

Answers to Questions without Notice

PERCENTAGE OF PAC DETERMINATIONS

Mr HADDAD: The principle is that when we have discussions before decisions are made—that is, communities put their views and there is public debate—there is no provision for a subsequent merit appeal. The Environmental Planning and Assessment Act provides for procedural appeals under section 123 at any time, whether or not public hearings have been held. When we had commissions of inquiry under section 119, before the introduction of part 3A, and we had public hearings prior to the decision, there were no merit appeals. That principle continues under part 3A. Public hearings are good because they allow the public to challenge and to present their views. It is increasingly becoming an intrinsic part of major development proposals, particularly for coalmining projects. Most of them go through this process.

In response to the question about 80 per cent of developments being referred to the Planning Assessment Commission, I point out that that is a broader government policy. You are correct; Mr Sartor did refer to a target of 80 per cent. We may not have achieved that target, but we have subsequently introduced joint regional planning panels. Some of the developments that would have gone to the commission are now being dealt with by those panels. We may not have achieved the 80 per cent mark, but a considerable number of the applications are still being addressed through an independent merit process, notwithstanding that it is not the commission. We are monitoring how many of them go here and there in terms of returning some aspects of part 3A to councils and then referring them to the panels as distinct from being dealt with strictly under part 3A.

The Hon. GREG PEARCE: Can you provide the statistics?

Mr HADDAD: Yes, I am more than happy to provide them.

Answer:

The NSW Government remains fully committed to the Planning Assessment Commission determining Part 3A major projects under the terms of the Instrument of Delegation published in the Government Gazette on 5 December 2008.

This includes applications where there was a reportable political donation; those which are located within the electoral district of the Minister for Planning; or where the Minister has a pecuniary interest.

The proportion of Part 3A applications to be determined by the Planning Assessment Commission will vary, depending on whether applications meet the criteria identified in the Instrument of Delegation.

Since November 2008, almost 20% of Part 3A applications have been referred to the Planning Assessment Commission for determination, review or advice.

Additionally, since 1 July 2009 the independent Joint Regional Planning Panels have determined 17 applications which would have previously been dealt with as major projects

under Part 3A of the *Environmental Planning and Assessment Act 1979*. These included residential, commercial and retail projects between \$50 and \$100 million, and certain coastal buildings, tourist accommodation and small coastal subdivisions. A further 34 applications of these types are currently under assessment at councils for determination by the Regional Panels.

Details of all determinations and advice provided by the PAC can be viewed on the Planning Assessment Commission website. All Part 3A determinations made by the Minister and by the Department of Planning are provided in the Department's annual Major Development Monitor and Monthly Planning Updates, which can be viewed on the Department's website.

Details of all applications determined by Joint Regional Planning Panels can be viewed on the Regional Panel's Website.

PERFORMANCE AGAINST DETERMINATION BENCHMARKS

Mr HADDAD: Not to my knowledge. We are not there in terms of the benchmark of 80 per cent within three months. I think we are travelling at about 71 per cent. We are almost there with the others, but we are not quite meeting the benchmarks for a number of reasons. The timing benchmark is important, but sometimes it is more appropriate to look at other matters. We are also keeping statistics in that regard.

The Hon. GREG PEARCE: Can we have them?

Mr HADDAD: Yes.

Answer:

Measuring of assessment timeframes against benchmarks for Part 3A projects began on 1st February 2009.

As at 24th September 2010, 166 Part 3A projects have been measured against assessment benchmarks with the following performance:

- 71% assessed within 3 months (against a benchmark of 85%)
- 92% assessed within 5 months (against a benchmark of 95%)
- 100% assessed within 8 months (against a benchmark of 100%)

COST OF DEFENDING COURT ACTIONS

The Hon. ROBERT BORSAK: How much has it cost the department to defend claims brought either directly or indirectly by the Environmental Defender's Office in respect of decisions made by the Department of Planning? In the past 12 months, how many actions has the department been successful in defending and what has been the cost of defending

those actions? How does that compare to the costs incurred over the previous three years?

