be triggering the salinity problem elsewhere. We think that both of those need to be managed and they need to be managed at a local planning level, and we have a concern that if we said there is not any liability those things, in a sense, would just be ignored and the end result would be that we could be worsening the situation itself.

I think for those reasons we believe that the answer to salinity is good planning. You can adopt a precautionary approach and you can come up with good planning based on existing information which can be supplemented by further information that is put together and we are reasonably confident that that will properly handle the salinity situation, so in light of that we do not think that there are any good policy reasons for saying councils should be exempted from liability in that regard.

Mr MAGUIRE: What about concerns with design and structure? For instance, if a block of land was sold that was identified as being affected by salinity and application was made to a council to allow a developer to develop housing units or whatever, what about the planning procedures and the design requirements? Has any work been done on that? The question that I would still have is that in 30 years' time councils, unless some kind of provision is made, will end up - and ultimately ratepayers will end up - carrying the baby. It is okay to say that this is a planning issue, that other factors impact on the land further down, but at some stage a decision has to be made because there is development waiting for councils to give the nod to on salt affected land and I fear that ultimately councils will wear that, and from what you are telling me that appears to be the drift that we are getting from the department.

Mr GEERING: I agree that certainly councils need to have assistance to help them do that and that is not what I was arguing. I think that assistance from the State Government is critical. As part of the salinity strategy the department is initiating work on putting together some planning instruments to actually support councils and the intention is to design appropriate planning instruments which would include looking at the sorts of conditions you might want to place on particular developments and to link those in with the general type of information that is available on salinity around the State itself.

Mr MAGUIRE: So you are saying that that would then give councils some kind of protection?

Mr GEERING: Yes, so the intention is that we will be developing State and regional planning policies which will provide the framework and support the work by councils themselves.

Mr MAGUIRE: Do you have a time frame of when we might see this finally eventuate?

Mr GEERING: Our hope is that we will have some material drafted by the end of this financial year, by about June 2002. That is the program we are working to at the moment for that, but in the meantime I think there is a fair body of information within government agencies anyway which is on call for councils themselves and certainly the department is doing planning work at the moment where salinity is an issue and we are developing approaches and making information available to councils on that.

Mr McGRANE: I know you are well aware of the Macquarie Valley and the task force being formed there in regard to a number of councils, and I suppose I had better be a little bit careful here because it is subject now to a legal case, but in the city of Dubbo they have a great salinity problem which has developed in the last few years. When the subdivision was approved salinity was not noticeable but since then it has become a very big problem, and of course the salinity is coming to the surface in an area that is probably two or three council areas away.

Mr GEERING: Yes.

Mr McGRANE: Where you have city councils and you have rural councils, they have a different approach to these planning matters, as you would be aware. How do we overcome this problem?

Mr GEERING: Okay, an issue with salinity is that it is a regional problem, and as you have rightly said, what is happening in one local government area might not be causing a problem there, it is causing it in the affected local government area. The only way to tackle that issue is to have a proper regional approach to looking at those salinity issues.

When I was here last time I spoke about the PlanFIRST initiatives, the review of the plan making component of the Environmental Planning and Assessment Act, which is aimed at strengthening that regional planning approach, and the intention through that is to develop regional strategies, and salinity would obviously be one of the critical issues to be developed by those regional strategies. What is proposed is once those regional strategies are developed, then the local plans which affect each of those councils will be put together in a way that is consistent with those regional strategies, so they will have to in that sense comply with those regional strategies.

Mr McGRANE: So it is going to be compulsory that all councils be part of it?

Mr GEERING: Yes, and certainly to develop a regional strategy, all the councils will have to put those things into place. So that is a strengthening of the existing situation.

Mr MAGUIRE: Considering that the requirements for development with regards to salinity and the planning issues, et cetera, are very much up in the air, is it reasonable to expect councils to make decisions on development of saline land that may expose them to liability, and considering that the recommendations will not be ready until 2002, is it reasonable for them to consider it now?

Mr GEERING: I think there is nothing stopping councils from considering salinity now, because, as I said before, you have got the resources of agencies like the Department of Land and Water Conservation who have expert advice on those sorts of situations to do with salinity which might be prevailing with regards to particular developments. Our view is that we are happy to work with councils. We would hope that councils would be coming to the department and seeking that sort of information, and certainly we were aware of issues that we raised with councils themselves. What I would like to emphasise is that councils are not being left by themselves to have to deal with these situations.

Mr MAGUIRE: What you are saying is that if a council were to give an approval with conditions, that that would be seen to be reasonable?

Mr GEERING: Yes, particularly if they have taken the advice of what is our best understanding of what the salinity situation is, and if they acted on that advice, then that would certainly be seen as being a reasonable approach.

Mr MAGUIRE: If they did that and the project did blow up and buildings were affected with salt in the future, the council would then wear the liability but not the departments that had given the advice?

Mr GEERING: It would depend on the legality of the situation itself. It is a case of actually proving the liability, and if councils acted in good faith on advice that was provided by the agencies themselves, I think that would give a fair measure of protection to councils.

CHAIR: We have listed a specific example, and that is the Boral development set-up and the Holroyd Local Government Association, and as you are well aware there is a management process by the council and a management process by DUAP. Salinity has become an issue because one of the consultancy reports relates to salinity.

Mr GEERING: Yes.

CHAIR: DLWC's Sydney/South Coast office in a letter to CRI Australia, the project managers for Boral, dated 17 September states that the site based investigations and recommendations for management undertaken for Boral are inadequate. Council then raised concerns with your department about salinity on the site and forwarded DLWC's letter to them. The council was informed that DLWC's concerns about the investigations only apply to the Residential Lands and not the Employment Lands on the site, which leads to the question: What are the differences between the investigations undertaken and recommendations for management under the two plans, and, if there are not any significant differences, on what basis are the two different standards being applied?

Mr GEERING: I am not too sure that there are two different standards, but there are two different processes in place for those different lands. The Employment Lands was a process in which the Planning Minister, the Minister for Planning, was the consent authority and so he signed off on a precinct plan that was developed for those areas and that addressed specific salinity issues and it set in place also conditions that for people who applied for a DA underneath that precinct plan there is further work that those people would have to do before they could get approvals under that DA itself.

The difference between that and the council lands is that the councils were moving in and looking directly at what was happening at that DA level itself. So that is the reason why it might appear as if there are two standards but there are not. In fact, one was putting in place a framework for planning which was addressing salinity issues but under which further salinity investigation would need to be done, and council itself was going straight down to that final level of detail.

CHAIR: We have been informed by council that the salinity mapping undertaken by DLWC is at too coarse a scale for them to use for land use planning. The Committee has raised this issue with the Director-General of Land and Water Conservation, who said:

It is local government's role, once a broad salinity hazard has been identified, to ensure development proponents provide sufficient site-specific details of salinity and other environmental impacts.

Holroyd City Council has obtained site-specific details from the Draft Residential Lands Precinct Plan for the Boral site. It is now faced with opposing views from the DLWC and Boral's consultants regarding what is an adequate assessment of the salinity problem. Therefore, and this relates to the previous question that you were answering, should not the requirements for salinity assessment be defined by DUAP and DLWC at State or regional level? You have already stated this morning that you think the information is available or the expertise is available. That does not seem to be the case in this particular instance. So what do you think?

Mr GEERING: I think that there is responsibility on Government to look at the State and develop a State and regional approach to handling salinity itself. What I was saying before is that we obviously have not got those sorts of plans in place across the whole of the New South Wales landscape, but irrespective of that, if there is work that is being done by local government, there is a body of information which can be used to properly inform that work itself, but as the salinity strategy unfolds, then I would expect you are going to need to have those sorts of State and regional strategies in place for that work.

CHAIR: I know everybody is agreeing that there are strategies in place, but what we are looking for, and I suppose what councils will be looking for, are criteria for salinity assessment, far more specific information than is currently available. Is that going to be made available? Are you working on it? Is there going to be joy for these organisations? You cannot just impose strategies on people without taking responsibility. Peter has got a comment.

Mr BLACK: Yes, just a quick point with respect to DUAP, I can't for the life of me think of the name of the chap who was DUAP's representative at the resource conference at Dubbo on Friday, I think it was 20 October. He gave a paper on why councils should play the leading role. I can't think of his name.

Mr GEERING: Stuart Little.

Mr BLACK: It was a brilliant paper and I recommend it. I think it should to be distributed to members of the Committee.

CHAIR: Did one of you bring it back? Have you got that paper?

Mr BLACK: No. When will the procedures be done?

Mr GEERING: I don't know, but we can provide a copy of the paper if you want.

Mr BLACK: It was really a good paper.

Mr GEERING: Yes, Stuart Little is a good man.

CHAIR: He works for the department, does he?

Mr GEERING: Yes, he works for me.

Mr BLACK: He was very aggressive. He got the attention of a lot of people and his paper I believe was greeted with great enthusiasm, and he works for you?

Mr GEERING: Yes.

Mr BLACK: Are you taking the credit for it?

Mr GEERING: I will give it all to him. It was his paper. I know what was in it, but yes.

CHAIR: What was in it, for the benefit of those who were not in Dubbo, and what relevance does it have to the debate we are having at the moment?

Mr GEERING: It was looking particularly at the legislation that relates to native vegetation, and native vegetation obviously links in strongly with salinity. Basically, it was putting forward an argument that with issues like both native vegetation and salinity, and I suppose natural resource management in general, it makes a lot of sense if local government has the direct role in on-the-ground management of that work, because that is the best way of linking natural resource policies in with the planning system itself, and because local government is also set up with the people on the ground who are used to enforcing these things. Agencies are really only resourced to do things more at a regional level and so they always struggle when they are trying to do things at a local level. It makes sense to look at ways in which we can have a better system in which local government is more directly in a sense carrying out that regional work that the agencies are putting together.

