

Standing Committee on State Development

# **Regional planning processes in New South Wales**

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## Terms of reference

That the Standing Committee on State Development inquire into and report on regional planning processes in NSW, and in particular:

- (a) opportunities to stimulate regional development under the planning framework including through legislation, policy, strategy and governance,
- (b) constraints to regional development imposed by the planning framework, and opportunities for the framework to better respond to regional planning issues,
- (c) the suitability of a stand-alone regional planning Act,
- (d) the effectiveness of environmental planning instruments including State Environmental Planning Policies and Local Environmental Plans (including zoning) to stimulate regional development, and opportunities to improve their effectiveness,
- (e) opportunities to increase delegations for regional councils in regard to the planning making processes,
- (f) opportunities for strategic planning to assist in responding to challenges faced by communities in regional areas including through Regional Plans,
- (g) opportunities for government-led incentives that promote regional development,
- (h) pathways to improve decision making processes for regional development proposals, including increasing the use of complying development, improving negotiation processes for voluntary planning agreements, and reducing costs associated with assessment, and any other related matter.

The terms of reference were referred to the committee by the Hon Troy Grant MP on 13 August 2015.

## Committee details

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### Committee members

<b>The Hon Greg Pearce MLC</b>	Liberal Party	<i>Chair</i>
<b>The Hon Mick Veitch MLC</b>	Australian Labor Party	<i>Deputy Chair</i>
<b>The Hon Rick Colless MLC</b>	The Nationals	
<b>The Hon John Graham MLC*</b>	Australian Labor Party	
<b>The Hon Paul Green MLC</b>	Christian Democratic Party	
<b>The Hon Natasha Maclaren-Jones MLC</b>	Liberal Party	

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\* The Hon Ernest Wong MLC replaced the Hon Sophie Cotsis MLC as a committee member on 7 March 2016. The Hon John Graham MLC then replaced the Hon Ernest Wong MLC on 4 November 2016.

## Chair's foreword

This inquiry was established to investigate how regional planning processes could be improved to stimulate regional development and improve the lives of regional communities. While the committee notes that the Department of Planning and Environment has made some progress in improving the planning processes for regional New South Wales; it is clear there is still much work to be done, particularly in relation to:

- involving the community in consultation and improving the quality of life in regional areas
- reducing the complexity of planning processes
- recognising regional differences and facilitating growth and infrastructure
- taking account of State and regional strategic growth and the preservation and protection of the environment and heritage
- providing flexibility to respond to changes in technology, population, land use, economic development and agriculture.

In order to enhance regional planning processes the committee made a range of recommendations to: effectively plan for the future through strategic planning; simplify or clarify planning processes for the benefit of regional New South Wales; and introduce regional specific planning instruments.

New South Wales is currently in a unique situation with zero debt, which provides our State with an excellent opportunity to plan and invest in our future. The committee is highly supportive of strategic planning as a catalyst for growing and supporting regional communities, and as such recommends that all levels of government work together to effectively plan strategically for the benefit of regional New South Wales to ensure there is a harmonisation of planning documents at the local, regional and State levels. In addition, we recommend that government agencies commit to long term funding of strategic planning and that there be a flexible approach to local level strategic planning.

Crucial to strategic planning in regional areas is the development of regional plans. However, the committee heard evidence that inquiry participants were unhappy with the process currently underway to develop these plans, and as such has made the following recommendations that the government:

- consider establishing regional taskforce groups to participate in developing regional plans
- address concerns regarding consultation at the regional plan development stage
- ensure fulsome and effective accountability practices are in place to measure the success and progress of regional plans and to publicly report on the findings.

We have also made recommendations relating to the content of regional plans so that they:

- identify competitive regional advantages
- coordinate key infrastructure and resources
- articulate interests of NSW Government agencies and commit those agencies to their respective aspects of the regional plan
- identify and align regional plans with broader State strategies
- identify aspects of regional plans to be incorporated into local levels plans
- identify job targets.

The committee heard a great deal of evidence that the complexity of the planning system impedes the development of regional New South Wales. To combat this, inquiry participants discussed a range of initiatives to improve the application and assessment of regional planning processes to ensure there is a

whole of government approach that adequately assists proponents to negotiate the complex planning framework. From analysing this evidence, we recommend that the NSW Government establish a coordinated whole of government approach to regional planning by considering implementing a one-stop shop or go-to person, consider establishing a Regional Development NSW agency, or formalising a rural flying squad process.

There are also many planning instruments at State and local levels that contribute to the complexity of the planning system. For example, while the committee noted the department's work to reduce the number of State Environmental Planning Policies (SEPPs), there needs to be a greater push to introduce more regional specific measures. For this reason we recommend that the government:

- consider a regional development SEPP to assist in stimulating regional development
- identify SEPPs to include development assessment methodologies that are more appropriate to the objectives of a rural zoning and supporting regional development
- prioritise the development and implementation of the Inland Code for exempt and complying development
- consider the suitability of implementing a Coastal Code for exempt and complying development for the benefit of non-metropolitan coastal regions.

In terms of local planning instruments the committee heard evidence that the standard instrument template for Local Environmental Plans (LEPs) is not flexible enough for regional areas and called on the government to review the feasibility of establishing three separate templates for regional, coastal and metropolitan areas in New South Wales. The committee also recommends that more open zoning provisions be incorporated in LEPs, as closed zoning may unintentionally make it difficult for development applications, which would otherwise be supported, to be approved.

In order to assist in accelerating the development approval process and encourage potential enterprises to regional areas, the committee recommends that the department encourage local councils to consider determining fit for purpose land when developing LEPs and land use strategies. Finally the committee calls on the government to consider the Dubbo Infrastructure and Services Impact Model as part of its review of Voluntary Planning Agreements as we heard evidence that the model adds accountability and rigour to the process.

On behalf of the committee, I express our gratitude to all who participated in the inquiry, including those organisations and individuals who appeared at public hearings and wrote submissions. I also thank my committee colleagues for their work and commitment to this inquiry, as well as the secretariat staff for their work in supporting the committee.



The Hon Greg Pearce MLC  
**Committee Chair**

# Recommendations

## Recommendation 1

8

That the Minister for Planning outline what action is being taken to improve the planning framework and processes for the benefit of regional New South Wales, with particular regard to the following:

- involving community in consultation and to improve quality of life in regional areas
- reducing complexity
- recognising regional differences
- taking account of State and regional strategic growth and the preservation and protection of the environment and heritage
- facilitating growth and infrastructure
- flexibility to respond to change in technology, population, land use, economic development and agriculture.

## Recommendation 2

13

That the NSW Government ensure that all levels of government work together to effectively plan strategically for the benefit of regional New South Wales and that the Department of Planning and Environment ensure that there is a harmonisation of strategic planning documents developed at the local, regional and State levels.

## Recommendation 3

13

That the NSW Government ensure that its agencies commit to the long term funding of strategic planning for the benefit of regional New South Wales.

## Recommendation 4

13

That the Department of Planning and Environment consider adopting a more flexible approach to local level strategic planning, guided by strategic plans that recognise the value of all rural industries socially, environmentally and economically.

## Recommendation 5

21

That in developing regional plans the Department of Planning and Environment consider the following:

- identify competitive regional advantages
- coordinate key infrastructure and resources
- articulate interests of NSW Government agencies and commit those agencies to their respective aspects of the regional plan
- identify and align regional plans with broader State strategies
- identify aspects of regional plans to be incorporated into local levels plans
- identify job targets.

## Recommendation 6

21

That the Department of Planning and Environment address concerns regarding consultation at the regional plan development stage.

- Recommendation 7** **21**  
That the Minister for Planning consider establishing regional taskforce groups, taking note of the regional planning committee model in Queensland, to participate in developing regional plans.
- Recommendation 8** **22**  
That the Minister for Planning consider the most appropriate method of ensuring that regional plans have fulsome and effective practices to measure their success and progress and to publicly report on the findings.
- Recommendation 9** **23**  
That the Premier of New South Wales consider amending the *Premier's priorities in action* to include a priority focused on ensuring regional areas in New South Wales are dynamic, strong centres of growth and that the Department of Planning and Environment facilitate these objectives.
- Recommendation 10** **31**  
That the NSW Government consider options to coordinate government agencies' responses to regional project planning proposals to ensure expeditious approval of such projects. Options to consider should include:
- implementation of a one-stop-shop or go-to person to coordinate agency assessment and responses to development proposals
  - establishment of a Regional Development NSW agency to promote regional development and assist proponents and stakeholders
  - formalisation of a rural flying squad process to assist in assessing large and more complex regional development proposals in a prompt manner.
- Recommendation 11** **37**  
That the Minister for Planning consider a regional development State Environmental Planning Policy to assist in stimulating regional development while continuing the broader review and reduction in the number of State Environmental Planning Policies.
- Recommendation 12** **37**  
That the Department of Planning and Environment consider modifying State Environmental Planning Policies to include development assessment methodologies that are more appropriate to the objectives of a rural zoning and supporting regional development.
- Recommendation 13** **38**  
That the Department of Planning and Environment review State Environmental Planning Policy (Infrastructure) 2007 with a view to simplify and better integrate its provisions with other planning documents.
- Recommendation 14** **42**  
That the Minister for Planning and the Department of Planning and Environment prioritise the development and implementation of the Inland Code for exempt and complying development.
- Recommendation 15** **42**  
That the Minister for Planning consider the suitability of implementing a Coastal Code for exempt and complying development for the benefit of non-metropolitan coastal regions in New South Wales.