The Hon. TONY KELLY: That is obviously a detailed question and we will take it on notice. I am happy to provide that information in respect of my other portfolios.

Mr HADDAD: I think since about 2005 we had about 60 appeals. We run on average about eight to nine appeals being heard in the Land and Environment Court. That is costing us, the department, about half a million dollars a year in barrister's fees, notwithstanding staff fees and all the rest of it.

The Hon. ROBERT BORSAK: Can you cost the staff fees in as well?

Answer:

Past 12 months:

The Environmental Defender's Office (EDO) was involved in 7 matters against the Department of Planning and/or Minister for Planning in the last 12 months. The cost of defending those matters to date is \$226,812.90.

The status of these 7 matters to date is as follows:

1. the Minister was successful in 2 contested cases;
2. the Minister was unsuccessful in 2 cases;
3. 1 case was resolved by way of consent orders;
4. 1 case has been heard but judgment not yet delivered; and
5. 1 matter is listed for hearing.

Previous 3 years:

In the 3 years before September 2009, the EDO was involved in 12 cases against the Department of Planning and/or Minister for Planning. The total cost of defending those actions was \$657,793.13.

Staff fees:

The above figures do not include the fees of the Department's legal officers. It is difficult to accurately factor in staff costs, which include legal officer costs (there are currently 4 litigation lawyers employed by the Department), time spent by the executive, planning officers and administration staff.

Where an order for costs is made in favour of the Minister or Department in proceedings, the time spent by legal officers on a matter is claimed at a nominal hourly rate, in line with the fees adopted by the Crown Solicitor's Office. The figures provided above factor in any costs recovered by the Department under a costs order.

COST TO DEFEND HILLTOP DETERMINATION

The Hon. ROBERT BORSAK: How much has it cost the department to defend the Hilltop Residents Action Group court case, which has been run by the Environmental Defenders Office since the beginning of any and all of their court actions?

The Hon. TONY KELLY: We will get that information for you, as well as the other.

Answer:

The Department incurred legal costs of \$49,749.59 in the court case brought by the Hill Top Residents Action Group in 2009. The EDO acted for the Action Group in those proceedings.

The Department incurred legal costs of \$16,426.99 in the court case brought by the Hill Top Residents Action Group in 2010. A private law firm acted for the Action Group in these proceedings, not the EDO.

In total, the Department incurred legal costs of \$66,176.58 in these Hill Top proceedings.

This amount does not include a costing of the Department's in-house legal staff time spent defending both matters.

SHOOTING RANGES SEPP

The Hon. ROBERT BORSAK: Many shooting ranges around the State have been and will be impacted by urban encroachment. I am concerned that the ranges should be protected. When will the Government implement a State environment planning policy specifically to protect existing shooting ranges and also put in place conditions that protect future ranges from urban encroachment and the resulting disputes with new neighbours?

The Hon. TONY KELLY: We did some work as a result of a previous court case to do with zones.

Mr HADDAD: You are right, we do not have any State policy as such, but we did clarify the zoning provisions that relate to making certain activities prohibited. I will have to take this on notice.

The Hon. ROBERT BORSAK: Should we not have a State environment planning policy for this? This is happening all over the State, urban encroachment, no matter where it is.

The Hon. TONY KELLY: This general rule we brought in relation to the zones did bring some certainty, and is effective right across the State. So, we will get you some information on that.

Mr HADDAD: My recollection is that there were requirements by the police to do certain things in certain areas around the shooting ranges, the effect of which was to make those activities prohibited development, and we have to clarify that.

The Hon. ROBERT BORSAK: I am not so much worried about prohibited activities around ranges, what I am talking about is if development occurs in an area around a range that has been there for a long time, people move into a development that is in earshot, to

use a terrible pun, and someone decides they do not like the noise in the backyard and that brand-new resident lodges a complaint and the complaint is inevitably found against the existing use. Some sort of existing use rights need to be put in place for ranges in this State. That is what needs to be done and we need a State environmental planning policy.