CHAIR: We are great advocates of local government around this table, but I think we would all agree that they have to be resourced to be able to achieve that nirvana that you just described.

Mr BLACK: I think that in many ways local governments are resourced by the Government agencies.

CHAIR: Well, western Sydney councils wouldn't say that, I can assure you.

Mr BLACK: I am talking about the real world.

CHAIR: I am talking about the real world too, Peter, and I am particularly trying to get a comment from you in relation to what is happening in a current site where salinity maps were required but I am not sure if they have been signed off. Do you know what the status of those reports are now for Holroyd and Boral?

Mr GEERING: The work that the consultants were doing for the Employment Lands has now been signed off. The department took advice from the Department of Land and Water Conservation and they are happy with the work that has been done.

CHAIR: So DUAP have signed them off?

Mr GEERING: So they are signed off for the Employment Generating Lands. If I could make a comment about this, the work that the agencies are doing, inevitably if you do mapping of salinity at a regional level you are not going to necessarily address all the detailed local situations because there can be a lot of complexities at a local level, particularly if you are looking at a site like the Boral site itself. That is what I take as being essentially the comment that Bob Smith was making, that we can put together that regional view which means that we can take a sensible approach to how we have to handle things from the regional point of view, but that is never going to fully cover the work that might need to be done on an individual site itself.

CHAIR: Are you planning to prepare a register of independent third party experts on salinity to help councils resolve differences? Where are the experts going to be? Are you going to identify them, these experts, so people can use them, so councils can use them?

Mr GEERING: We hope that the State agencies and councils can get together and would not have the need for those third party experts, but under the way in which governments are in New South Wales, there will always be a group of consultants that will be providing advice on that.

CHAIR: I don't think it is just a State phenomena. I think it is a more general phenomena than New South Wales.

Mr GEERING: I suppose what I am saying is we want to encourage more of a co-operative rather than an adversarial situation, where instead of people wanting to go to a third party all the time, they are actually working through it together, because you will always have the people who paid for it trying to get away with the least amount of work they can do, and that is not what we want to particularly encourage.

Mr McGRANE: The national approach to development applications: Trevor Budge undertook two years of research for the National Dryland Salinity Program on enhancing the capacity of local government to contribute to the management of dryland salinity. He suggests that in order to address this as a national problem a consistent approach to development applications in salinity affected areas should be written into the legislation of the States and Territories. What is your view on that?

Mr GEERING: I do not have any problems with a national approach. Having said that, I would like to hope that we could actually go a bit further than what might be argued at a national level and go a bit further with that at a State level, and our proposal anyway is that, through the PlanFIRST regime, there will be State planning policies put together and we would expect there would be policies that will be specifically addressing that salinity issue which would then be translated into regional strategies and in turn into local plans.

Mr McGRANE: The environmental defender's office has expressed concerns to the Committee that you are not proposing any legislation specifically to require councils to address salinity. What are your views on that?

Mr GEERING: What we have been, I suppose, trying hard to do over the last decade or so is to, instead of having legislation that addresses just a single issue, get that properly grounded within the planning system as a whole because ultimately you do not effectively address things unless they are taken within the full context, so we feel that if we prepare good planning legislation in which salinity is properly recognised then that is the best thing we can have in addressing the salinity issue.

CHAIR: With respect, that is not really an answer to the question. We are not blaming you for inadequacies, I might say. There seems to be cross-party/cross-government recognition that salinity is a major issue. We now have salinity strategies, but we are anxious to get beneath them.

(Short adjournment)

Mr McGRANE: What exactly will councils be required to do to address salinity as identified in regional plans?

Mr GEERING: It is going to depend what is put together in the regional plan itself, but at the very least we would expect that those regional strategies would be identifying areas of particular salinity hazard and they would be specifying particular planning action that would need to be taken with regard to them, depending on the actual level of hazard that is defined within the strategy, and with that would be suggestions of certain sorts of conditions or certain sorts of investigation work that might need to be done before development applications could be properly determined.

Mr McGRANE: Who determines that?

Mr GEERING: The regional strategy under the PlanFIRST model would be put together by a regional forum which would have representatives of councils, other members of the community and agencies and what you would expect to be fed into that forum itself would be the specific information on salinity that had been developed for that region itself. What we would be expecting is that the regional strategy would take that salinity information on board and look at how it relates to different areas within the region itself, so the strategy would nominate areas and then it would also be suggesting that within those areas this is how we would expect the local plan to be addressing those salinity issues.

CHAIR: So the regional forum would determine the efficacy or not of the work that has been done on salinity?

Mr GEERING: It is the means of taking that information and putting it within the broader planning context.

CHAIR: So that is a determination. I mean in the Holroyd case - and this is just one issue - the Government eventually intervened because they thought the whole process was too slow on the management of industrial lands. Salinity was just one issue, it was not the determining issue in that intervention, but it was still an issue and that process was seen to be too slow between councils and consultants and whoever. Now you are saying in PlanFIRST that these regional forums will gather information, apply strategy and there will be consensus. With great respect, I do not think there will be many people waiting for that process to be achieved.

Mr GEERING: That is the process that has been put forward under PlanFIRST and the attempt under PlanFIRST is to try and be more strategic in our approach to planning and do things up front. One of the problems we have at the moment is that we realise there is a problem and then we react to that. There is an issue certainly between now and when those regional strategies might be prepared, but the State planning policies would kick in from the beginning of the PlanFIRST regime and included in that we would expect salinity issues to be addressed. The department will also be developing some regional planning guidelines to cover that transitional period and they certainly will be addressing salinity issues as well, so if there is a time before the forum decides what has happened there will actually still be in place some specific directions as to how salinity should be addressed in regional areas.

Mr McGRANE: Getting back to the Macquarie Valley, which I know a little bit about, the salinity that is affecting my old council area basically comes from a council area east of Bathurst, and that is a small council, not big in cleaning, and I understand why, because it is a rural council. How can we get a regional plan to get them to participate to solve a problem 150 kilometres away in the city of Dubbo?

Mr GEERING: Salinity is going to challenge the way in which we have been used to doing planning business within the State because people have not been able to take that regional view. There are powers within existing legislation as well as those powers proposed under the PlanFIRST regime to put together a regional view which then the local councils will have to follow. Obviously from a practical point of view, as well as directing councils to do things, a lot of the issue is the resources or the fact that they do not have people with the right sort of expertise, so if that is an issue then it is incumbent upon State public servants to look at the ways in which we can actually work with that council to help them to address that issue.

Mr McGRANE: In our area we are together, but there are a lot of valleys that are not together and I see problems when we are actually together in a loose committee, but there are other valleys where the cooperation between councils is non-existent. That is a big problem.

Mr GEERING: Yes, and I would be the first to admit that to get to, if you like, the ideal that we want under the PlanFIRST situation, we have got to do a fair bit of work in helping people to work together from that point of view, but unless we do address that situation we are going to be left with what we have got at the moment, which is not satisfactory.

Mr MARTIN: Is it likely that you might address this lack of co-operation by using a stick rather than a carrot approach, if push comes to shove, if you need to get a result?

Mr GEERING: Yes. I mean, at the end of the day, if we cannot get people to co-operate, then we are going to have to look at what legislative mechanisms we have. That would be our second choice, because it is a lot better if you can get people to co-operate and you get a much better job done.

Mr MAGUIRE: In the wider community, especially in local government, I detect a great deal of frustration about the amount of chatter that is happening without any real action on the ground, and in Wagga Wagga's case I know that there are concerns that councils are being prevented from making decisions because of the paralysis of the state of this debate.

I know that there are developments that are needing decisions, I know that each of the departments has their own territory to protect, but my question to you would be: How do you propose to break this inaction? How do you propose to progress this debate so that we can start to see some action on the ground and see some real decisions being made? I am really concerned that in another ten years we will be sitting here talking about planning and the need to consult and all the other things that go with it, meanwhile the problem exists and the money that is being put towards salinity is not going on the ground and getting real results. What would your department propose to try and give us some timeframes and how you are going to fast track this issue?

Mr GEERING: Okay. The action we are doing in the department is with a whole of Government approach through the salinity strategy itself, but the establishment of the salinity teams, which are being run primarily through Land and Water Conservation with some assistance from the Department of Agriculture, we see them as being critical to help in the delivery of that on the ground action that we need, and the work that we are doing in developing the planning tools to go with it that I said we are intending to produce over the next seven months or so we see as being an important component of that work itself. So that while there is this broader work that is being put together on the strategy, the intention is to have those salinity teams up and running and hopefully that will provide and free up better resources virtually immediately for councils to be able to use, and, similarly, we recognise that it is important that we get the planning assistance in place as quickly as possible, and so that is why we are aiming to do that.

Mr MAGUIRE: Two things, you take the Kiama Valley, they have had a plan in place in consultation with departments, with councils, et cetera, and they cannot get it signed off. They want to apply or have applied for heritage funding and everyone has agreed on it and no-one can seem to make a decision. Even things like building codes, I understand that your department is participating in a national working party -

Mr GEERING: Yes.

Mr MAGUIRE: - to come up with starts standards that councils have expressed that they need urgently because they are dealing with lands affected with salinity. How long will that take and when can we expect some answers with the building code?

Mr GEERING: The building code is a longer time period because that is a national approach and the Australian body that administers the building codes has initiated some research which they are looking to do over the next twelve months, and what is involved in doing that is they are looking at

strengthening the building code, looking at rising damp, saline rising damp, and they are also looking at within the building code specifying particular areas which are recognised as having a salt hazard, and so therefore they will have specific building code regulations that apply to them. As I said, it is a national approach, and that is the course, that they have now recognised the problem and agreed they need to do something about it but it is going to take at least 12 months for them to go through that process.