- Recommendation 16** **52**  
 That the Minister for Planning review the feasibility of establishing separate Standard Instrument Local Environmental Plans for regional, coastal and metropolitan areas in New South Wales and publicly release the findings of this review.
- Recommendation 17** **52**  
 That the Department of Planning and Environment develop a policy to encourage regional local councils to incorporate more open zoning provisions in Local Environment Plans.
- Recommendation 18** **53**  
 That, in light of modern agricultural methods, requirements and opportunities, the Department of Planning and Environment review:
- the threshold for designated development Environmental Impact Statement triggers in the Environmental Planning and Assessment Regulation 2000 and
  - the State Environmental Assessment Requirements.
- Recommendation 19** **53**  
 That the Department of Planning and Environment issue an instruction on the gazettal of the Native Vegetation Regulatory Maps under Part 5A of the *Local Land Services Act 2013*, that E zones cannot be applied on land mapped as Category 1 Exempt Land under that Part, and on approval of works on Category 2 Regulated Land any E zone applied over that land is extinguished.
- Recommendation 20** **56**  
 That the Department of Planning and Environment encourage local councils to consider determining fit for purpose land when developing Local Environment Plans and land use strategies.
- Recommendation 21** **56**  
 That the Department of Planning and Environment conduct a review regarding the feasibility of implementing Priority Agricultural Areas, similar to the process adopted in Queensland.
- Recommendation 22** **56**  
 That the NSW Government initiate a whole of government consultative and stakeholder methodology to develop guidelines for a strategic fit for purpose land assessment process.
- Recommendation 23** **62**  
 That the Department of Planning and Environment consider the Dubbo Infrastructure and Services Impact Model as part of its review of Voluntary Planning Agreements, and work with local councils to ensure they undertake adequate strategic planning to effectively implement any contribution models.

## Conduct of inquiry

The terms of reference for the inquiry were referred to the committee by the Hon Troy Grant MP, the then Deputy Premier, on 13 August 2015.

The committee received 51 submissions and two supplementary submissions.

The committee held seven public hearings in total. Two of these hearings were at Parliament House in Sydney, one in Albury and another in Ballina. The committee also held three joint public hearings in conjunction with its inquiry into economic development in Aboriginal communities in Dubbo, Tamworth and Narooma.

Inquiry related documents are available on the committee's website, including submissions, hearing transcripts, tabled documents and answers to questions on notice.

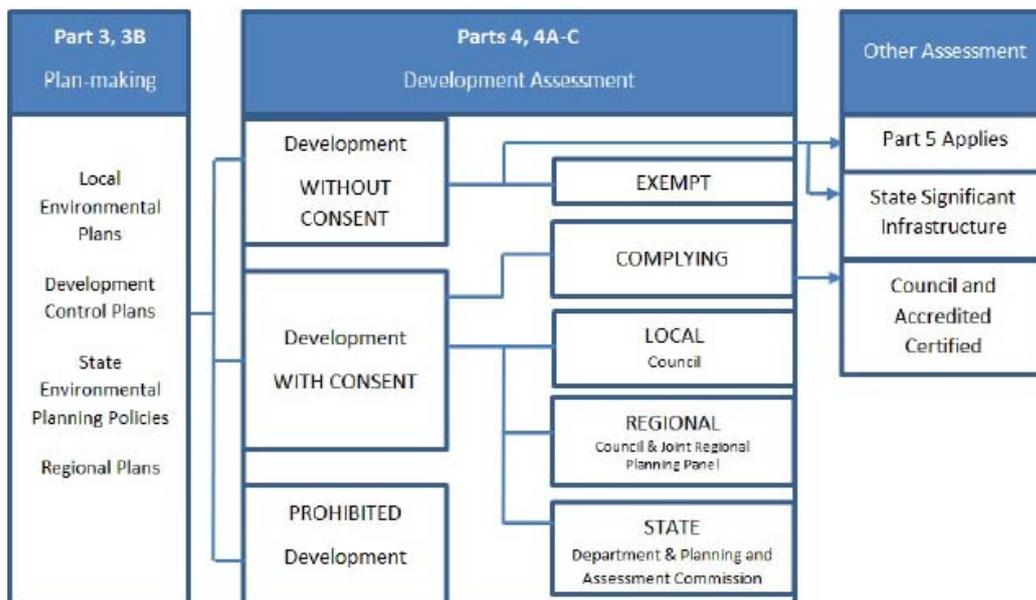
## Chapter 1 Regional planning in New South Wales

This chapter outlines the planning system in New South Wales including a discussion of the proposed legislative reforms from 2011 to 2013. The chapter will then note various barriers to effective regional planning, including the lack of a whole of government approach and complexities in the system, as well as noting a number of proposed government reforms to improve the planning system. Finally, the chapter will consider whether the barriers to effective regional planning should be addressed through the implementation of a stand alone regional planning Act. There was a general consensus from inquiry participants that holistic change to the system is required, although a stand alone regional planning Act is not the answer.

### The planning system in New South Wales

- 1.1 The planning system in New South Wales is administered by the State and local governments with both jurisdictions ‘undertaking roles in development assessment, plan making, developing policy and providing guidance to various users within the system’.<sup>1</sup>
- 1.2 The Department of Planning and Environment administers the planning system and provided the committee with a schematic of the planning process at Figure 1.

**Figure 1 Planning process in New South Wales**



- 1.3 The *Environmental Planning and Assessment Act 1979* underpins the planning system and establishes the following key elements:
- managing the preparation of policy and plans to direct, guide and control development outcomes through environmental planning instruments
  - managing the development assessment process

<sup>1</sup> Submission 35, NSW Government, p 5.

- requiring development contributions towards the provision of infrastructure and services that result from development opportunities
- requiring public authorities to assess the impacts of their activities.<sup>2</sup>

1.4 However, over time the *Environmental Planning and Assessment Act* has become too complex, as noted by the former Minister for Planning, the Hon Brad Hazzard MP in 2013:

When the *Environmental Planning and Assessment Act 1979* was introduced, it was considered best practice in Australia. However, over time it has become too complex and difficult to navigate with too much red tape. The average development application takes 71 days to assess; for simple home renovations it takes on average 58 days; and to build a new home, approval takes on average more than two months. These delays impose unnecessary burdens on families and small businesses, both in terms of cost and time. The current system is not strategic and considers issues in isolation. It has not been able to adequately respond to changing economic demands and important considerations such as the protection of the environment, and the community's expectations about safeguarding and maintaining their quality of life.<sup>3</sup>

### Previous reform process

1.5 In 2013 the NSW Government introduced the Planning Bill and the Planning Administration Bill into Parliament which would have established a new planning system in the State. The bills were ultimately not proceeded with by the government after they were substantially amended in the Legislative Council.<sup>4</sup>

1.6 The intention of the proposed legislation was to 'overhaul the State's planning laws and return local planning powers to local communities, restore powers to local councils and restore confidence and integrity to the planning system'.<sup>5</sup>

1.7 From 2011 to 2013, the NSW Government undertook extensive consultation before introducing the bills, including establishing an independent panel to review the system. This panel, led by the Hon Tim Moore and the Hon Ron Dyer, made 374 recommendations to government. The government responded to the report with a 'Green Paper', before in turn releasing a White Paper and an exposure draft. All these documents were released for consultation, with the government receiving thousands of submissions in total.<sup>6</sup>

1.8 A number of inquiry participants expressed their support for the reform process. For example Ms Melissa Watkins, Director, Environmental Services, Dubbo City Council welcomed the process:

That being said, I think the reform process that was commenced some three years ago was a welcomed reform process. It was looking at a new piece of legislation and I think that is probably the answer but as to what that new legislation should contain

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<sup>2</sup> Submission 35, NSW Government, p 5.

<sup>3</sup> *Hansard*, NSW Legislative Assembly, Hon Brad Hazzard MP, 22 October 2013, pp 35-36.

<sup>4</sup> *Minutes*, NSW Legislative Council, 27 November 2013, pp 2277-2283.

<sup>5</sup> *Hansard*, NSW Legislative Assembly, Hon Brad Hazzard MP, 22 October 2013, p 35.