The Hon. TONY KELLY: The Department of Planning certainly would not approve development within an area that would be close enough to cause a problem in the future. I cannot say that for the councils, but certainly the department would not. I would not have thought the councils would generally, but we will have a look at that.

Answer

There are approximately 354 shooting ranges of various types in NSW approved under the Firearms Act. These include rifle ranges, pistol ranges and clay target ranges. Shooting ranges in NSW are approved by NSW Police which administers the Firearms Registry under the Firearms Act 1996 and associated Regulations. A Range Approval can only be issued for applications which already have a planning approval under the EP&A Act.

The NSW Police Commissioner exercises the authority under Firearms Regulation in determining whether to issue a range approval and the conditions which may be imposed. The requirements and process are in the NSW Firearms Registry "Range Users Guide". Under these provisions, a Range Danger Area must be identified including the "impact areas" made up of the "target area", "error areas" and the "ricochet" areas.

Where the Range Danger Area is not on land under the control of the shooting range, the NSW Police require that the land owner of the adjoining land give consent to the use of the land as a Range Danger Area.

In order to reduce uncertainty in relation to Range Danger Areas, an amendment is proposed to Infrastructure State Environmental Planning Policy. It is proposed to introduce a provision in the Infrastructure SEPP so that Range Danger Areas are permissible in any zone adjacent to an approved rifle range where the land owner has given consent to the use of that land, and the RDA meets the requirements of the NSW Police Force Firearms Registry *Range Users Guide*. It is anticipated that the amendment to Infrastructure SEPP would be included in the current review of that environmental planning instrument.

In addition to the above, the Department will consider further mechanisms (as appropriate) to ensure the avoidance and/or management of any land use conflicts between shooting ranges and surrounding land use.

REZONING FROM SPECIAL USE TO RESIDENTIAL ZONING

Mr DAVID SHOEBRIDGE: In the local environment plans gazetted to date, how many schools have been rezoned from special use to residential zoning?

Mr HADDAD: I am aware of some instances, but I will have to take that on notice if you do not mind.

Mr DAVID SHOEBRIDGE: How many hospitals have been rezoned from special use to residential zoning?

Mr HADDAD: I will do the same.

Mr DAVID SHOEBRIDGE: How many ambulance and fire stations have been rezoned?

Mr HADDAD: I will take that on notice, but I am not sure there are. If they are rezoned, they still have their existing use rights and there may be broader reasons for that to happen, but I will take that on notice.

Answer:

The Department does not keep statistics on the number of individual infrastructure items rezoned from a special use zone in an old style LEP to a different zone in a new Standard Instrument LEP.

The Department's LEP Practice Note *PN 08-002 Zoning for infrastructure in LEPs* provides guidance to the community and councils on how infrastructure land should be zoned in Standard Instrument LEPs. The Practice Note explains that *State Environmental Planning Policy (Infrastructure) 2007* ("the Infrastructure SEPP") was introduced to facilitate the delivery of infrastructure across the State by improving regulatory certainty and efficiency.

The Infrastructure SEPP applies to both public and private infrastructure and provides a consistent planning regime that:

- provides greater flexibility in the location of infrastructure and services by identifying a broad range of Standard Instrument zones where different types of infrastructure are permitted. These prescribed zones can be rural, residential, commercial, industrial or special uses, depending on the type of infrastructure and where it is appropriately located; and
- allows for the efficient development redevelopment or disposal of Government owned land. This is achieved by permitting additional uses on State land and allowing adjacent land uses to be undertaken on State land (except conservation lands) if the uses are compatible with surrounding land uses.

This approach means that, in most cases, there is no longer a need for infrastructure to have a 'special use' zoning applied to it.

The Infrastructure SEPP applies to 25 types of infrastructure, including:

- **educational establishments** (which includes schools);
- **health services facilities** (which includes hospitals); and
- **emergency services facilities** (which includes ambulance and fire stations).