CHAIR: Don, I must say I find this a bit frustrating. What I would like to do is for you to undertake to answer the questions that we have not had a chance to - well, we have still got 10 minutes, but I don't think we are going to get through all of them. Would you or your department head be prepared to give us written responses to these questions?

Mr GEERING: Yes.

CHAIR: And in a certain timeframe. We are looking for a response within the next fortnight, and if we are not satisfied with that response, I think we will just have to get you back and spend another hour or two.

Mr GEERING: Okay.

CHAIR: We do not blame you in any shape or form for the issues that have emerged, but we still want some answers, and, honestly, if someone in your position cannot give us those answers, then we need to go beyond that, and it would disturb me greatly if you or others behind you cannot give us answers, because that demonstrates to us that despite all the national rhetoric on salinity and even the State rhetoric on salinity, there is a lot of things that are not being addressed. We certainly appreciate it is a fertile area and it is evolving and PlanFIRST is happening and that is going to be an improvement, but there is still money being expended and we would like to see it being expended for real worth and answers to these questions.

Most of the Committee was in WA two weeks ago looking at very similar issues in Western Australian wheat belt towns, and they haven't got all the answers either, but there are experiences that we could be learning from. We do not want to be repeating mistakes that they are making either.

Mr GEERING: Sure.

CHAIR: Do you consult with the Western Australian planning equivalent about the issues of salinity? Is your department consulting outside New South Wales to look at some of the issues there? They are very similar to the issues here and they have been working at it a lot longer than we have.

Mr GEERING: Yes, there has been consultation on those.

CHAIR: We are going to be sponsoring a big seminar early next year and bringing some of the Western Australians out and we are really looking forward to participation by people like yourself and your seniors in that event. Will you undertake to answer these questions in writing -

Mr GEERING: Yes.

CHAIR: - over the next fortnight?

Mr GEERING: Yes.

CHAIR: And then we will decide whether we get you back or get Sue Holliday or someone back to really talk to us about a lot of these issues.

Mr GEERING: Yes.

CHAIR: Anyway, we have still got about seven minutes.

Mr ANDERSON: I was particularly keen to get some feedback on question 10. Under

PlanFIRST you are developing environmental sustainable indicators. Will they include salinity and will be they be statutory? I think that is critical to all of this.

Mr GEERING: The indicators will include salinity, or as it is being expressed the salinity hazard itself is expressed in the landscape. I am not quite sure what you mean by them being statutory.

CHAIR: Well, statutory, passed by legislation, legally binding.

Mr ANDERSON: Will have strengthened legislation and regulation behind them.

Mr GEERING: I suppose my difficulty with what you mean by statutory is that the sustainability indicators will be set as the standards by which the system will work and in that sense they will be statutory. The other question I was thinking of, if someone is not meeting those, are you thinking about what sort of legal force would be behind making sure that they do do so.

Mr ANDERSON: To encourage them to do the right thing?

Mr GEERING: I haven't seen the final draft of the bill for PlanFIRST, so I cannot answer that without seeing it.

Mr ANDERSON: Yes, but you must have some idea of what is possible by the direction you are taking on the matter.

Mr GEERING: Yes, well, I think the way it is set up is that the councils, or whoever the responsible authority is, will be putting in place particular aims of what you want to achieve with salinity. Now, it might well be in some places that the salinity hazard exceeds what the community would want, but in planning to bring it down it might be decided to do that in a step-wise fashion instead of going straight down in that fashion itself. The way in which I would expect the legislation to be working itself is that if the actions that were being taken were not actually meeting the indicators, so the environmental response was not as planned, then what it would normally initiate under the planning system is to go back and revise the planning that you are doing and maybe looking at doing other things as well, because obviously what you were doing was not good enough.

CHAIR: Don, do you meet with other public servants from other departments on this issue specifically, on salinity?

Mr GEERING: On salinity, yes.

CHAIR: What is that called? Is that an inter-agency salinity task force? What is it?

Mr GEERING: There is a senior officers salinity group that is run by Cabinet Office that looks at the salinity strategy as a whole.

CHAIR: How often has that been meeting?

Mr GEERING: It meets every couple of months to track the course of salinity. There is also a subcommittee looking at local government issues in salinity which has just been established as well.

CHAIR: Who established that last one?

Mr GEERING: That was established by that senior officers group which set the other one up as a subcommittee. We are underneath that committee itself.

CHAIR: Would you say that the Cabinet Office convened group has met six times this year to discuss these issues?

Mr GEERING: It might have. I do not know the exact number. I would have to go back and check on that.

CHAIR: Could you go back and check to see whether or not that has occurred?

Mr GEERING: Yes.

Mr ANDERSON: Does anybody in particular co-ordinate it?

CHAIR: We have got somebody from Cabinet Office coming some time.

Mr GEERING: Yes. Through Jane McAloon, who I think is appearing perhaps tomorrow.

Mr MARTIN: In your answer to the Chair earlier you said that you did consult with your counterparts in the other States. Is that on an ad hoc basis or is there some formal process involved there?

Mr GEERING: On the specific issues like salinity that is on an ad hoc basis. There is a national group of planning officials. The representatives of all the planning agencies in each of the States and the Commonwealth get together quarterly to talk about issues. Salinity might arise as an issue but there might be lots of other things that they talk about as well.

Mr HICKEY: Is that an adjunct rather than an initial -

Mr GEERING: Yes.

CHAIR: And who within the Department of Urban Affairs and Planning, or the Department of Planning now I think you are called, are you?

Mr GEERING: Department of Planning now, yes.

CHAIR: Within that department how many officers work full-time on salinity issues, giving you advice so you can participate in this interagency working party?

Mr GEERING: We have one person working full-time on salinity, otherwise it is picked up through our regional teams, so that there would be people who would be doing work on salinity but also on all sorts of other regional issues as such. But the department is only a small department and we certainly do not have the resources devoted to salinity as agencies like the Department of Land and Water Conservation have. Our planning teams typically have only got about eight professional staff in them. We cannot normally have the luxury of having a person working full-time on salinity. They have to pick salinity up with other issues as well.

Mr BLACK: DLWC claim they have some sort of mandate to provide councils with advice on salinity, where does planning fit within that alleged mandate?

Mr GEERING: The Department of Land and Water Conservation have employed the people who are the experts in salinity.

Mr BLACK: I would question that. That is the assumption.

Mr GEERING: As far as I am concerned, from where I sit our responsibility is looking at the planning system and making sure that that salinity issue is being properly addressed within the planning system itself. We would look to the Department of Land and Water Conservation to advise us and councils on specific salinity problems.

Mr HICKEY: Just to go a step further with that, if a subdivision was to occur how much input would the Department of Land and Water have in regards to the effect of salinity in that subdivision?

Mr GEERING: If the subdivision required the preparation of a new local plan then the department, through the planning system at the moment, would specify what needed to be addressed in that local plan before it actually went on public display and then the department would review it and send

those comments back to the councils themselves and finally the plan itself would be signed out by the Minister for Planning. Minor subdivisions can go through without them formally going through the department, but if it was an issue running through that it had salinity hazards then we would provide advice to the minister about what should be addressed so that the minister would confirm that it had been adequately dealt with.

Mr HICKEY: The reason I ask that is that western Sydney has a major salinity problem and we all recognise that. Does the department employ or get information from the Department of Land and Water to address the salinity problems specifically on subdivisions occurring out there or not?

Mr GEERING: Yes, it would be a standard thing to consult with the regional office of the Department of Land and Water Conservation.

Mr HICKEY: How long have you been doing that?

Mr GEERING: That has basically been the practice, what was set up under the Environmental Planning and Assessment Act. On salinity issues I would expect that the advice has been coming in particularly over the last few years when people realised the salinity problem.

CHAIR: Has there been an upsurge of so-called salinity consultants since the salinity strategies have been out there?

Mr GEERING: I think there are more consultants who bill themselves as working within the salinity area itself, but I do not think there are many new players at the moment. It takes longer for people to get the requisite skills.

(The witness withdrew)

(Short adjournment)

JOHN VERHOEVEN, Group General Manager, Landscape Investment, Department of Land and Water Conservation, and

NEVILLE PAVAN, Senior Natural Resource Officer, Sydney/South Coast Region, Department of Land and Water Conservation, on former oath:

CHAIR: We have provided you with a list of questions. We wondered whether you would first like to make some general comments or perhaps address any documents or respond to some issues that obviously emerged from the discussion with Don Geering.

Mr VERHOEVEN: Just a couple of housekeeping issues first. My title is now Group General Manager Landscape Investment, so there has been an evolution since the last time I appeared before this Committee, and I will be leading the answering for the Department of Land and Water Conservation and asking Neville to support.

As a very brief introduction, since I last met with the Committee I note that the salinity strategy and the broader national framework to which it is aligned has certainly progressed and I draw the Committee's attention to the first annual report that was launched by the Premier in mid-August of this year which highlighted a number of developments that have occurred over the last twelve months and painted, I think, a very clear direction about the way forward with the strategy.

I should also advise that, in relation to the questions that we have received, because of the specific nature of the Committee's questions 1 through to 4 on the Boral development site, I have had to refer those questions to the department's regional director, Sydney/South Coast Region, for his detailed consideration and response, so I will need to take those questions on notice and I undertake to respond in writing to the Committee.

CHAIR: When would we get the response to those? As soon as possible?

Mr VERHOEVEN: Yes.