<sup>6</sup> *Hansard*, NSW Legislative Assembly, Hon Brad Hazzard MP, 22 October 2013, p 35.

there is much debate. Certainly a system that simplifies the development assessment process would be a very welcome addition to any legislation.<sup>7</sup>

- 1.9** Mr Vince Connell, Director Planning and Regulation, Tweed Shire Council strongly supported the proposed 2013 reforms arguing that it was based on best practice and promoted good consultation practices:

It was an excellent process. The commitment of the Government at the time showed that it was really striving for it. It was a best-practice system after much investigation both nationally and internationally to find the best for New South Wales. There was great consultation, great communication and the information was clear. It is such a shame, and everyone was really disappointed, that it fell over. Yes, you have to throw out the existing Act. It has tried to cobble together elements that are different—issues such as native vegetation. It got confused along the way between economic and social issues. There has been an attempt to fit too much into one Act. It has to be simpler ... You would have to seek a fundamental overhaul, rather than just retrofitting piecemeal.<sup>8</sup>

- 1.10** Mr Greg Pullen, Economic Development Manager, Shoalhaven City Council noted that the council ‘supported the principles of the planning reform package in that it attempted to address this issue and put a lot of those considerations and community consultations upfront’,<sup>9</sup> while Ms Paula Newman, Strategic Planning Coordinator, Lismore City Council thought that the 2013 reform process was on the right track as it ‘had good strategic planning and regional planning’.<sup>10</sup>
- 1.11** Mr Col Murray, Chairperson, Namoi Councils Joint Organisation, and Mayor, Tamworth Regional Council and Mr Angus Witherby, Director, Planning and Environment, Moree Plains Shire Council still considered the most appropriate method to address issues in the planning system would be to ‘start from scratch’.<sup>11</sup>
- 1.12** However, Ms Jeanette Brokman, Co-Convenor, Better Planning Network Inc. argued that the 2013 planning reforms were unworkable, but agreed that the planning system needs to be rebuilt as it is currently ‘broken’.<sup>12</sup>

<sup>7</sup> Evidence, Ms Melissa Watkins, Director, Environmental Services, Dubbo City Council, 5 April 2016, p 1.

<sup>8</sup> Evidence, Mr Vince Connell, Director Planning and Regulation, Tweed Shire Council, 19 September, pp 9-10.

<sup>9</sup> Evidence, Mr Greg Pullen, Economic Development Manager, Shoalhaven City Council, 26 May 2016, p 18.

<sup>10</sup> Evidence, Ms Paula Newman, Strategic Planning Coordinator, Lismore City Council, 19 September 2016, p 9.

<sup>11</sup> Evidence, Mr Col Murray, Chairperson, Namoi Councils Joint Organisation, and Mayor, Tamworth Regional Council, 27 April 2016, p 8; Evidence, Mr Angus Witherby, Director, Planning and Environment, Moree Plains Shire Council, 27 April 2016, p 8.

<sup>12</sup> Evidence, Ms Jeanette Brokman, Co-Convenor, Better Planning Network Inc., 17 August 2016, p 11.

## Barriers to effective planning in regional New South Wales

- 1.13** Inquiry stakeholders agreed that the planning system in New South Wales cannot operate under a one-size-fits-all approach. New South Wales is a large State and there are great differences between metropolitan areas such as Sydney and regional areas.
- 1.14** Inquiry participants raised the following concerns regarding how the planning system operates in regional New South Wales. Each of these concerns will be examined in detail throughout the report:
- lack of a whole of government approach to strategic planning
  - regional plans are too generic
  - more effective consultation on regional plans required
  - planning system is restrictive rather than welcoming
  - difficulty to negotiate the planning system
  - complicated State Environmental Planning Policies
  - standard instrument Local Environment Plan template does not suit regional areas
  - environmental impact statements can create significant delays
  - uncertainty surrounding development contributions for both councils and proponents.
- 1.15** Dubbo City Council summarised these views by recommending five key criteria that would assist in reforming the system to better facilitate regional planning:
- remove complexity and simplify the system
  - provide greater certainty for all parties
  - recognise the differences between metropolitan and regional areas
  - recognise and support community engagement at relevant stages
  - support long-term strategic outcomes.<sup>13</sup>
- 1.16** The NSW Government acknowledged that there is work to be done in enhancing the planning system for the benefit of regional areas. Mr Brett Whitworth, Executive Director, Local Planning Liaison, Department of Planning and the Environment stated that regional New South Wales is different and requires flexibility in the planning system to accommodate these differences.<sup>14</sup>
- 1.17** In August 2016 the department informed the committee that it has undertaken a range of initiatives since the start of the inquiry. The department has:
- exhibited draft regional plans for the Hunter, the Central Coast, the Central West Orana, the Riverina-Murray, the South Eastern and Tablelands and the North Coast

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<sup>13</sup> Submission 30, Dubbo City Council, p 2.

<sup>14</sup> Evidence, Mr Brett Whitworth, Executive Director, Local Planning Liaison, Department of Planning and the Environment, 17 August 2016, p 32.

- repealed 16 State Environmental Planning Policies by either removing them completely from the planning framework or incorporating them into Local Environmental Plans
- exhibited a new Inland Code for exempt and complying development
- released new guidelines on wind farm assessments
- commenced the implementation of the E zones review process
- launched the New South Wales planning portal
- discussed legislative updates with local councils, including the implementation of biodiversity reviews.<sup>15</sup>

**1.18** Mr Whitworth also explained that his role is a newly established position to assist councils who are amalgamating and also to strategically work with councils on structural and strategic challenges they may have with the planning system.<sup>16</sup>

**1.19** Mr Stephen Murray, Acting Executive Director, Regions, Department of Planning and the Environment stated that in addition to these areas, the department is continuing to work with its regional teams to improve service delivery to councils and the community, including through setting benchmarks for the Gateway determination process and delegating planning responsibilities to local councils.<sup>17</sup>

### **Suitability of a stand alone regional planning Act**

**1.20** Considering the disparity between how planning processes work, or should work, in regional areas compared with metropolitan areas of New South Wales, the committee considered whether a stand-alone regional planning Act, separate to the statewide *Environmental and Assessment Act*, should be introduced.

**1.21** The majority of stakeholders were of the view that a stand alone Act was not warranted, mainly for the reasons that it would increase the complexity of the current system without adequately responding to the issue of disparity in planning priorities across the different jurisdictions, and would prevent the ability to drive a strategic and unified planning agenda for the State. Further, there was even a discussion about the difficulty of defining ‘regional’.

**1.22** Ms Melissa Watkins, Director, Environmental Services, Dubbo City Council, noted that ‘a region can be a lot of different things’ and ‘[i]n terms of regional planning I think there is a very big difference at a local level from regional to rural, and likewise from regional to metropolitan and even coastal’. Ms Watkins further stated that she did not think it would be ‘fair’ to define regional as ‘it is not going to be the same thing for everybody. It is not a case of one size fits all’.<sup>18</sup>

<sup>15</sup> Evidence, Mr Whitworth, 17 August 2016, p 32.

<sup>16</sup> Evidence, Mr Whitworth, 17 August 2016, p 32.

<sup>17</sup> Evidence, Mr Stephen Murray, Acting Executive Director, Regions, Department of Planning and the Environment, 17 August 2016, pp 32-33.

<sup>18</sup> Evidence, Ms Watkins, 5 April 2016, p 7.

- 1.23** Ms Jennifer Dennis, Senior Policy Officer, Planning, Local Government NSW also argued that it would be too difficult to split the State simply between metropolitan and regional areas; and the system should instead be improved as a whole:
- ‘you are going to still have all the issues around which Act applies to the peri-urban areas, which are the most contested areas, and how are you going to manage that and what is going to be fundamentally different? If you want to improve the planning system improve it holistically, I think our position is—do not put it into two Acts’.<sup>19</sup>
- 1.24** Riverina Eastern Organisation of Councils was not in favour of a separate Act, as the differences between metropolitan and non-metropolitan areas should be recognised and integrated in a single Act.<sup>20</sup>
- 1.25** Eurobodalla Shire Council agreed, giving the opinion that it was ‘unclear what a stand-alone regional planning Act would do differently’ and stressed the importance of consistency for planning processes across cities and regions in New South Wales.<sup>21</sup>
- 1.26** Bathurst Regional Council discussed that it was not in favour of a separate Act as a ‘one size fits all’ approach to regional planning. While more focused than a statewide system, it would not necessarily solve the planning needs of all regional communities. However, the council conceded that ‘[a] regional one size fits all approach would be better than a State approach, but would still be limited by local differences’.<sup>22</sup>
- 1.27** Several inquiry stakeholders discussed the view that the State planning system was already too complicated and separate legislation would only complicate it further. Richmond Valley Council stated in their submission, ‘[t]he planning system is overly complex, slow to evolve [and] react to change, and very often inflexible’.<sup>23</sup>
- 1.28** Regional Development Australia Mid North Coast was also of the view that a separate Act would only serve to increase complexity and could have a detrimental impact on regions, preferring instead a reform of the current planning framework rather than two separate acts. The organisation stated that an ‘additional layer of legislation would further complicate an already complex planning system’. Instead New South Wales should seek to build on and improve the structures that are currently in place, in preference to introducing additional legislation.<sup>24</sup>
- 1.29** Kempsey Shire Council was not supportive of a separate Act for similar reasons and stated their concern that it had the potential to increase, not only complexity, but duplication and red tape. The council suggested instead to redesign the current Act so that it afforded greater autonomy for regional areas and effective strategic planning by strengthening regional and

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<sup>19</sup> Evidence, Ms Jennifer Dennis, Senior Policy Officer, Planning, Local Government NSW, 11 March 2016, p 3.