REZONING FROM COMMERCIAL TO SPECIAL USE

Mr DAVID SHOEBRIDGE: Mr Haddad, those questions asked were about schools, hospitals and fire and ambulance stations being rezoned to residential. Could you give me the figures for rezoning to commercial or any other special use?

Mr HADDAD: Yes, sure, I can give you the figures and the circumstances. They are not all and they maintain their existing use, but I will do that, yes.

Answer:

The Department does not keep statistics on the number of individual infrastructure items rezoned from a special use zone in an old style LEP to a different zone in a new Standard Instrument LEP.

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ESSENTIAL SERVICES SUBJECT TO WHOLESALE REZONING

Mr DAVID SHOEBRIDGE: It is not just public facilities, though, is it? It is private hospitals and private schools that are also providing essential services that are subject to this wholesale rezoning.

Mr HADDAD: I would have to take this on notice. It does not apply in all cases but, as I said, I will just give you the factual information of where it happened. I am aware of two particular local environmental plans where that was an issue and it was because of special circumstances, but I will take that on notice and go through the rationale of it.

Answer:

The Department does not keep statistics on the number of individual infrastructure items have been rezoned from a special use zone in an old style LEP to a different zone in a new Standard Instrument LEP.

The Department's LEP Practice Note *PN 08-002 Zoning for infrastructure in LEPs* provides guidance to the community and councils on how infrastructure land should be zoned in Standard Instrument LEPs. The Practice Note explains that *State Environmental Planning Policy (Infrastructure) 2007* ("the Infrastructure SEPP") was introduced to facilitate the delivery of infrastructure across the State by improving regulatory certainty and efficiency.

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MEETING DETAILS

CHAIR: So are the minutes available?

Mr HADDAD: The minutes are available. We make them available. We put them straight away on the relevant files. After each meeting they go on the file, and that applies to telephone calls as well. We do not make them freely available other than when we have FOI requests or when we forward the file as part of an assessment report. Then they are referred to.

CHAIR: Can you provide those to this Committee?

Mr HADDAD: Sorry, provide all the meetings? That is the departmental meetings. Yes, there is no reason why not.

CHAIR: And the Minister's meetings?

Mr HADDAD: Yes.

Answer:

The following table shows the meetings that the Department of Planning has had with developers since The Hon Tony Kelly MLC became the Minister for Planning until the end of the 2009-2010 financial year.

Date	Developer	Issue
9/12/09	Delfin Lend Lease	Bingara Gorge
11/12/09	Woolworths	Policy issues including Centres policy, Part 3A Director General's Requirements, Sub Regional Planning and Development Contributions
16/12/09	Cornish Group	Proposal for State Significant Site Listing, Proposed South West Business Park (Scenic Hills Site) Hume Highway, Varroville
16/12/09	Winten Property Group Brown Consulting	Marsden Park
12/1/10	LWP Property Group	Issues relating to the development of the Huntlee Site
13/1/10	Manildra	Development update – Roadworks upgrade Waste Water Treatment Plant & Biofilter Independent Odour Audit Passing loop Gas Pipeline Wast Water & Odour Management Plans
14/1/10	Meriton	Development update – Building Envelopes & Gross Floor Area Channel 7 site Restriction on 3 bedroom dwellings at Mobbs Lane Bonar St, Arncliffe Warriewood Bank Guarantees for Rectification Deeds in City Council
28/01/10	Hardie Holdings Michael Moss David Tierney	Sanctuary Villages SSS application
29/01/10	Keith Dedden Rio Tinto	Discussion of the status of the Coal & Allied SSS applications
10/02/10	EG Property Group Mark Syke Angelo Candalepas	Epping Rail Link sites and Allied Mills
25/2/10	Bradcorp	Discussion of the Planning status of BradCorp's land holdings in West Wilton
26/2/10	Weston Aluminium HDB Town Planning & Design	Planning status of BradCorp's land holdings in west Wilton
3/03/10	Michael Gray APP Corporation Pty Ltd	Schofields Rd
4/3/10	Marsh Group PJEP Environmental	Logos Estate Erskine Park