CHAIR: We will not be asking questions about catchment management, they have been withdrawn. We are obviously very interested in the relationship between planning and DLWC and the requirements for local government to get informed reports on salinity and we are also interested in the process of how councils can facilitate approvals or what reference points they have, the role that the Department of Land and Water Conservation takes in the determination of those reports. Even though you have sent the other questions off, we are interested in what you perceive to be your role in the planned improved process that would help the sites affected by salinity, so are you in a position to answer that or attempt to answer that?

Mr VERHOEVEN: Only in very general terms in that the department's role is one of providing technical advice and input. We certainly do not have a concurrence role and I think that will feature in more detail in the answer to those questions.

CHAIR: At this stage you can only respond generally, but the reality is that the issue has been about for some time and people within the Department of Land and Water Conservation have been perceived by the community, by the Government, because you are driving the State strategy, and other agencies to be so-called experts on salinity, so can't you tell us more about your role even on a statewide basis in the approval process? We have lots of issues in Wagga Wagga, Dubbo and western Sydney. What roles are your people currently playing in assisting councils or other agencies in assessing reports on salinity or defining the problem of salinity for those bodies?

Mr VERHOEVEN: If I can go back a step, in terms of the strategy's implementation it is the Cabinet office that has the overall responsibility for a whole of government approach to implementation of the strategy. Certainly the department is the lead for about 30 or so of those actions within the strategy and, as you are aware from the strategy, they are more about the provision of advice, the obtaining of information which can be used by local government, for example, or land holders or developers, et cetera,

provision of modelling or the development of modelling and the provision of mapping at a larger scale, as you read out earlier this morning the letter from the director general of the department, and the department sees its role in the provision of mapping, or it is called small scale mapping, 1 to 100,000 or 1 to 250,000 for salinity, to provide the framework for the occurrence of salinity and salinity hazards throughout the State. The more detailed level of mapping - and I think I indicated this the last time I spoke to the Committee - that local government will require at a block size, for example, or at a development size is generally at too large a scale to be done by the department, I mean it was just that resource-intensive, and so, as the director general indicated, that level of detailed mapping would be required to be prepared by the developers in their DA application to council.

CHAIR: And you do not have a sign-off role in that process? When someone else produces it, what is your input - any?

Mr VERHOEVEN: I might ask Neville to explain what is happening, say, at a regional office level.

Mr PAVAN: Generally when we are asked by local government to provide comments on something where they may not have the expertise we do that. As John mentioned, we provide advice to the consent authority in lots of cases, we do not have a concurrence role at all. It is basically providing them with information and advice of a technical nature.

CHAIR: What sort of inquiries would you get; how busy is it; what proportion of your workload, for example, at a regional level - you are where?

Mr PAVAN: I am based at Penrith.

CHAIR: So that is the Western Sydney Regional Office?

Mr PAVAN: Sydney/South Coast Regional Office. Only part of my work is generally involved in salinity. I oversee lots of inquiries from consultants or people wanting to know more information about salinity. They basically want to know what type of investigations they should be considering. Local government also refers those people to us or they generally ask for that type of information.

CHAIR: And what do you say to them? What sort of things do you say when they are asking for your advice?

Mr PAVAN: Generally, they need to consider groundwater issues, change in land use issues, looking at salinity levels in soils, those types of things, generally urban capability, assessment type criteria that the department has provided or given or recommended for many many years.

CHAIR: And you do not undertake to then evaluate their reports after they have done them?

Mr PAVAN: If we are asked by council to provide some advice, we do.

Mr BLACK: What is the relationship between DLWC and local government?

Mr VERHOEVEN: In what respect?

Mr BLACK: To do with salinity.

Mr VERHOEVEN: Well, in the case of salinity strategy it has actually been formalised in the local government salinity initiative, which the Minister for Land and Water Conservation -

Mr BLACK: How would you describe the relationship between DLWC and ---

Mr VERHOEVEN: I cannot put it any more basic, I suppose, than we are part of this community/Government partnership, which Government is continuing to talk about. I think at times

different partners in that might lose sight of the fact of exactly who the partners are, but in fact it is State Government, certainly local government, as well as industry and the community, and that is reflected, for example, in the makeup and membership of the catchment management boards in which the membership of local government is generally about 20 to 25 percent of the membership.

Mr BLACK: We get miles of data on this continuing insult to local government, where the few people who are picked out would be the Barwon Darling Catchment Management Committee. They are not appointed by local government at all, and I heard at the conference in Dubbo no less than two people stand up and say they represented local government. They are not part of local government at all, and this is why the relationship between DLWC and local government is breaking down, and breaking down badly I suggest.

Mr VERHOEVEN: Certainly, the membership on the boards, some of the nominations for those members are sought from LGSA, for example, who co-ordinate that.

Mr BLACK: They are not appointed by the councils though.

Mr VERHOEVEN: You mean the individual members?

Mr BLACK: Yes.

Mr VERHOEVEN: Yes, but it is part of a nomination process, so a number of names are put to the Minister.

Mr BLACK: It is not part of the nomination process. It is an interesting remark, it is about the relationship with DLWC. I am going to put to you that the DLWC is not held in high esteem by local government generally, and I am not referring to here in Sydney. I am talking about the flood gate.

Mr VERHOEVEN: Yes, my understanding is that part of the concern that local government has is that every council would like to have a direct membership on, for example, a catchment management board or -

Mr BLACK: That is not correct.

Mr VERHOEVEN: That is my understanding. If you speak to many of them -

Mr BLACK: It is not the general understanding. I know something about the west. There are a number of councils out there who do not desire or want representatives on catchment management boards per se but we have an organisation, the Western District Shires Association, a very strong one, who like to have representation on some of these things but have been denied it and are treated very badly by the DLWC.

Mr VERHOEVEN: Well, I am afraid I am not aware of that. As I said, the contacts that I have with local government, both councils within some of the regions and the LGSA here, is fairly positive.

Mr MARTIN: In relation to the data that you have supplied to us or we have accessed from your organisation, we have had anecdotal evidence at least that the cost of it is a problem and it has come from a number of groups such as the Murray Darling Association, et cetera. Have you had any feedback that people are maybe charging for data that you supply to councils?

Mr VERHOEVEN: Yes, I think there is a point of clarification needed. The department's policy is in fact to provide data either on a cost of transfer basis or at no cost to local government. In fact, very often the package of data required is of such a small nature that administratively it is more expensive to actually charge for it, so it is given at no cost.

I think some of the misconceptions have arisen with the cadastral data and with the digital elevation modelling data, which in fact is held by the Land and Property Information Office in Bathurst,

and that agency is part of the Department of Information Technology and Management, and they are operating in a commercial mode. So I think that is at least part of it.

The department provides its data on this cost of transfer basis, and that is a policy generally adopted by New South Wales Government agencies, and that basically means that we include the time and the materials costs to actually provide the data, but there is no mark-up overhead, there is no profit. There is nothing like that put in it. It is just the cost of having to pull that information together.

I think part of the issue may be as well that at times people are asking for information which is more than just straight data. Now, if the data requires analysis, then certainly the cost of an individual's time to carry out that analysis is factored into that as well, but again there is no commercial mark-up put on that. It is just cost recovery basically.

CHAIR: John, can I just go back one minute to your earlier statement at the beginning that you wanted to take all those questions on notice and get back to us.

Mr VERHOEVEN: Correct.

CHAIR: Neville comes from Sydney/South Coast office, so why can't Neville answer the questions? That is the office that wrote the letter.

Mr VERHOEVEN: That is right. However, the office that Neville is from isn't the main regional office and the material that is being developed has to be approved by the regional director for the region. I haven't got that approval yet.

CHAIR: Just repeat that, and how many regional offices have you got?

Mr VERHOEVEN: There are eight regions in the department. There are something like 140 offices, district offices, et cetera, in the regional offices. The department's Sydney/South Coast regional office is based in Wollongong.

CHAIR: So the letter has come from Wollongong?

Mr VERHOEVEN: The letter will come from -

CHAIR: The one dated 17 September. This is the question, number 2: Your department's Sydney/South Coast office in a letter to CRI Australia, Boral's project managers, dated 17 September states that the site based investigations and recommendations for management undertaken for Boral are inadequate in relation to the Holroyd site. Council raised concerns with the Department of Urban Affairs and Planning about salinity on the site and forwarded your letter to them. Council was informed that your concerns only apply to the Residential Lands and not the Employment Lands on the site. So that letter of 17 September came from Wollongong, did it?

Mr PAVAN: It came from our Parramatta office. I wrote the draft. The letter that you are talking about, the 17 September letter, referred to the July 2001 Greystanes Estate Salinity Assessment Report. That is the only document. The report covered the whole site and there was no other document available for response at the time.

CHAIR: Did that letter state that the site based investigations and recommendations for management were inadequate?

Mr PAVAN: The word "inadequate" was not used in that letter at all.

CHAIR: I will be happy to see your written response to this. We want to get specifics.

Mr PAVAN: Yes.

Mr ANDERSON: It just limits our capacity to ask questions.

CHAIR: Sure and let's hope it is not limiting your capacity to do your jobs. In terms of the requests that you get from councils, Holroyd council - and the only only reason we are pursuing Holroyd, and it is not just because it is in my electorate I can assure you, is that we have had representations from Holroyd council about salinity. That seemed to be an issue. It is a big issue in western Sydney and we are interested in what are the roles of the Department of Land and Water Conservation and the Department of Urban Affairs and Planning in assisting the council to deal with a major issue such as salinity. You could equally talk about Wagga or Dubbo or whatever, but that is just one we have used as a case study.

Mr ANDERSON: Question 3, the second dot point - if you say the developer should be responsible whenever they submit a development application, they should be responsible for the detailed salinity investigation, how can councils then have a strategy for a whole of an area, if you are going to leave it only until a development application is lodged for a particular parcel of land?