<sup>20</sup> Submission 43, Riverina Eastern Organisation of Councils, p 3.

<sup>21</sup> Submission 4, Eurobodalla Shire Council, p 2.

<sup>22</sup> Submission 2, Bathurst Regional Council, p 4.

<sup>23</sup> Submission 28, Richmond Valley Council, p 1.

<sup>24</sup> Submission 15, Regional Development Australia Mid North Coast, p 2.

sub-regional strategies, whilst upholding provisions that addressed important state wide concerns.<sup>25</sup>

- 1.30** Dr Ian Tiley, Emeritus Mayor viewed that separate planning legislation was unnecessary and would also contradict the government's agenda to 'reduce the quantum of NSW legislation',<sup>26</sup> while Mr Bill McAnally, Chair, Orana Regional Organisation of Councils, and Mayor Narromine Shire Council, simply stated that he could not support an Act that he hasn't seen:

'a stand-alone regional planning Act is not supported by OROC. Because we have not really seen it we do not really know what it is. We do not know what is in it. We cannot support something that we do not know about. That makes it very hard for us. When we all have a look at it we would probably think it is all great, no worries—you know, with some help maybe it will become a good product. Hopefully it does, but we cannot support that because we do not know anything about it which is frustrating for us.'<sup>27</sup>

- 1.31** The Planning Institute of Australia, NSW Division was against the introduction of a separate Act as it argued that regional planning should be integrated with local and State planning through singular legislation that has a clearly articulated hierarchy.<sup>28</sup>
- 1.32** However, a minority of stakeholders were in favour of a regional planning Act. For example, Ardill Payne and Partners would support the introduction of a regional planning Act should it provide for a more prescriptive system that was not so constrained by the competing interests of State wide or metropolitan concerns and reflected policies that were more suited to regional issues.<sup>29</sup>
- 1.33** Similarly, Tamworth Regional Council supported the proposal, recommending a regional planning Act be introduced to provide a vehicle to recognise and reinforce the distinction between the priorities for planning requirements in regional New South Wales and metropolitan areas.<sup>30</sup>
- 1.34** Cessnock City Council also supported the proposal and informed the committee that a regional planning Act should provide for a requirement to place an emphasis on strategic planning and mandatory provisions that include, funding and governance within regional and local plans, measurable performance and both review and reporting mechanisms.<sup>31</sup>

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<sup>25</sup> Submission 10, Kempsey Shire Council, p 1.

<sup>26</sup> Submission 40, Dr Ian Tiley, p 2.

<sup>27</sup> Evidence, Mr Bill McAnally, Chair, Orana Regional Organisation of Councils, and Mayor Narromine Shire Council, 5 April 2016, p 25.

<sup>28</sup> Submission 12, Planning Institute of Australia, NSW Division, p 5.

<sup>29</sup> Submission 51, Ardill Payne and Partners, p 4.

<sup>30</sup> Submission 26, Tamworth Regional Council, p 2.

<sup>31</sup> Submission 44, Cessnock City Council, p 2.

**Committee comment**

- 1.35** The committee notes the progress the department has made regarding improving the planning processes for regional New South Wales. However, it is clear there is still much work to be done. In particular, there needs to be improvements to strategic planning through the regional plan process, greater simplification and flexibility of the planning system and a whole of government approach to assist proponents in negotiating the system to benefit regional areas. Specific recommendations will be made throughout this report addressing these issues.
- 1.36** While the introduction of a regional planning Act is not supported by the majority of inquiry participants, as it would add another unwanted layer of complexity to an already complex system, it is clear that some form of holistic change is required.
- 1.37** Despite all the talk and hard work, the committee heard that changes have not been made to provide the best regional outcomes. There needs to be a greater push from government to address these concerns and achieve change.
- 1.38** The committee acknowledges the 2011-2013 reform process of the planning system and the Moore/Dyer review which highlighted the urgent need to reform the planning framework and processes, in particular to:
- involve community in consultation and to improve quality of life in regional areas
  - reduce complexity
  - recognise regional differences
  - take account of State and regional strategic growth and the preservation and protection of the environment and heritage
  - facilitate growth and infrastructure
  - be flexible to respond to change in technology, population, land use, economic development and agriculture.

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**Recommendation 1**

That the Minister for Planning outline what action is being taken to improve the planning framework and processes for the benefit of regional New South Wales, with particular regard to the following:

- involving community in consultation and to improve quality of life in regional areas
  - reducing complexity
  - recognising regional differences
  - taking account of State and regional strategic growth and the preservation and protection of the environment and heritage
  - facilitating growth and infrastructure
  - flexibility to respond to change in technology, population, land use, economic development and agriculture.
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## Chapter 2 Regional strategic planning

This chapter examines how stronger strategic planning in New South Wales could assist to improve regional planning. In particular the chapter will consider the process of developing regional plans; a process that some inquiry participants argue should be improved. The chapter will also look at initiatives such as featuring regional New South Wales in the list of Premier's priorities.

### Strategic planning in the regional context

- 2.1** Strategic planning in regional New South Wales is legislated under Part 3B of the *Environmental Planning and Assessment Act 1979*. This provides for the making, implementation and review of regional plans.<sup>32</sup>
- 2.2** The NSW Government indicated that there are various strategic planning documents at each level of government that give the planning system a clear strategic purpose. The NSW State Infrastructure Strategy and Long Term Transport Masterplan are examples of State-wide strategic plans, while at a regional level, strategic direction is provided by plans such as the Illawarra-Shoalhaven Regional Plan. In addition, the NSW Government indicated that at the local level, councils use a combination of Community Strategic Plans, local land use strategies and environmental studies to set a clear direction for their communities.<sup>33</sup>
- 2.3** There was a great amount of support from inquiry participants for strong, clear and relevant regional strategic planning at all levels of government. As will be discussed, participants were in favour of a strategic planning approach that integrated all levels of government, involved community engagement, included accountability and performance measures and was well funded and supported by the NSW Government.
- 2.4** For example, Central NSW Councils informed the committee that there is a significant, State wide opportunity to develop consistent frameworks for regional planning and prioritisation that:
- is informed bottom up from Community Strategic Plans recognising that iterative work will need to be undertaken to optimise the advice from them
  - provide advice on opportunities for investment
  - are informed by data from all State agencies including health, education, justice, emergency services, family and community services etc. ...
  - have some type of ongoing governance arrangement to ensure implementation
  - take a place based approach, are resourced and have agencies come to the table with appropriate delegation
  - create alignment between State and local priorities.<sup>34</sup>
- 2.5** Ms Melissa Watkins, Director, Environmental Services, Dubbo City Council stated that strategic planning should be forward thinking and all encompassing:

<sup>32</sup> *Environmental Planning and Assessment Act 1979*, Pt 3B.

<sup>33</sup> Submission 35, NSW Government, p 5.

<sup>34</sup> Submission 36, Central NSW Councils, pp 12-13.

In terms of land use planning, strategic planning is actually looking at the condition we are in, looking at what we need to achieve as a result of a plan and putting in place the mechanisms for the pursuit of those objectives that you set out. Strategic planning really needs to be all encompassing. It cannot just be about land use, infrastructure or economics, it has to be a collaborative strategic planning process that incorporates each element and then translate that into on-the-ground results.<sup>35</sup>

- 2.6** Mr Steven Jennings, Manager, City Strategy Services, Dubbo City Council noted that strategic planning must have a defined purpose and an end goal in mind and questioned whether this is currently the case in New South Wales:

I think that what we have fallen victim to in New South Wales is this concept of strategic planning but not really knowing why we are doing it, what is the end point, what are all these factors coming into it and what will it mean for a whole range of people in the community.<sup>36</sup>

- 2.7** Mr Frank Zaknich, General Manager, Albury City Council stated that regional planning must be a priority for each of the involved government agencies and the strategic plans of different levels of government should speak to each other:

Often we see a disconnect where what maybe a priority for one agency does not align, or the Federal Government might fund a project that does not align, with a State or agency priority. There is a real frustration around getting all those plans and strategies to speak to one another so that there is alignment to ensure where the priorities are going to be funded and that the actual infrastructure is delivered on the ground.<sup>37</sup>

- 2.8** Ms Kerry Grace, Chief Executive Officer, Regional Development Australia Mid North Coast seconded this view and explained that currently there are so many different planning documents from all levels of government that do not 'speak to each other' and stated this lack of coordination is an impediment to good strategic planning.<sup>38</sup>

- 2.9** Bathurst Regional Council also agreed that the different levels of government need to work together in order to effectively plan strategically: 'Good strategic planning at the local level remains paramount to stimulating development regionally. ... Participation by State agencies is critical, so that State agency constraints/issues to regional development are identified early'.<sup>39</sup> Bathurst Council also considered that local strategic planning is ineffective if its implementation is hampered by a one-size-fits-all approach that does not respond to local and regional variations.<sup>40</sup>

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<sup>35</sup> Evidence, Ms Melissa Watkins, Director, Environmental Services, Dubbo City Council, 5 April 2016, p 1.