Date	Developer	Issue
	Planning	
5/3/10	Balmain Village	Balmain Leagues Club Redevelopment
9/3/10	Professor John Toon Sam Mir	Landholdings in South Campbelltown
10/3/10	Demian Properties Carl Scully Lindsay Fletcher	Bankstown LEP (Amdt 40) – Riverlands Golf Course
11/3/10	Meriton	Development issues in Metropolitan Sydney
26/3/10	Delfin Lend Lease	Calderwood SSS
30/03/10	APP Corporation Pty Ltd Michael Gray	Schofields Rd
1/4/10	Parkview	Proposal for an 8 hectare site at Penrith
1/4/10	Rose Group	Kendall Bay Marina
7/4/10	Sydney Fish Markets Reilly Design Group	Sydney Fish Markets redevelopment
7/4/10	Tesrol	Proposed residential development and seniors living, Picton
7/4/10	Nicholas J Papallo Alan Vidor	Greville Street, Chatswood
7/4/10	Winten Property Group Browns Consulting	Marsden Park
16/4/10	Demian Properties Carl Scully Lyndsay Fletcher	Bankstown LEP (Amdt 40) – Riverlands Golf Course
19/4/10	Steven Gross Lindsay Hunt	Masada College
19/4/10	NSW Harness Racing Club Sarah Taylor	Redevelopment of Harold Park
20/4/10	Stocklands Kaplan Funds	Moorebank
23/4/10	Jim Neal John Whitfield	Development Proposal – Avon Rd, Pymble
27/4/10	Frazers	CUB, Morton Street Rezoning and Royal Ryde Rehabilitation Centre
28/4/10	Johnson Property Group Seventh Day Adventist	SAN Hospital site, Wahroonga
29/4/10	Dixon Capital BBC Consulting Planners EMC Arben Management Chris Perkins	Gandagarra Aboriginal Land Council site at West Menai
30/4/10	Anglo Ashton Coal Operations Austar Coal Mining & Yancoal Australia BHP Billiton Bloomfield Coal and Bickham Coal Coal & Allied	Meeting between Department of Planning and Hunter Valley Mining Companies: Strengthening Monitoring and Compliance

Date	Developer	Issue
	Donaldson Coal Hunter Enviro-Mining Muswellbrook Coal Peabody Vale Integra Coal Operations Xstrata Coal NSW	
30/4/10	Campbelltown City Council AGL Energy	Camden Gas Project – Stage 3 Northern Expansion
3/5/10	Meriton Canada Bay Council	Meriton – Rhodes Peninsula, part 3A and gateway planning Proposal
4/5/10	APP Corporation Pty Ltd	Marsden Precinct Industrial & Richmond Road
5/5/10	Lowes Creek Consortium	Potential future for Lowes Creek PAP
10/5/10	Mastergroup Australand EG Property	Riverstone West
11/5/10	The Vintage Sarah Taylor	Discussion of the Planning status of the Vintage Balance Lands
13/5/10	Rosegroup Noel Hemmings QC Brooke Newell	Catherine Hill Bay & Gwandalan
13/5/10	Woolworths Stephen Garmston	Woolworths stores
18/05/10	Terranora Group Management Godfrey Mantle Steve Macrae Daryl Anderson Sean Macken	Update on the status of the Rise Concept Plan approval
18/05/10	Keith Apps Alison McCabe	Sekisui House
18/5/10	Paul Parfenow	CSR – Townson Road Ext
21/5/10	Westfields	Auburn LEP 22, Centres Policy, Competition
21/5/10	Hardie Holdings David Tierney Michael Moss	Lower Hunter Sites: Huntlee & Sanctuary Villages
26/5/10	Elton Consulting Lake Macquarie Council Michael Meagher	Lake Macquarie Council's unsuccessful application for LIF funding for \$23m Wyee sewer project and Wyee Development Fund's proposal for new housing development at Wyee
27/5/10	Oakstand Property Ben Hendricks	Coogee Bay Hotel
28/5/10	Brian Elton Mark Attiwell Malcolm Leslie	Discussion of the status of the planning for Googong
20/05/10	Gary Punch Rusty Moran Tony Polvere	Proposed Major Project for a mixed use/residential development at Hurstville
1/06/10	Woolworths Urbis	Woolworths Hardware Roll out