Mr VERHOEVEN: There are at least two facets to that. With the small scale mapping which the Department of Land and Water Conservation is developing, and there is already one, for example, available for western Sydney, councils are able to link the findings of the more detailed investigations or maps back into that map to see that the two in fact align and that you are not getting different stories from a larger scale local map linked back up into the regional map.

The other is that I think councils, as the strategy unfolds, if they are wanting to get on the front foot, there is the opportunity for them to look to where they might need some in-fill mapping and actually have that carried out if they can see a lot of development activity commencing and happening in that area in the future, and there are ways that they can obtain resourcing to help them do that, for example, through things such as the Natural Heritage Trust or other investment sources.

Mr MARTIN: Can I revisit the local government area as most of us on this Committee are creatures of local government, which might be a plus or a minus. Getting back to what the member for Murray Darling was talking about, the fact that most of these catchment management committees have probably got 20-25 people on them, two of which would be local government people, as I understand it, they are people that come from local government and they are there not representing their individual councils but local government per se and they have to sign a declaration or something to that effect when they go on to the committee. What sort of mechanism do individual councils have to have input into the catchment management plans, given that they end up being the statutory documents and there are further implications for the council because of that in terms of planning processes?

Mr VERHOEVEN: In fact the current membership on the catchment boards, just to put it into perspective, is an average number of 17. Under the Catchment Management Amendment Bill that I have just been told has been withdrawn the membership was to vary from, say, 13 up to a maximum of about 22. The current membership of local government on those boards is three, so it is three out of about 17, and the proposed membership under the bill would be anywhere between two and four, depending on the size of the committee, so if you think, say, four out of a maximum committee of 22 there is a reasonable representation of local government given that there would be only a maximum of four State agency representatives there as well, so those two together give eight out of a maximum of 22, so there is a large community representation on that from various stakeholder groups and local government would be about 20 to 25 percent of that, so there is a reasonable representation.

In terms of how local government then might come to grips with that, because you are correct, the members are representing councils generally, they are not representing either themselves or their particular council, and it is an issue that has been put to us throughout this year as well and certainly been put to the minister when the Catchment Management Amendment Bill was tabled in the House, people started to look at the percentages there as well. Councils could establish regional groupings and that might be one useful way that they have actually got forums to meet regularly between meetings of the catchment management boards to download information, to look at the implications for local government and to prepare position papers or positions basically to take back to the boards, so that in fact the members on the boards are speaking for local government generally, not just for themselves, and those alliances in fact could be subcommittees of the board, so the board, with the prompting of local

government, could say, well, we will actually formalise this as a subcommittee, so you have that direct link and recognition. Another possible model could be the greater use of regional organisations of councils, although there might be boundary issues with that, the boundaries of the ROCs may not align with those of the catchment management boards.

Mr MARTIN: They don't, no.

Mr VERHOEVEN: Okay. Another that we have looked at, and at this stage we are just looking at different possibilities, is the establishment of county councils to carry out the management actions in the catchment management plans and that is one possibility that is being looked at. The Department of Local Government may have some views on that as well.

CHAIR: Can I just give you an example. WSROC has now got a salinity officer funded by the National Heritage Trust. I presume that person does not have particular professional skills in soil salinity analysis - I am sure she does not - but I have no doubt she is playing a marvellous advocacy role in terms of the issue, educating the community, raising the issue within local government, ensuring that you are going to have, as a department, some higher interest level from everybody out there. They are going to be wanting your expertise; they are going to be wanting your advice as a result of this ROC using Commonwealth funding to generate attention to the issue, which is great, but it then puts more pressure on the Department of Land and Water Conservation to presumably be seen to be the adjudicator on the issue, to define it more closely, because you are supposedly the people with the expertise, you are the professional people. Do you see that happening or not?

Mr VERHOEVEN: What do you mean by being the adjudicator?

CHAIR: Well, this issue is a little bit of a will-o'-the-wisp, to be honest. It is a substantial issue, people are putting money into it, but we are still seeing a high level of frustration at a local level that there is not enough responsibility being taken by more senior, other levels of government, for example, to solve real specific problems that people have or councils have, so if we continue to talk about the issue we raise awareness and people understand it is there and they start looking for it, but when a development comes in, for example, when a site is to be developed, there will still have to be an approval process. Now DUAP demonstrated this morning that they are not really looking at specifics, presumably they are going to depend on you to sign off when there are specific development applications that are going to relate to areas that are affected by salinity. There is going to be more awareness of it and it will pinpoint responsibility to people who supposedly have expertise and that is you, that is your department.

Mr VERHOEVEN: I understand, but the department cannot sign off as an approving body. The department can certainly look at it if asked to provide comment on what is being put up technically.

CHAIR: And what the council would then do is sign off, taking your advice?

Mr VERHOEVEN: Well, in fact it is contained in another one of the questions that has been raised and with this implementation, what are interim measures that could be put in place? I think Don Geering from the Department of Planning mentioned the six salt action teams that in fact have been established around the State and one of those is specifically dealing with urban salinity matters and is based in Penrith. That team is going to have to work or in fact is working with local government and with the Department of Planning to better work out the working relationships in relation to salinity, for example, so that as questions come in you are able to fast-track that process. In fact when you look at the salinity strategy, the role of the salt action teams is not to go out there and to be another extension officer. Their role is to collapse the time and the distance between what catchment boards need, for example, or councils need or our front line staff need or other organisations need and what is being developed by researchers or modellers or what have you, so they will be working with local government in the case of development applications for salinity and exactly what data is needed and what sort of mapping and information is needed to come to an agreed position and to try and standardise the process so that it can be fast-tracked.

Mr MAGUIRE: But in the end the responsibility, from what I am hearing, would be the councils', even though they rely on your expert information, DUAP and land and water. In the end, from

what I detect here, local government is where the liability and responsibility for the decision lies.

CHAIR: Which comes back to our earlier questions about indemnification.

Mr VERHOEVEN: Well, I cannot comment on where the liability lies, that is not my area. That is really up to either local government or DUAP to advise on.

CHAIR: We would not necessarily agree with that, given that you are driving the process, you are driving the strategy. You cannot ignore liability and indemnification.

Mr ANDERSON: I find I have real problems with the proposal you are putting to us because it can apply to any State, but the experience that we have in western Sydney, Erskine Park is certainly saline affected and it shows in all the grasslands around the place, so there is going to have to be some major work done there before a development can go in. Can I just use an example of Sydney Water. To do the head works the first developer has to find \$100 million and it has been a real problem. Erskine Park has sat there and has not been developed because of this technicality. The Government will not put the money up front to do the head works. Somebody is going to have to find it and the council is trying to use some very ingenious ways of providing the funding. I see the same thing happening with salinity because not only is Erskine Park serviced by the Penrith Council but just across the creek in the same area you have Blacktown Council and they have this major SEP plan going ahead for the land in and around Wonderland, for instance, which goes right up to the Penrith boundary. When one development application comes in, say, to Penrith, how can they possibly do a detailed survey of all of the lands when some of it encroaches into another local government area and they certainly will not contribute to it. Surely your department has to pick up that responsibility.

Mr VERHOEVEN: No, as I have indicated earlier and as the director general indicated in a letter, the department's responsibility is the provision of the small scale 1 to 100,000 and 1 to 250,000 scale mapping. I mean just to cover the State or just to develop the models and the mapping at that scale is already a very expensive proposition. To try and cover the State or even those areas within local government where you have currently got development to the sorts of scales that are needed – building block scale – is astronomical and certainly well beyond the resources of the department.

Mr ANDERSON: I suggest there has to be a better way of doing it than the experiences that we have now with roads and with Sydney Water requirements in our local government areas because they go across boundaries and unless somebody takes the initiative and the responsibility lots of developments are going to be held up for a considerable time before we can get DAs processed, so it is certainly a concern for us.

Mr VERHOEVEN: I understand.

Mr MAGUIRE: Can we go on to another topic? A particular issue for my area is discharge of saline water from swimming pools. The city council has attempted for a number of years to get a decision on what they are to do with regards to management of saline water. It is illegal under the Local Government Act to discharge into the sewer salt water. It is also illegal to discharge it onto land, onto property, and their attempts to get some kind of clarification have failed. I just wanted to get your opinion on it and for you to tell us if you have a problem with discharging salt water from swimming pools into sewers, et cetera, and what do you suggest would be an outcome that would address the situation. The second part of the question is an explanation. We have looked at some technology that we would like to put to you and get your opinion on and that technology is called Carefree Water Conditioners. From the statistics and information we have it seems to be addressing the problem of saline water, so if we were to send this information to your department could you give us an assessment on that into the future?

Mr VERHOEVEN: Going back a few steps, firstly, local government councils and water supply authorities as per the Water Management Act are responsible, as you are aware, for the planning management and the operation of water supply and sewerage services in those areas outside the operation of Sydney Water and Hunter Water, so for the rest of the State. In addition, the common practice is for councils to require that the backwash water be discharged to the sewerage system and backwash water from municipal pools is also discharged into the sewerage system, so you are looking at that from private

individuals as well as from municipal pools. There is no known problem with discharging saline water from swimming pools into sewers.

Mr MAGUIRE: So what you are saying is that the Local Government Act needs to be amended?

Mr VERHOEVEN: Well, if I can continue, the Department of Land and Water Conservation does not have control over the discharges from residential premises into the sewerage system and we do not have any suggestions for any legislative amendments to clarify how swimming pool water from domestic premises should be disposed of. To us that is a local government issue as well because they are the ones who are responsible for the sewerage system, for example. The department works with local government on the design and construction of those systems, but the actual operation of those systems is the responsibility of local government.