<sup>36</sup> Evidence, Mr Steven Jennings, Manager, City Strategy Services, Dubbo City Council, 5 April 2016, p 1.

<sup>37</sup> Evidence, Mr Frank Zaknich, General Manager, Albury City Council, 12 September 2016, p 19.

<sup>38</sup> Evidence, Ms Kerry Grace, Chief Executive Officer, Regional Development Australia Mid North Coast, 19 September 2016, p 15.

<sup>39</sup> Submission 2, Bathurst Regional Council, p 2.

<sup>40</sup> Submission 2, Bathurst Regional Council, p 5.

- 2.10** In contrast to New South Wales, Mr Sidgwick noted that from a Victorian perspective, he is ‘a big fan’ of the strategic plan process, because when it is done effectively, it is a collaborative way to provide a long-term planning vision. He explained that if the principles and concepts from a planning perspective are well established first, when ‘you come down to the individual planning application process, you can simplify it because you have worked out all the gnarly stuff first’. He encouraged planning at a higher strategic level which then simplifies the statutory and development approval processes.<sup>41</sup>
- 2.11** Mr Tony Donoghue, Executive member, Riverina Eastern Regional Organisation of Councils and General Manager Coolamon Shire Council argued that strategic planning should be conducted for the long term to improve the productivity of the regions ‘rather than knee-jerk reactions to ... an election cycle’.<sup>42</sup>
- 2.12** Ms Watkins took this further and noted that currently ‘there is very little direction in the strategic area and a lot of the decisions ... are not based on sound strategic planning or evidence-based planning’.<sup>43</sup> In addition she explained there should be a standardised method of using that evidence to develop outcomes to avoid planning documents being a set of generic statements:
- So you cannot simply sit in an office somewhere and write a land use strategy for the next 25 years for Dubbo unless you actually have the analysis of what the land capabilities are, what the population growth rate is, what our transportation needs are and what our infrastructure needs are. They all have to be based on something else; there cannot be a stand-alone strategy. In the past, strategic plans, in planning in particular, were just motherhood statements that included a collection of objectives that we would like to see. But there was no actual means of getting there and there was no assessment of where we were at the beginning. So it needs that assessment of where we are at, where we want to get to and then how we actually get there in the middle. That is what I see as evidence-based planning—something that supports it.<sup>44</sup>
- 2.13** Ms Rachel Walmsley, Policy and Law Reform Director, EDO NSW noted that strategic planning should have a clearly legislated purpose and process and be coordinated, evidence-based, apply ecologically sustainable development principles and maintain or improve environmental outcomes to support local communities and economies. She also noted that regional planning processes must be effectively resourced and short and long term targets should be set to measure success.<sup>45</sup>
- 2.14** A number of inquiry participants agreed regarding the funding of strategic planning. Mr Ashley Wielinga, General Manager, Warren Shire Council asserted that a difficulty of strategic planning for local councils is getting State government agencies to commit to long term funding. For example, in preparing the local 10-year community strategic plan, Roads

<sup>41</sup> Evidence, Mr John Sidgwick, Manager Planning and Building, City of Wodonga, 12 September 2016, p 22.

<sup>42</sup> Evidence, Mr Tony Donoghue, Executive member, Riverina Eastern Regional Organisation of Councils and General Manager Coolamon Shire Council, 12 September 2016, p 7.

<sup>43</sup> Evidence, Ms Watkins, 5 April 2016, p 1.

<sup>44</sup> Evidence, Ms Watkins, 5 April 2016, pp 3-4.

<sup>45</sup> Evidence, Ms Rachel Walmsley, Policy and Law Reform Director, EDO NSW, 17 August 2016, p 2.

and Maritime Services could not tell the council what their funding for the next year would be. Mr Wielinga stated: 'So we struggle to plan from one year to the next. You would not run your own business like that. If you did, you would probably find yourself in a bit of strife'.<sup>46</sup>

**2.15** Mr Wielinga provided another example regarding the ongoing funding of the Roads to Recovery program:

One of the better funding mechanisms for local government has been Roads to Recovery. Now Roads to Recovery has been in place now for nearly 16 years. If they told us 16 years ago that this will be recurrent funding, councils probably would have looked at their road network over a 25-year period and got a far better bang for their buck rather than say, 'We cannot guarantee beyond the next three-year period because that is the life of the government.' That is the type of thing we are trying to say that we are struggling against with regional and State planning. We want to do some decent long-term plans.<sup>47</sup>

**2.16** Mr Michael Keys, Director of Planning and Environment, Albury City Council also considered a government commitment to funding to be an important factor in long term strategic planning. Mr Keys highlighted that the Department of Planning assisted Albury to develop a plan to 'cater for growth for up to 50 years to help ... fund the infrastructure, but also to give some surety to the community about where things were going to go, what was going to happen, and to take away the conflict between land uses'.<sup>48</sup>

**2.17** On the matter of complexity, Mr Vince Connell, Director Planning and Regulation, Tweed Shire Council stated that there should be a simpler, more flexible approach to strategic planning:

At a strategic planning level, the current system of planning proposals is very convoluted and ambiguous and is undermining the confidence of stakeholders in the detailed strategic plans that both the State Government and councils produce. There needs to be a much simpler, more flexible and transparent system where the process is communicated more clearly...<sup>49</sup>

**2.18** NSW Farmers' Association submitted that poor regional planning is largely due to a lack of strategic planning for agriculture and aquaculture.<sup>50</sup> It argued that a more flexible approach at the local level is required, guided by strategic plans that recognise the value of agriculture socially, environmentally and economically.<sup>51</sup> NSW Farmers' Association cautioned that the scarcity of good soil and reliable water must be taken into account when conducting strategic planning. It stated this has not always been considered 'and this is evidenced by a planning system that has allowed low density housing, extractive industries and poorly planned environmental restrictions to permanently alienate some of our most productive land'.<sup>52</sup>

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<sup>46</sup> Evidence, Mr Ashley Wielinga, General Manager, Warren Shire Council, 5 April 2016, p 27.

<sup>47</sup> Evidence, Mr Wielinga, 5 April 2016, p 27.

<sup>48</sup> Evidence, Mr Michael Keys, Director of Planning and Environment, Albury City Council, 12 September 2016, p 23.

<sup>49</sup> Evidence, Mr Vince Connell, Director Planning and Regulation, Tweed Shire Council, 19 September 2016, p 1.

<sup>50</sup> Submission 32, NSW Farmers Association, p 3.

<sup>51</sup> Submission 32, NSW Farmers Association, p 4.

<sup>52</sup> Submission 32, NSW Farmers Association, p 5.

### Committee comment

- 2.19** Currently, New South Wales is in a unique situation with zero debt which provides our State with an excellent opportunity to plan and invest in our future. In addition, the committee notes that the 2016-17 Budget provides for a record infrastructure spend of \$73.3 billion in the four years to 2019-20.<sup>53</sup>
- 2.20** Like the majority of our stakeholders, we are highly supportive of regional strategic planning as a catalyst for growing and supporting regional communities and achieving goals of sustainability, environment and heritage protection and quality of life. Strategic planning must be evidence-based, aspirational and all-encompassing where possible; it must feature a strong consultation process and be well funded by the NSW Government.
- 2.21** Long term directions and trends are well known and these need to be harmonised with strategic planning documents at all levels, as we heard evidence that planning documents currently do not speak to each other and this lack of coordination is an impediment to good strategic planning. Planning at the higher levels should be informed by the local level, where a more flexible approach is required in order to respond to changes in technology, population, land use, economic development and agriculture.
- 2.22** We accordingly recommend that the NSW Government consider these important factors when preparing regional strategic planning documents. Recommendations regarding developing regional plans will be made at paragraph 2.56.

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### Recommendation 2

That the NSW Government ensure that all levels of government work together to effectively plan strategically for the benefit of regional New South Wales and that the Department of Planning and Environment ensure that there is a harmonisation of strategic planning documents developed at the local, regional and State levels.

### Recommendation 3

That the NSW Government ensure that its agencies commit to the long term funding of strategic planning for the benefit of regional New South Wales.

### Recommendation 4

That the Department of Planning and Environment consider adopting a more flexible approach to local level strategic planning, guided by strategic plans that recognise the value of all rural industries socially, environmentally and economically.

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<sup>53</sup> NSW Government, *Infrastructure Statement 2016-17*, [www.budget.nsw.gov.au/\\_\\_data/assets/word\\_doc/.../1.\\_Investment\\_Program.doc](http://www.budget.nsw.gov.au/__data/assets/word_doc/.../1._Investment_Program.doc).