Date	Developer	Issue
1/6/10	Stocklands Kaplan Funds	Moorebank Intermodal Terminal
2/6/10	Trent Edwards John Shepherd Brookfield Multiplex Limited Kerry Chikarovski	Part Lot 29 & Lot 30, Casuarina Way –Cotton Beach – Tweed
2/6/10	Laurie Rose Bob Welsh James Turnbull Wayne Gersbach	Box Hill
3/6/10	Rosegroup Noel Hemmings Brooke Newell	Catherine Hill Bay
8/6/10	John Coady Stewart Nettleton Loyd Gomez	Smith Land Richmond Road Access
9/6/10	Balmain Village Dr Alex Yasumoto	Balmain Leagues Club
9/6/10	Capital Investment Group Jason Perica	Frenchs Forest Employment Area
9/06/10	APP Corporation Pty Ltd Michael Gray	RTA Richmond Rd
10/6/10	AJC Randwick Council UNSW	Redevelopment of Randwick Racecourse
11/6/10	Meriton	Meriton update – 14-18 Boondah Rd, Warriewood Warriewood Valley DA's for shops Mobbs Lane, Epping Corea St, Sylvania Consent Authorities Project Managers
15/6/10	Oakstand Property MeconneTony Leung Architects & Partners Randwick Council Chris Cheng	Coogee Bay Hotel
16/6/10	Bob Leece Ray Sproats	Union Club Bent Street Sydney
28/6/10	Nigel McAndrew Valad	Catherine Fields
30/06/10	Fr David Maguire Chris Yound Ian Shirliff Sonya Phillips	Churches in Parramatta

COMPLAINT BY MS WENDY BISHOP – TAKING AWAY CESSNOCK COUNCIL PLANNING POWERS

Mr DAVID SHOEBRIDGE: In your reasons for taking away Cessnock council's planning powers you refer to the disproportionate number of complaints and you earlier made reference in your correspondence to Cessnock council about a complaint made by Ms Wendy Bishop. Ms Bishop has now gone on the record to state that she feels "used and bloody abused" by the planning department and by you when the planning department refused to resolve her complaint after taking away the powers. Do you accept that is a fair categorisation by her?

The Hon. TONY KELLY: I cannot recall Wendy Bishop. I will have to get you the details.

Mr HADDAD: I am not aware of it, but I am happy to take it on notice and provide you with the information.

Answer:

No, and this is an unfair representation of the actions taken by the Department of Planning and myself. The complaints centred on Cessnock City Council's assessment of a development application for a dwelling house in Mount Vincent that she and her late husband planned to build. Mrs Bishop raised concerns about the time taken to assess the DA, the obstacles thrown in her way by the Council and her general treatment by Council. She even went as far as appealing in the Land and Environment Court regarding Council's decision, although the appeal was subsequently withdrawn.

Unfortunately for Mrs Bishop, there is nothing that Inor the Department could do in relation to a DA that had been finalised some time prior to her writing to the Department. Her complaints however illustrate concerns with the Council's ability to carry out one the most basic of planning functions - the erection of a house - and its ability to respond to complaints. Mrs Bishop's views typify the issues that have been raised over the Council's poor performance and which lead to me appointing the Cessnock Planning Panel.

PUBLICATION OF SUBMISSIONS – SOUTH EAST FIBRE EXPORT'S WOOD FIRED POWER STATION EDEN

Mr DAVID SHOEBRIDGE: When will the public submissions made in the course of the application regarding South East Fibre Export's wood fired power station at Eden—more than 1,000 submissions were made in relation to that—be made public?