Mr MAGUIRE: But in the discharge of water in Wagga Wagga back into the river there is a salt requirement that has to be met, so they are in a catch 22 situation because a certain level is required to be met before it can be discharged into the river. Am I correct?

Mr VERHOEVEN: You are right in that under the Local Government Act and its regulations approvals to discharge trade waste into the sewerage system require the concurrence of the director general of the department. Trade waste is defined under the local government regulation as: "Liquid trade or factory waste or chemicals or other impurities from any business, trade or manufacturing premises other than domestic sewerage, stormwater or unpolluted water", so trade waste does not include domestic sewerage. So as such then the pool discharges are not trade industrial waste and the department does not have a role in approving whether or not they can be put into the sewerage system. However, as I think you are alluding to, municipal pools, which are council business, do fall within that definition and do require trade waste approval and concurrence and so the discharges must be approved in the sewage system for health reasons.

Liquid trade waste discharges have the potential to have a negative impact on the sewerage system, certainly with salt in them, and this could be including the infrastructure of the system, the sewage treatment process as it goes through the sewage plant for example, and the effluent and biosolids quality. So it impacts on a number of processes through there. It can also impact on the environment in the receiving water on land and the public and worker health and safety if adequate controls are not put in place.

Putting limits on the quality of liquid trade waste is one of the most effective controls to minimise all these negative impacts. The department has developed a model trade waste policy for liquid trade waste discharges to the sewerage system and is currently publishing a new concurrence guideline for trade waste discharges into the sewerage system. So we have looked at the problem and we are doing something about it.

These documents recommend a guideline acceptance limit for total dissolved solids concentration of up to 4,000 milligrams per litre. That is a reasonably high level of salt. You have got to look at the total amount coming in from the swimming pools and not everyone is backwashing every day for example. Certainly a major municipal pool would not be doing so every day. So on the average I think you would be well below that sort of level. Rather than saying you can't carry out a certain action, let's look at what the levels of salt would be in the discharge that are going to cause problems and make sure that council is operating a system below that level.

Mr MAGUIRE: There would be a requirement then to amend the legislation with regard to the Local Government Act?

Mr VERHOEVEN: Yes.

Mr MARTIN: Just to follow on with that, you mentioned technology. Can you give us a feel on that?

Mr VERHOEVEN: Yes. The department is aware of the technology that you have mentioned in the question. However, we have not examined or reviewed the sampling and testing that has got to be employed to state whether that particular product can effectively and consistently treat saline swimming pool water. There is quite a testing regime involved in that and we are really not fitted up to be able to do that.

Mr MAGUIRE: Who is fitted up to do that?

Mr VERHOEVEN: I would need to find that out for you, so if I can take that on notice and advise.

Mr MAGUIRE: If we supply the information to you, you could come back to the Committee on that?

Mr VERHOEVEN: And advise who can test that for you.

Mr MARTIN: I just wonder, Madam Chair, if I could canvass the regulation of agricultural land use. There has been, once again, evidence to us that people are changing their agricultural land use from grazing to horticultural or whatever without any salinity approval process. How does DLWC get involved there? Have you got any controls in this area or do you think they are necessary?

Mr VERHOEVEN: Firstly, the Department of Planning's advice to that particular question, certainly the wording that I have got from the question, the point I should make is that that could be misinterpreted to mean that even if development consent is not required, that Department of Land and Water Conservation approval would be required. This is not always the case. At a farm level, for example, the department has some ability, not total, but some ability to control agricultural land use changes.

Mr MARTIN: Is that just through the water licensing approvals?

Mr VERHOEVEN: That is right, to prevent further groundwater discharge, for example, or further groundwater recharge. So we can influence recharge outcomes, to the extent that it is a relevant issue, in processing applications for water licences or applications for native vegetation clearing. So you have got those two levels of control, and approval must be required, for example, if the proponent seeks to clear native vegetation or when the Water Management Act 2000 is fully commenced to undertake any change in new water use. There is a requirement for an application, not only for putting the structure in place, but an actual application for water use as well. You do have to state and apply for a licence for a particular use.

At a regional level, the regional vegetation management plans that are being developed and the catchment blueprints, which in fact are already starting to come into the Minister for Land and Water Conservation in draft form, will set targets for natural resource management and that includes for native vegetation clearing, for revegetation and water management, and there are strong cross links being developed between the water sharing plans and the other water management plans, the vegetation plans and the catchment blueprints, and these are all aimed, for example, at also achieving salinity goals. Blueprints have as one of their four or five key targets a salinity target, so each of the blueprints will have salinity targets in them, both end of valley targets and within valley targets. So it is trying to deal with the problem as close to the individual farm as possible. And the salinity strategy made the point that both the water plans and the vegetation plans that are being developed also need to recognise salinity as an issue and factor new salinity targets into their recommendations as well.

CHAIR: Do you represent the department on the Cabinet Office convened working group on salinity?

Mr VERHOEVEN: I am one of the department members on that committee.

CHAIR: How many has the department got?

Mr VERHOEVEN: We have three members attending that.

CHAIR: And what is your understanding of how frequently that working group has been meeting this year?

Mr VERHOEVEN: I would agree with Don. I would say every six to eight weeks. I was trying to think of it when the question was first raised with Don, and I suppose it has been complicated a little because I am also on one of the subgroups, or a smaller group of that, actually looking at the relationship between the salinity strategy and negotiations for the National Action Plan. We have been meeting fairly regularly as well, but I would say on average every six to eight weeks for that main group.

CHAIR: One of the core concerns of the Committee obviously has been protection of local government, and I suppose we see this protection of local government so that the issue of salinity can be solved more effectively. We would relate it in a more general way. I just want to anticipate some responses that a charming person from the Department of Local Government has already provided, some written responses in anticipation of our questions. He is the next witness. We are looking forward to talking to him. I will quote from a document that he has already provided to us. It is a draft response to the Minister's letter, whichever Minister and whichever letter I don't know, but can I just run this past you:

The Department of Local Government is aware that both the Local Government and the Shires Association and the Country Mayors Association have called for the extension of the good faith indemnities and liability for injury arising from action taken by a council in relation to salinity affected land.

The previous paragraph relates to a report by the Public Bodies Review Committee of the Parliament in November last year, talking about helping local government out with indemnity from liability in relation to very specific areas, but obviously there is now support for that to be extended to salinity affected land. I am not sure whether that is because one of my colleagues is on both Committees. It would be a good initiative if that was the case. This goes on to say:

The Minister for Local Government has advised both bodies (i.e. Local Government and Shires and Country Mayors) that it is not considered appropriate to provide such an indemnity at this time.

Presumably that is the political response. It will not happen.

The indemnities that are currently provided apply to action in relation to flooding and contaminated land and relate to core functions for which councils have recognised competence and specific statutory responsibilities. These indemnities are conditional upon compliance with recognised published standards and accountability measures. In the case of salinity affected land, both competence and recognised standards have yet to be developed.

This is from a draft response to the Minister. Who is going to take responsibility therefore? Is it DLWC? Is it your role, John, to develop the competence with recognised standards, so that we can then move on to a debate about helping out the councils who have got the major problems in seeking indemnities? There seems to be a missing step here. Is that a role for your department?

Mr VERHOEVEN: Well, certainly, you may recall from the signing of the Local Government Salinity Initiative back in March that one of the elements of that the Minister for Land and Water Conservation outlined -

CHAIR: The Minister for Land and Water Conservation?

Mr VERHOEVEN: Thank you. One of the tasks in that initiative was to look at this issue of indemnity and liability and that DLWC would be working with the LGSA to see whether that could be addressed. Now, you apparently have a response to that. I am not aware of the details of that. Certainly, one of the tasks within that initiative was to try and address that.

CHAIR: What contribution has your department made to addressing that?

Mr VERHOEVEN: The development of the initiative has not progressed as fast as we would

have liked. One of the main drivers for that has been the establishment of these salt action teams, and as you are aware, the urban salt action team, the team leader for that was appointed in late August, early September of this year. That team is now operational and this is one of the areas that is being addressed.

CHAIR: You are saying that once these people are more settled into their positions we will see outcomes?

Mr VERHOEVEN: Correct.

CHAIR: It remains a priority for the department, does it?

Mr VERHOEVEN: It certainly does, and on the urban salt action team in particular there is a member from the Department of Planning, because with that team in particular, not only for western Sydney but for elsewhere in the State, they were having to deal with more specialised issues, such as this issue about liabilities of local government, so we factored that in as part of their work program.

Mr MAGUIRE: When do you think we can expect some outcomes in that regard, in twelve months, two years, three years, how long will it take?

Mr VERHOEVEN: We have protocols for each of the salt action teams. Their work plans are due to come in as a draft the first week in December. Once I have seen those draft plans, I will be able to advise this Committee at least what their draft target dates are for a range of actions.

Mr MAGUIRE: And you will come back to us with that?

Mr VERHOEVEN: Yes.

(The witnesses withdrew)

ROBERT MACLEAN IRVINE, Senior Policy Adviser, Policy and Research Branch, Department of Local Government, Rickard Road, Bankstown, affirmed and examined:

CHAIR: I am advised that you have been issued with a copy of the Committee's terms of reference and also a copy of the Legislative Standing Orders 332, 333 and 334 that relate to the examination of witnesses. Is that correct?

Mr IRVINE: Yes.

CHAIR: Did you receive a summons issued under my hand to attend before this Committee?

Mr IRVINE: I did indeed.

CHAIR: Would you like to make an introductory statement before we proceed directly to questions?

Mr IRVINE: I think given your comments about time, we better proceed to questions, Madam Chairman.

CHAIR: Don't feel constrained by that.