## Regional plans

**2.23** Regional plans, sometimes referred to as regional growth plans, are founded on extensive community consultation and a whole of government commitment to ‘deliver positive opportunities for regional growth and provide greater confidence and certainty for investors, industry, business and the community’.<sup>54</sup> Regional plans can be either non statutory, or made according to s 74AE of the *Environmental Planning and Assessment Act 1979*.

**2.24** Mr Stephen Murray, Acting Executive Director, Regions, Department of Planning and the Environment stated that the NSW Government is currently committed to developing regional plans:

Strategic planning is embedded in the Department of Planning and that is very much evidenced at the moment by the Government developing and rolling out growth plans. The Act provides the opportunity for the Minister to declare regions across New South Wales and then give strategic planning effect through relevant parts of the Act. At the moment the plans that we are preparing are non-statutory, but there is that option available there for government to consider that and to have regard to it, so we have the cascading of plans through the system.<sup>55</sup>

### Developing regional plans

**2.25** Many inquiry participants were unhappy with the regional plan process stating the plans are not detailed enough and there was a lack of consultation in their development. For example, Bathurst Regional Council had wanted the regional plans to provide an overarching blueprint for each region, but argued that ‘unfortunately this is unlikely to be achieved and the final product is unlikely to reflect the value of stakeholder input that has been made’.<sup>56</sup> Bathurst City Council expressed concern that there appeared to be a lack of State government funding to back up their regional plan:

Of considerable concern is the very likelihood that the Regional Growth Plan will not reflect the values and aspirations of those who have participated in its development. What is missing from the process is a commitment from the state agencies to participate and a commitment for state funding of new infrastructure in particular. It appears likely that the plan will only address those issues of interest to or likely to receive funding commitment by the State.<sup>57</sup>

**2.26** Local Government Planning Directors Group considered the process to be a wasted opportunity, as it was a real chance to promote a whole of government approach to regional planning:

The Regional Growth Plans are an opportunity for the NSW Government to provide a clear 'Whole of Government' approach to stimulate and promote growth in the regions. The benefits and opportunities of the Regional Plans were strongly promoted

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<sup>54</sup> Submission 41, Orana Regional Organisation of Councils, pp 2-3.

<sup>55</sup> Evidence, Mr Stephen Murray, Acting Executive Director, Regions, Department of Planning and the Environment, 11 March 2016, pp 33.

<sup>56</sup> Submission 2, Bathurst Regional Council, p 2.

<sup>57</sup> Submission 2, Bathurst Regional Council, p 2.

in the planning reforms and recognise the importance and value of the 'whole of Government' approach. Unfortunately the final outcomes may not be as successful as originally promoted or envisioned due to the level of commitment by government agencies and departments that they were based on and now appear to be watered-down or non-existent.<sup>58</sup>

**2.27** Mr Michael Keys, Director, Planning and Environment, Albury City Council argued that the regional plans are not detailed enough which makes it difficult for regions to plan accordingly:

We do not believe there is sufficient detail. Whilst we accept that it can be a bit difficult to try and come out and put commitments firmly on the table, we think it is necessary and we think it would be certainly advantageous to each of the regions to be able to do that so that the areas know what infrastructure priorities there are, know that the Government is committed to it and we can start to plan accordingly as well as looking at providing finance ourselves for some of that infrastructure.<sup>59</sup>

**2.28** Mr Keys asserted that if the regional plans do not offer the desired whole of government approach, councils will continue to struggle and may need to look for other ways to maximise their growth.<sup>60</sup> In dissecting the process, he stated that a major problem is getting different government agencies to commit to long-term strategic planning, as they may have a strong vested interest, or are unable to commit to long-term outlooks. He argued:

... if we want to get serious and if we want to make New South Wales number one, [regional plans] need to be coordinated, they need to be committed and they need to make sure they are going to put the dirt on the table.<sup>61</sup>

**2.29** Mr Keys thought that the Department of Premier and Cabinet should be running and coordinating the regional plan process as an oversight, but it requires input and commitment from all agencies.<sup>62</sup>

**2.30** Dubbo City Council anticipated that the regional plans will have no statutory weight and will be without planning rigour to be meaningful regional strategies for the advancement of regional development.<sup>63</sup>

**2.31** Eurobodalla Shire Council stated that the 2007 South Coast Regional Strategy, while being a useful planning tool, has not stimulated regional development. At the time of writing its submission, Eurobodalla Shire Council informed that the department was preparing a new regional plan. However, at a workshop in September 2015, the council was disappointed that it appeared the new regional plan 'will not be a comprehensive, whole of government, whole of sector plan, and be limited to a strategy for planners only'. It called the apparent lack of discussion or identification of strategic local, regional and State level infrastructure items as 'a missed opportunity'.<sup>64</sup>

<sup>58</sup> Submission 19, Local Government Planning Directors Group, p 2.

<sup>59</sup> Evidence, Mr Keys, 12 September 2016, p 19.

<sup>60</sup> Evidence, Mr Michael Keys, Director of Planning and Environment, Albury City Council, 5 April 2016, p 11.

<sup>61</sup> Evidence, Mr Keys, 5 April 2016, p 12.

<sup>62</sup> Evidence, Mr Keys, 12 September 2016, p 19.

<sup>63</sup> Submission 30, Dubbo City Council, p 7.

<sup>64</sup> Submission 4, Eurobodalla Shire Council, p 1.

- 2.32** Mr Jeff Morgan, Divisional Manager, Strategic Services, Eurobodalla Shire Council reiterated this point during evidence, following receipt of the draft plan.<sup>65</sup> Mr Morgan expressed disappointment with the draft, stating it is generic and routine and ‘is an example of the failure to capitalise on what regional planning can deliver, particularly from an economic growth perspective’.<sup>66</sup> For example there was no discussion of local or regional benefits such as collaborations with the Australian Capital Territory in relation to tourism, use of the National Broadband Network, health or education. Further there was no discussion of infrastructure investment within the National Parks estate, which would have linked with Eurobodalla’s rural land use strategy in relation to ecotourism.<sup>67</sup>
- 2.33** Riverina Eastern Regional Organisation of Councils commended the department for focusing on completing region-based plans in consultation with councils and other regional stakeholders. However, it noted that as the Riverina-Murray Regional Plan will not be providing an all-encompassing plan for regional development, it has resolved to prepare another strategic plan for the region with assistance from the department.<sup>68</sup> During evidence, Ms Briggs expressed concern that the Riverina-Murray Regional Plan is not aspirational and does not address issues such as health, education or economic development.<sup>69</sup>
- 2.34** In discussing the Draft Hunter Regional Plan, Mr David Broyd, Vice President, Planning Institute of Australia, NSW Division described it as ‘quite generalised, quite muddled and it is not clear at all about who does what and when to implement the plan’ and called for more emphasis on tangible actions. In addition, he argued that there is no prioritisation or real direction for the role of each State agency in providing policy advice or providing infrastructure.<sup>70</sup>
- 2.35** Kyogle Council raised concerns that regional plans presently lack sufficient regional differentiation, including the identification of regional competitive advantages. Plans are too generic in their respective visions and could apply to any location within Australia.<sup>71</sup>
- 2.36** Regarding the draft North Coast Regional Plan, Ms Paula Newman, Strategic Planning Coordinator, Lismore City Council explained there was a lack of consultation in preparing growth management strategies:

All the councils have recently prepared growth management strategies. Our ability to have input into the development of that plan was incredibly limited. In the last phase, directors and planning staff were invited to meet with Department of Planning and Environment staff. We had two hours in a room with the draft. We were not allowed to take it away and we were not allowed to see it before we got there. That was

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<sup>65</sup> Evidence, Mr Jeff Morgan, Divisional Manager, Strategic Services, Eurobodalla Shire Council, 26 May 2016, p 11.

<sup>66</sup> Evidence, Mr Morgan, 26 May 2016, pp 11.

<sup>67</sup> Evidence, Mr Morgan, 26 May 2016, p 11.

<sup>68</sup> Submission 43, Riverina Eastern Regional Organisation of Councils (REROC), p 4.

<sup>69</sup> Evidence, Ms Julie Briggs, Executive Officer, Riverina Eastern Regional Organisation of Councils, 12 September 2016, p 7.

<sup>70</sup> Evidence, Mr David Broyd, Vice President, Planning Institute of Australia NSW Division, 11 March p 14.