Mr PEARSON: Yes, I am aware of the project. From 1 July we are making public submissions available on the department's website. It was very clear in the advertising of those projects that they would be made publicly available so that people making submissions were aware their submissions would be made publicly available. What I would like to check in relation to the South East Fibre Export's project is that that advertisement did not predate 1 July; in other words, that people were well aware that their submissions would be made public. If that were the case, then absolutely they will be

made public on the department's website. But in the course of the next 10 minutes or so I will double check that and give you a firm answer.

Answer:

The public exhibition of the Environmental Assessment was from Friday, 19 March 2010 until Thursday, 22 April 2010 and as such predates the Department of Planning's policy that from 1 July 2010 submissions received will be placed on the Department's website. The Department has now obtained legal advice that because the advertisements for the public exhibition did not state that submissions were to be placed on its website, placing the submissions on the website at this time could result in a breach of the *Privacy and Personal Information Act 1998 (NSW)*.

SEFE POWER STATION – RELATIONSHIP TO NATIVE FOREST HARVESTING

Mr DAVID SHOEBRIDGE: Are you aware that the application by South East Fibre Exports, for their wood-fired power plant in Eden, makes no reference to the project's relationship to native forest harvesting or any identification of the fuel source for the wood-fired power station?

The Hon. TONY KELLY: This is the same issue you asked about before. I am not sure whether Richard has that up-to-date information that he suggested he would try and get for you, as well as answering that question.

Answer:

The subject proposal is for a biomass-fired power plant that proposes to use timber waste that is a by-product of an existing woodchip mill. This is clearly stated in the Proponent's Environmental Assessment. The Department of Planning is assessing the proposal as outlined in the Environmental Assessment. Native timber supplies for the woodchip mill are the subject of Regional Forestry Agreements and are outside the scope of this assessment.

POTENTIAL FOR SOUTH EAST FIBRE EXPORT'S POWER PLANT SUBMISSIONS TO BE PLACED ON WEBSITE

Mr PEARSON: That is right. The issue we have with this one is that people who have made their submissions do not know that there is potential for their submission to be put on the website. I am happy to take legal advice as to whether it is possible in this case to make those submissions available given the significant public interest in the project, but that is something the department will need to do.

Mr DAVID SHOEBRIDGE: Can you respond on notice as to whether they can be made public?

Mr PEARSON: Yes, we can.

Mr DAVID SHOEBRIDGE: Because there is a large amount of public interest in this.

Mr PEARSON: I know there is.

Mr DAVID SHOEBRIDGE: More than 1,000 submissions.

Mr PEARSON: We can do that.

Mr HADDAD: We will try to find that out for you.

Answer:

The public exhibition of the Environmental Assessment was from Friday, 19 March 2010 until Thursday, 22 April 2010 and as such predates the Department of Planning's policy that from 1 July 2010, submissions received will be placed on the Department's website. The Department of Planning has now obtained legal advice that because the advertisement for the public exhibition did not state that submissions were to be placed on its website, placing the submissions on the website at this time could result in a breach of the *Privacy and Personal Information Act 1998 (NSW)*.

SOUTH EAST FIBRE EXPORT'S POWER PLANT – RELATIONSHIP WITH NATIVE FOREST HARVESTING

Mr DAVID SHOEBRIDGE: And in terms of the question about the failure of the application to make any reference to the project's relationship to native forest harvesting or identification of fuel sources?

Mr PEARSON: The advice I have on that is that there is clarity; the source will be native and plantation forests in relation to the environmental assessment documentation. But that is again an issue I am happy to have a closer look at.

Answer:

The subject proposal is for a biomass-fired power plant that proposes to use timber waste that is a by-product of an existing woodchip mill. This is clearly stated in the Proponent's Environmental Assessment. The Department of Planning is assessing the proposal as outlined in the Environmental Assessment. Native timber supplies for the woodchip mill are the subject of Regional Forestry Agreements and are outside the scope of this assessment.