Mr IRVINE: I would prefer to pursue the issues that you are wishing to pursue, rather than my own.

CHAIR: You have perhaps had the opportunity to follow some of the debate. We have provided you with some questions, obviously which we would like responses to, and my colleague, Daryl Maguire, can start in a moment because he has been talking about liability. As you can see, we are pretty sympathetic to your user group, your constituency of local government. We have had many representations from local government, many submissions from councils to the Committee, we have participated in local Government forums and we are aware of many of the concerns that local government actually has. I notice a draft response from your Minister that we have received from the department that your department is represented on the interagency working group on salinity. Are you the representative on that?

Mr IRVINE: I am.

CHAIR: So you have certainly got a voice at the table.

Mr IRVINE: Indeed we have.

CHAIR: Are you being listened to?

Mr IRVINE: I believe so.

Mr MAGUIRE: The first question is with regard to liability because it is an enormous issue for councils and councillors. The Minister for Local Government in his draft response to our letter regarding liability says there are no standards, no way of quantifying the risks, councils have no competence and the movement of salinity is dynamic, complex and not understood in some parts of New South Wales. The minister says that councils have no statutory responsibility regarding salinity, but they do have statutory responsibility for development approvals on saline affected sites. Is it reasonable to expect councils to make decisions without guidance which may expose them to liability claims? One example that I can give you is the Department of Education site that was sold in Wagga Wagga some two years ago. That is a perfect example of saline affected land that the owner, the potential developer, wants to develop and the council is between a rock and a hard place. How long would you estimate that it will take to develop standards quantifying the risks, up-skill councils and understand the movement of salinity and, as an interim measure, why can't councils be given indemnity for following a short policy based on the best available information?

Mr IRVINE: Let me try and take the two parts of your question separately. I really cannot give you an answer on the question of how long it will take. From my understanding, the complex dynamics of salinity are only just really beginning to be understood. They are certainly not at the same level of understanding that we would have for most of the engineering type works that local governments undertake, subject to the sorts of accountabilities and liabilities. That may never be the case; it is the nature of environmental management. However, it is my understanding that the State salinity strategy has made a very clear commitment to up-skilling, to this competence development process with local government and to the development of specific advice for local government in relation to its functions as a plan maker and as an administrator of the planning system. I am not sure of the time frame for both of those processes, they are in the hands of other agencies and I understand you have heard from both Planning New South Wales and from the Department of Land and Water Conservation on these questions. They are the agencies with responsibility for those two programs. Could you remind me of the second part of your question?

Mr MAGUIRE: The other part was, as an interim measure, why can't councils be given indemnity.

Mr IRVINE: Let me try and answer that by stepping a little bit away from salinity. The Department of Local Government takes indemnity from liability very seriously. As you would be aware yourself, indemnity from liability is a two-edged sword. We protect a public agency by, in effect, exposing private land owners and the public generally to the whole burden of risk. That is an action that governments understandably take very cautiously and move with very cautiously. It is difficult for the minister and for the Government to establish a regime which detracts from the rights of citizens in favour of public bodies without a very, very good grounding and very good understanding of why such action should be taken. In the circumstances of the risks associated with councils for actions concerning salinity we have a very, very short history of even perception of those risks and no quantification of them. At the moment the risks seem to lie mostly in the area of planning decisions and development consents that councils may give, but the country mayors and the Local Government and Shires Association are also saying to us that they see risks arising in relation to council operational functions, the construction of drainage channels, intervention with the landscape and so on. In none of those areas do we have any even approximation of the scope and scale of the risks. We are unable to make a judgment about the costs to the citizens of New South Wales of providing such an indemnity and, in the absence of some framework for decision making, it is not practical to provide the sort of interim indemnity that you are looking for.

It seems to me that one of the strong arguments for proceeding with an indemnity is that it will provide an incentive for local government to become involved or more involved in salinity management. I think that is probably true, but the department's advice at this stage to the Government is that that is probably not the most appropriate incentive mechanism to use and that the State salinity action plan strategy which proposes to develop competence and to provide guidelines and a framework for making planning decisions as a starting point is a more appropriate step at this stage.

Mr MAGUIRE: Let me use an example of the block of land that I mentioned. If a council was reluctant to approve a development on a salt affected piece of land and it ended up in the Land and Environment Court challenged, the situation really, firstly, would say that there is a stopper on all developments within New South Wales that may be considered at risk and, secondly, that councils still may be placed in a very delicate situation if their decision was challenged.

Mr IRVINE: I have to start my response by observing that that is the circumstance that councils are placed in every time they receive an application for development consent. It is not something that they are unused to dealing with. I am conscious that councils are dealing with applications for development in areas that are known to be salt affected reasonably regularly and they seem to have developed, particularly in Wagga Wagga, strategies for addressing that. When very large amounts of risk are involved, as they are with this particular site that you are alluding to, I am not surprised to see that decisions are placed in the too hard basket. I think they are too hard. There is a capacity for a council to not make a decision in such a case when it feels it is not equipped to and for the matter to be referred to the Land and Environment Court. When the decision is taken by the Land and Environment Court the risks to councils in terms of liability exposure are lessened.

CHAIR: Are you aware of any examples that have ended up in the Land and Environment Court as a result of delay to do with salinity?

Mr IRVINE: No, not at all. It is early days.

Mr MAGUIRE: So you expect some?

Mr IRVINE: Well, we certainly saw some with contaminated land and I am sure that the same issues will be arising with salinity. As the councils get to the point of understanding the salinity impact in their urban areas, one of the problems that the department perceives in managing the roll-out of an effective response to salinity, the State action plan, is that there is a high degree of variability in terms of competence and capacity between councils.

CHAIR: Parts of western Sydney are in a salinity hazard zone. Are home owners and prospective home owners currently notified of this on planning certificates?

Mr IRVINE: I am sorry, that is not a question that I can provide you any advice about. The planning certificates are issued under the environment assessment and planning legislation.

CHAIR: We were just talking about exposure by not notifying salinity on planning certificates. I just wondered how it is in the public interest for people not to know.

Mr MAGUIRE: I think when you sell a block of land that is affected by salt it is with a section 149 certificate.

Mr IRVINE: I would be very surprised if councils that had completed a survey or had information about the extent of the salt impact on the building foundations in their area were not including that information on 149 certificates. Certainly there is a capacity for them to do so.

Mr MARTIN: Is there an obligation?

Mr IRVINE: No.

CHAIR: We understand that they are not doing it currently.

Mr IRVINE: No.

CHAIR: Is that a more appropriate question to address to the Department of Planning?

Mr IRVINE: Well, given that the instrument is an instrument under their legislation, I would have thought so, yes.

CHAIR: It has been put to the Committee that the Act should be amended to require councils to notify salinity hazards on planning certificates. We are led to believe it is not happening because of liability. Liability is your Minister's responsibility and his portfolio responsibility. Has your department got a position on it?

Mr IRVINE: No. We will certainly read your report with a great deal of interest, I assure you.

Mr MARTIN: In your answer to Mr Maguire you said as councils become more aware of the problems in their areas, that they will deal with it in various ways. In the case of Wagga they are there now, the moment has well and truly arrived, they have been dealing with this problem for a long time, and Dubbo is probably the same. Those councils are looking for some sort of help to manage this salinity problem, and funding is obviously an issue. Is your department involved in any discussions with any other agencies or Cabinet Office, or whoever makes these decisions, to recognise that there will be a need for funding help for local government to tackle this problem?

Mr IRVINE: I believe that that is one of the reasons that the department was asked to nominate a representative to the salinity senior officers group, and that is certainly an issue that is raised regularly with that committee. So there is a consciousness of the desirability of funds flowing to those outcomes, but as this Committee will appreciate, there are also a range of other priorities that need to be met through the program.

We are just at the beginning stage of settling an agreement with the Commonwealth for the National Action Plan that has some very very clear regional strategies underpinning it and I would expect that once those Commonwealth resources are able to match State resources, then the capacity to develop development programs will be better resourced.

We have seen a very significant action taken in the establishment of the salt action teams. I have at the beginning understanding of their operating arrangements and it appears to me that they have strong commitment to working with local government and assisting local government's understanding.

Mr MARTIN: So can I take it from that that the Department of Local Government is an ally to local councils in getting some funding to help this problem?

Mr IRVINE: I think we are essentially allied to the Government of New South Wales. That is our primary allegiance and it should be clearly understood.

CHAIR: We are the politicians. You are not supposed to be a politician.

Mr IRVINE: The department has a responsibility to keep itself informed about the impact of State policies on local government and to provide feedback into Government decision-making processes. We take that responsibility very seriously and we provide a truthful and frank and honest advice whenever we can.

CHAIR: Are you getting any funding out of the strategy to enable you to do these things?

Mr IRVINE: The Department of Local Government has no funding under the strategy.

CHAIR: I find that disappointing. We had the Department of Planning earlier crying poor mouth because they are such a small department. I think you are actually smaller than the Department of Planning, aren't you?

Mr IRVINE: I believe that we are.

CHAIR: And shrinking on every occasion as I understand it. You deserve the extra funding. Salt action teams, are they all the employees of the Department of Land and Water Conservation?

Mr IRVINE: I think you better address that question to the Department of Land and Water Conservation.

CHAIR: But there are no employees of the Department of Local Government?

Mr IRVINE: No.