<sup>71</sup> Submission 31, Kyogle Council, p 3.

incredibly frustrating. We all said, ‘What are we going to do in two hours?’ So, yes, we were consulted, but not in the same way as everyone else who had an interest.<sup>72</sup>

- 2.37** Ms Newman further stated that it is not enough to extend the consultation period on the regional plan; it is about proper consultation during the preparation phase.<sup>73</sup>
- 2.38** Mr Vince Connell, Director Planning & Regulation, Tweed Shire Council agreed that in ‘hindsight, the preparation phase has lacked the skill and methodology’ and the input of most councils was assessed according to what they currently have and by plotting on a map what is in their council area. He raised the issue that while councils try and assess the region, ‘the reality is that you try to represent your council area and act in the community’s best interests’. He confirmed that there needs to be a more sophisticated process that is truly representative and can provide opportunities and incorporates appropriate stakeholder interaction. Mr Connell concluded that ‘[t]o date, the process has been standard—a cobbling together of existing information and not much foresight about what we should be planning for in the future’.<sup>74</sup>
- 2.39** Participants also expressed concern that accountability and performance measures are not included in regional plans in order to adequately assess their progress and success.<sup>75</sup> Mr Craig Jennion, Executive Director, Hunter, Housing Industry Association Limited was concerned that draft regional plans do not contain a process to measure their success and declared that a mechanism for public reporting must be included in regional plans. He compared it to Victoria’s urban growth plan, where its department publicly releases a report annually which measures the success and progress of the plan. Mr Jennion explained that this makes it much easier to measure the success of the plan and allows industry to better plan for the future.<sup>76</sup>

### NSW Government view

- 2.40** Mr Murray, Department of Planning and the Environment stated that regional plans are evidence-based through analysing trends regarding factors such as population and the housing market. In addition, the department has sought public feedback through exhibiting draft plans. Mr Murray asserted that the department has worked closely with councils and the community to implement the plans to ‘help build the regional economy, improve housing choice in our regions, improve our environment and improve economic development’. Mr Murray argued that the plans are proactive as they are looking at opportunities in the regions for the next 20 years.<sup>77</sup>

<sup>72</sup> Evidence, Ms Paula Newman, Strategic Planning Coordinator, Lismore City Council, 19 September 2016, p 5.

<sup>73</sup> Evidence, Ms Newman, 19 September 2016, p 4.

<sup>74</sup> Evidence, Mr Vince Connell, Director Planning & Regulation, Tweed Shire Council, 19 September 2016, pp 3-4.

<sup>75</sup> Evidence, Mr Keys, 5 April 2016, p 13.

<sup>76</sup> Evidence, Mr Craig Jennion, Executive Director, Hunter, Housing Industry Association Limited, 17 August 2016, pp 26-27.

<sup>77</sup> Evidence, Mr Stephen Murray, Acting Executive Director, Regions, Department of Planning and the Environment, 17 August 2016, pp 32-33.

**2.41** In terms of accountability and performance measures, Mr Murray stated that the department is working with local councils to produce publicly available data regarding dwellings. He explained the importance of this process and how it will be integrated into regional plans where appropriate:

The targets within the plans for how many dwellings we might need over the time frame are not linear—they respond to market cycles and to demand—but the purpose of doing the housing and land monitors enables each council to understand how they are contributing and where they are contributing, and it also gives a broader idea about trends where people want to live in a region and what is happening. That work has already been underway but is coming through into the plans where required.<sup>78</sup>

**2.42** Mr Brett Whitworth, Executive Director, Local Planning Liaison, Department of Planning and Environment discussed the Illawarra Shoalhaven plan as an example of how regional plans are being implemented and how the department will report on their progress:

I think a really good example of how we are going about implementing the regional plans is in the Illawarra Shoalhaven. It was the first plan to be exhibited; it has been the first plan to be finalised. We have a monitoring and coordination committee that has been established. It is a co-chair between the joint organisation in the Illawarra Shoalhaven and the Department of Planning and Environment. It has both council representatives and State government agencies, and it has worked up a program of understanding what the actions in the plan are and a time frame of how to achieve those actions. It meets at least three times a year. What it will do at those meetings is progressively go through and say to the department, ‘Where are your action plans to implement these particular actions?’, and follow them up. The intent is that it will make that information available every year so that the community and the councils have an understanding of where we are at with the implementation of those plans.<sup>79</sup>

**2.43** Mr Whitworth defended against criticism of the regional plan process and stated that some of the projection targets are difficult to assess:

... a lot of people have looked at the regional plans and said, ‘These are limiting plans,’ and that is not the intention at all. We are creating these plans based on population projections but if, through the work that we do with councils in terms of identifying potential and opportunities for growth, we achieve more than that population projection, then that is a good outcome for the plan. On that basis we are not trying to limit what happens; we are trying to grow even beyond what is in those plans. I think people have said we do not have job targets, as a particular example. That is a particularly challenging element, because how do you project those job targets? Population projections are fairly easy to understand and manage. The preparation of dwelling projections based on that is also relatively straightforward. The flow of jobs, the way in which the market works and the flow of capital are much more difficult to anticipate, so we have identified that rather than trying to say, ‘We need to reach a certain target or a certain limit,’ we would much rather plan for growth. That is what the regional plans are doing.<sup>80</sup>

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<sup>78</sup> Evidence, Mr Murray, 11 March 2016, p 34.

<sup>79</sup> Evidence, Mr Brett Whitworth, Executive Director, Local Planning Liaison, Department of Planning and Environment, 17 August 2016, p 33.

<sup>80</sup> Evidence, Mr Whitworth, 17 August 2016, p 34.

**2.44** Also, the NSW Government stated that it would conduct further sub-regional strategic planning for key inland cities in regional NSW. Sub-regional strategic planning has the potential to strengthen the role of these regional cities within their regions through better connection with other parts of the region and other cities, supporting existing industries, promoting economic specialisation and the emergence of new industries and ensuring efficient use of existing infrastructure.<sup>81</sup>

### **Better regional planning outcomes**

**2.45** While being disappointed in the regional plan process, inquiry participants made suggestions regarding how such processes could be improved.

**2.46** The Planning Institute of Australia, NSW Division supported a coordinated approach to regional plan making that recognises the diversity in communities and does not force uniformity within a region. It argued that these plans need to coordinate key infrastructure such as transport, water, sewerage, education and health, and have appropriate and practical funding sources and resourcing so that they are delivered within clear timeframes. The Planning Institute also noted that the responsibilities for implementing these plans need to be clearly articulated including the ongoing implementation responsibilities, management, monitoring and review.<sup>82</sup>

**2.47** Mr Manfred Boldy, Director Planning and Environment Services, Kyogle Council expressed the view that there was no real political involvement in the North Coast regional plan process unlike the Queensland model. Mr Boldy advocated for the Queensland model where the Minister sets up regional planning committees. The mayors of all councils within the region along with relevant agencies are involved and there is a ‘toing and froing of ideas’. The planning agency is ultimately responsible for drafting the plan, but it is tested along the way.<sup>83</sup>

**2.48** Mr Boldy indicated that positive outcomes will more likely be achieved when more people are involved in the plan making process and also that consultation should occur right from the start:

If you have a good range of ideas coming in early on in the piece—not helter-skelter; they need to be managed—and you refine those ideas along the way and use the expertise of agencies to put those ideas into workable government frameworks then you are more likely to get good outcomes. You are more likely to get the outcomes that people will look at and say, ‘I could be a part of that.’ That is what we want regional plans to be.<sup>84</sup>

<sup>81</sup> Submission 35, NSW Government, p 21.

<sup>82</sup> Submission 12, Planning Institute of Australia, NSW Division, p 11.

<sup>83</sup> Evidence, Mr Manfred Boldy, Director Planning and Environment Services, Kyogle Council, 19 September 2016, p 7.

<sup>84</sup> Evidence, Mr Boldy, 19 September 2016, p 4.

- 2.49** Shoalhaven City Council considered that regional plans must be supported by clear legislation to achieve their objectives and must speak to other documents such as State plans and Local Environment Plans.<sup>85</sup> Mr Greg Pullen, Economic Development Manager, Shoalhaven City Council noted that regional plans need to be coupled with infrastructure delivery plans and financing strategies to achieve its goals. Mr Pullen emphasised that regional plans should include greater use of precinct planning, which will drive economic growth through creating surety for investors.<sup>86</sup>
- 2.50** NSW Housing Industry Association Ltd was concerned that often regional and rural areas fall behind in terms of strategic plans through a lack of experienced staff. It asserted that an effective working relationship between State and local government planners is critical in order to support regional and rural councils to conduct strategic planning.<sup>87</sup>
- 2.51** In its submission, Kyogle Council recommended a range of matters to the committee to ensure there is an effective integration of State and local interests in regional plans. Kyogle Council acknowledged that regional development is heavily dependent on sound and progressive planning frameworks that can identify regional competitive advantages, while also showing strong alignment with State strategic planning outcomes.<sup>88</sup>
- 2.52** The council stated that regional plans should identify and demonstrate alignment with broader State strategies for the benefit of local communities and potential investors. Regional plans should also be utilised as a principal means of articulating the interests of NSW Government agencies and committing those agencies to their respective aspects of the regional plans through achievable targets.<sup>89</sup>
- 2.53** Plans should also focus on identifying specific competitive regional advantages, recognising shared strengths as well as beneficial differences amongst local government areas within regions. Existing plans have had an emphasis on current government commitments and insufficient reference ‘to potential catalyst actions that may activate preferred growth scenarios for regions and sub-regions’.<sup>90</sup>
- 2.54** To ensure consistency, Kyogle Council also noted that State agency operational delivery plans should be reflective of approved regional plans to minimise the number of strategic plans in operation. Finally, for a collaborative approach to plan making, Kyogle Council recommended that existing forums such as joint organisations be utilised, as well as targeted appointed taskforces or other planning committees to address specific subregional or land use planning matters.<sup>91</sup>

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<sup>85</sup> Submission 29, Economic Development Office Shoalhaven City Council, p 6.