Mr MCGRANE: Daryl mentioned Wagga Wagga. Dubbo is a little bit different, because in Wagga Wagga they have stopped the development, so there can be no approvals given because of the land contamination as it appears. Now, in the city of Dubbo approval was given some few years ago, when salt in the area was not on the agenda, a number of homes were built and all of a sudden up comes the salt. Now we have got a terrible situation in a number of homes, and there is court action pending. The problem for local government is that they have given the approval in good faith six to eight years ago and all of a sudden the place now is a salt infested area. Those councils are doing a lot of work and have spent hundreds of thousand of dollars on that area in regard to tree planting and all that type of thing, but the people who built these bought in good faith and now have got homes that it would cost two or three hundred thousand to build that are worth about half that. So that is the problem, and every council can

face that problem. When they are giving approvals, we would like to see more guidance for councils from the department. Do you think that is a fair statement?

Mr IRVINE: In the circumstances that the household is affected, I could only agree with you. It is most distressing.

Mr MCGRANE: That is not a lone instance. It is going to happen more and more unfortunately. We have put it to the department that guidance needs to be given to the councils to put in steps for them to take to try and prevent this from happening.

Mr MARTIN: In relation to the funding issue again, without being specific, has your department or your people addressed, if it does come down at the end of the day that there is a funding formula out of this, what sort of mechanism might be workable, rather than the dollars at this stage, particularly in relation to the Wagga and Dubbo versus this urban salinity problem?

Mr IRVINE: I think that the correct answer is that there is no obvious funding mechanism for the development of a role for local government in New South Wales in relation to environmental management. That is certainly a question that has occupied the minds of various inquiries over the past ten years. I think there is no obvious answer coming out of the process. The Government has adopted a position in relation to local government revenue raising through rates and charges that it will support the expansion of the rate burden on rate payers in local government areas where councils are undertaking a properly integrated environmental management program that is a new service for that community. So the Government's position in relation to council's own revenue raising is that that is appropriate in circumstances where the strategies that council have implemented are core functions, adopted as core functions of the council and managed in a business like way in the same way that council manage their other functions.

The question about external funding is rather more difficult because both Commonwealth and State Governments are struggling to find the sort of quantum funds that would be required. If we look to history, the State Government engaged with local government in relation to the construction of water supply and sewerage services around the State. It has been a program which has operated for over a hundred years and has had I think very beneficial impacts on the quality of life of residents in regional areas. That may provide a model for a more active role for local government in environmental management, but I cannot say that consideration of a strategy is on the department's agenda at this stage.

Mr MAGUIRE: Once again, those books need funding as well, like the sewerage scheme, the water scheme they are all under-funded terribly, but can I go back to the point that you were making about councils and local government where they implemented a strategy with regard to salinity and you would suggest support for rate increases to cover those costs. What about a council that in fact has acknowledged that it has got a severe salinity problem but was reluctant to take a step to increase rates and looked towards State Government and Federal Government for funding. That is something that has to be grappled with and managed and obviously not all councils will be brave enough to suggest that you have a rate increase of \$10 or \$20 to landholders. What do you suggest to massage that one through?

Mr IRVINE: Let me make three comments. Firstly, it would seem to me that if a local government council is not able to come to grips with that issue then one would have to question whether it is appropriate for them to have a role in the process. There are issues of efficiency and effectiveness of services that are fairly fundamental to these questions. I would have thought there would have been a need in that circumstance, as there often is with local government, for the State to take action. It is a fundamental principle of our system of local government that it is a subordinate system and that where it fails the risk comes back to Macquarie Street, which is one of the reasons I think that we continue to have a Department of Local Government.

Mr McGRANE: So what you are saying is that the minister would allow a council to put on a levy similar to the stormwater levy that some councils have done, and it worked very successfully. Councils can do that for salinity?

Mr IRVINE: Absolutely.

Mr MAGUIRE: But the council has to be brave enough to do it.

Mr IRVINE: Yes.

Mr MAGUIRE: And, if not, what you are saying is that the Department of Local Government or the minister may have to take action to force them to do it.

Can I go to the question of access. Councils do have now access to properties, et cetera, to check on pipes and all those kinds of things, but I am hearing loud and clear that they need greater powers to be able to access properties to complete salinity works and sewerage works, et cetera. They have not got that power. Is there any suggestion that relevant legislation will be introduced in Parliament to give councils access to private property to carry out works such as salinity and sewerage works, et cetera?

Mr IRVINE: In the interest of saving time I think the answer is yes. The Government has directed the Department of Local Government to prepare drafting instructions for amendments to the Act that will have the effect of giving councils similar powers to occupy private land, construct sewer drains through private land, without compensation--

Mr MAGUIRE: When do you expect to see that progress?

Mr IRVINE: That will depend on the government business program, but certainly we expect to have a bill drafted ready for the first session next year.

Mr MAGUIRE: We previously raised a question about saline discharge from swimming pools, et cetera, and I asked whether there was a need to amend the Local Government Act because at the moment it is illegal to discharge salt water into the sewerage system as well as discharge it on to land. Would you agree that it needs to be amended considering that the DLWC has said that they impose certain levels that can be discharged into the sewer and can we see some legislation or can we foreshadow some legislation soon?

Mr IRVINE: I heard the comments of my colleague on that question and I have to disagree with him. I believe there is no need for legislative amendment and I think that is merely a question of understanding the legislation as it stands. Discharge of saline water into the sewer is the appropriate way to discharge swimming pool backwash in most cases. There is a requirement in the Local Government Act that that is only done with the council's approval. In effect that is to ensure that material other than normal domestic sewage is not discharged into the sewer without a capacity for the council to say no, our system is not able to take that, but in most cases I would expect that that permit would be issued as a matter of course.

Swimming pools are constructed invariably with a requirement for council consent. The appropriate thing for the council to do is to determine the discharge arrangements for the saline backwash water at the time of development consent and to direct that it be discharged to the sewer, to require the applicant to obtain a permit from the council for that discharge, which is really just a simple administrative provision, and to operate within the terms of that permit. Now that permit might set some limits on the amount of discharge or make some other practical administrative arrangements for the sewer to deal with that discharge, but certainly the requirement for approval is not intended to prevent the activity. What is prevented is the discharge of saline water into the environment, particularly into the stormwater system. It is possible under the Local Government Act for a council that has a sewerage system and a treatment system and a discharge arrangement where it is confident that it can cope with all of the saline backwash water discharged into its system from an urban area to make a general exemption from that requirement for approval and to have that operate throughout their area.

Mr MAGUIRE: So accepting what you say is correct, taking the example of Bathurst council, would it be reasonable to require a council that has not been implementing the strategy that you have spoken about, as in giving permits to pool owners to discharge salt water into the sewerage, to conduct a survey of how many pools there are, work out the quantum of water that would be discharged, do the mathematics and then go back and approve those pools for discharge? Should that be an appropriate step

for councils?

Mr IRVINE: It is always appropriate for councils to address these types of questions, but in a systematic way, and I would agree, that is a proper course of action.

Mr MARTIN: Would you think that there might be a level of ignorance on this matter in local government circles? Is there some way that the department, through its circulars or something, could address the question?

Mr IRVINE: Yes.

Mr MAGUIRE: And clarify it?

Mr IRVINE: Yes.

Mr MAGUIRE: It is confusing. It needs to be written in plain English.

Mr IRVINE: I think that it is likely that there is a mismatch between the development consent administration in some councils and the administration of sewerage and sewage treatment systems and that a circular from the Department of Local Government may be an appropriate mechanism to address that issue and, subject to reviewing your final report, I think that I could give you an undertaking that the department will consider issuing such a circular.

Mr MARTIN: You say you want to wait for our final report to do that. Could you not do it administratively, given that we have heard a brother or sister agency has a differing opinion and councils may have had discussions with them that has led to this confusion. Is there something that you could act on now?

Mr IRVINE: I believe there is, but I am unable to make the commitment of resources that would initiate that action. However, I am sure that once your report is released that will not be an issue. I mean I will give you a personal undertaking - I have a policy responsibility in this area - that I will prepare advice internally and that we will consider whether a circular from the department would resolve this issue. I certainly believe it is not a major issue and that this Committee has more significant matters to grapple with.

Mr McGRANE: Just one question on swimming pools: You make a DA asking for approval and it is approved for a freshwater pool, and then a year later you decide to make it a salt water pool. Do you have to make a fresh application to council?

Mr IRVINE: Probably not.

Mr McGRANE: That is what is happening, of course. The councils probably think that they are all fresh water. I think that is something we should look at.

Mr IRVINE: It will be picked up by this permit system. In essence the permit system is a mechanism to ensure that the land owner lets the council know what is going into the sewer that is not in the normal domestic waste water flow.

Mr MAGUIRE: We talked about councils assessing within their LGA how many salt pools they have and the discharge quantum, et cetera, and all of it is going to come at a cost. How should councils recover that cost? Should they implement a charge for that survey or will the Department of Local Government come to councils' aid? What should councils expect or is that a cost that they are going to be burdened with for all of the retrospective inquiries they are going to have to make?

Mr IRVINE: Broadly speaking councils have the power to charge in the cover of fees for any service that they actually provide to a landowner. The department would expect a council to undertake the scoping study and the management system analysis from its consolidated revenue funds. The department would support a council strategy for the implementation of that management system based on

revenue generated by the permit fees. Such a program would be not expensive for most councils. Permit fees could be set at a relatively low level and they should be sufficient to cover the costs of administering that waste stream.

Mr MAGUIRE: So that the permit fees would be retrospective for pools that were approved years ago but what you are saying is that if you kept the fees low, that that would be acceptable to the community?

Mr IRVINE: Yes, in effect I suppose I am. The permits will not be retrospective. The permits will relate to discharge that occurs after today and nothing will be done.

Mr MAGUIRE: So it will be retrospective?

Mr IRVINE: Yes. The permits have no relationship to the construction of the pool. The permits will relate simply to the discharge of saline waste water into the sewage system from whatever source.

(The witness withdrew)

(The Committee adjourned at 12.30 pm.)