<sup>86</sup> Evidence, Mr Greg Pullen, Economic Development Manager, Shoalhaven City Council, 26 May 2016, pp 18-19.

<sup>87</sup> Submission 5, NSW Housing Industry Association Ltd, p 1.

<sup>88</sup> Submission 31, Kyogle Council, p 2.

<sup>89</sup> Submission 31, Kyogle Council, p 3.

<sup>90</sup> Submission 31, Kyogle Council, p 3.

<sup>91</sup> Submission 31, Kyogle Council, p 3.

### Committee comment

- 2.55** The committee acknowledges the disappointment of some stakeholders regarding the implementation of the current regional plan process. While it is complex and time consuming to get right, the committee believes there are a number of methods the NSW Government should consider to improve the regional plan making process.
- 2.56** We recommend that the Department of Planning and Environment in developing regional plans align them to broader State strategies, use them to develop or amend local level plans and to identify and capitalise on competitive regional advantages. We also note concerns that there needs to be a renewed focus on consultation, not just on regional plans, but also at the plan development stage and recommend that the Department of Planning and Environment address these concerns. In addition, the committee recommends that the Minister for Planning consider establishing regional taskforce groups, made up of stakeholders from State and local government, industry and the community and potentially based on the regional planning committee model in Queensland, to develop and assess the regional plan making process.

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### Recommendation 5

That in developing regional plans the Department of Planning and Environment consider the following:

- identify competitive regional advantages
- coordinate key infrastructure and resources
- articulate interests of NSW Government agencies and commit those agencies to their respective aspects of the regional plan
- identify and align regional plans with broader State strategies
- identify aspects of regional plans to be incorporated into local levels plans
- identify job targets.

### Recommendation 6

That the Department of Planning and Environment address concerns regarding consultation at the regional plan development stage.

### Recommendation 7

That the Minister for Planning consider establishing regional taskforce groups, taking note of the regional planning committee model in Queensland, to participate in developing regional plans.

- 2.57** Further, it is important to have effective accountability measures in place to assess the success of regional plans. Some inquiry participants considered that this could be done through strengthening the statutory requirements for reporting. As the committee did not receive a great deal of evidence to suggest this course of action, we recommend that the Minister for Planning consider the most appropriate method of ensuring that regional plans have fulsome

and effective practices to measure their success and progress and to publicly report on the findings.

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**Recommendation 8**

That the Minister for Planning consider the most appropriate method of ensuring that regional plans have fulsome and effective practices to measure their success and progress and to publicly report on the findings.

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**State priorities**

**2.58** In 2015 the Premier of New South Wales, the Hon Mike Baird MP, released the *Premier's priorities in action*. This represented 12 of the 27 State priorities that the Premier personally committed to achieving.<sup>92</sup> Stakeholders considered that regional New South Wales should feature more prominently in the NSW Government's priorities in order to assist the regions to grow.

**2.59** While a number of the State priorities included regional issues, such as strategic regional land use, State infrastructure strategy and NSW regional infrastructure, Ms Julie Briggs, Executive Officer, Riverina Eastern Regional Organisation of Councils stated that she wanted one of the Premier's priorities to be specifically about how regional areas should be 'dynamic, strong centres of growth'.<sup>93</sup>

**2.60** She argued that it is important for regional New South Wales to be specifically mentioned in these priorities, as it will assist to support the growth of the regions:

In a government context where all the resources in the State are now quite focused on delivering State priorities, if you are not a State priority you will not attract resourcing. We do not have a State priority that says we want regional New South Wales to be a place of growth, to be a place people want to choose to live, a place where businesses want to choose to do business. We do not have anything that says that, and without that there is no resourcing. ... We have been conditioned, courtesy of NSW 2020, to not ask for resourcing if it is not in the plan. Now I look at the Premier's Priorities and the State Priorities and I do not see us in the plan. So if I want to grow my community and I am not in the plan then the question is: Where are the resources? They are not coming to us.<sup>94</sup>

**2.61** Ms Briggs argued that 'State priorities that do not include regional New South Wales are of great concern because ... it is reflective of a greater malaise, if you like, which is that we are not on the agenda at all'.<sup>95</sup>

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<sup>92</sup> NSW Government, *Premier's priorities in action*, <https://www.nsw.gov.au/premiers-priorities>.

<sup>93</sup> Evidence, Ms Briggs, 12 September 2016, pp 5-6.

<sup>94</sup> Evidence, Ms Briggs, 12 September 2016, pp 5-6.

<sup>95</sup> Evidence, Ms Briggs, 12 September 2016, p 2.

- 2.62** To highlight this point Ms Briggs argued that not having regions high on the agenda creates a self-fulfilling prophecy of declining populations in the regions and concentrates growth in Sydney:

Our members would like to see something that says why not have [a priority] that works to increase the population in regional New South Wales? Why not have that for a strategy? Instead, the Department of Planning and Environment comes up and says to my councils, 'You are all having falling populations. Let us just accept that and that means you will have less State resourcing'. So it becomes a self-fulfilling prophecy. Sydney will grow—of course Sydney will grow because you keep shoving more and more resources into it. If all the resources are concentrated in single areas, that is where growth happens because that is where people go; they go for services, they go for infrastructure, they go for all those things.<sup>96</sup>

### Committee comment

- 2.63** The committee also agrees that it is important for regional New South Wales to feature prominently in the NSW Government's priorities for the State. Featuring regional New South Wales in the priorities would be a statement of intent from the NSW Government and may assist to arrest declining populations in regional New South Wales and increase employment opportunities in the regions. For this reason, we recommend that the Premier of New South Wales consider amending the *Premier's priorities in action* to include a priority focused on ensuring regional areas in New South Wales are dynamic, strong centres of growth.

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### Recommendation 9

That the Premier of New South Wales consider amending the *Premier's priorities in action* to include a priority focused on ensuring regional areas in New South Wales are dynamic, strong centres of growth and that the Department of Planning and Environment facilitate these objectives.

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<sup>96</sup> Evidence, Ms Briggs, 12 September 2016, pp 5-6.



## Chapter 3 Whole of government approach to application and assessment of the regional planning process

This chapter focuses on a range of initiatives raised by inquiry stakeholders to improve stakeholder access to regional planning processes through an integrated approach by government, such as by establishing a go-to person or a one-stop shop. Consideration of these initiatives will be made by contrasting the New South Wales approach with the systems in Victoria and Queensland, which many inquiry participants explained are more streamlined and easier to navigate.

### Whole of government approach to address complexity of the planning system

**3.1** Inquiry participants advocated for an integrated approach by government to regional planning and compared the planning system in New South Wales to the systems in Victoria and Queensland which have adopted initiatives to achieve positive outcomes for their regions. In addition, inquiry participants noted that New South Wales is missing out on business opportunities due to its complex and non-integrated approach to planning.

**3.2** Mr Manfred Boldy, Director Planning and Environment Services, Kyogle Council explained that the complexity in our planning system creates problems to entice businesses to invest in regional New South Wales, particularly in regions close to the Queensland border:

It is particularly pronounced here, being just across the border. Sydney is going to grow ... it is so big and quite prosperous already. ... But for us, we are competing with a system that is just across an imaginary line, which is miles simpler. If you are an investor and the land either side looks the same, you are likely to go where it is easier for you ... so the distinction between the system is helping us lose advantage in the area.<sup>97</sup>

**3.3** Mr James McTavish, NSW Cross Border Commissioner, NSW Department of Industry indicated that many consider the Queensland system to be more streamlined. He raised the significant point that there is a 'reverse onus' in Queensland for compliancy in development applications which is a primary reason for its simplicity:

... in the views of many including some of the people who have made submissions to the inquiry, [the Queensland system] is simpler, where there is a single point of entry and where effectively there is a reverse onus in terms of it must be demonstrated that the development application is not compliant, as opposed to our system, which is where the proponent or developer must demonstrate that it is compliant.<sup>98</sup>

**3.4** Inquiry participants raised a number of initiatives to increase the accessibility of the regional planning system, which will be discussed below.

<sup>97</sup> Evidence, Mr Manfred Boldy, Director Planning and Environment Services, Kyogle Council, 19 September 2016, p 9.

<sup>98</sup> Evidence, Mr James McTavish, NSW Cross Border Commissioner, NSW Department of Industry, 12 September 2016, p 10.

### One-stop shop or go-to person

- 3.5** Currently developers may need to seek various approvals from different government departments as part of the planning approval process. Inquiry participants raised concerns that the lack of a whole of government approach is an impediment to developers being able to effectively negotiate the complex planning system in New South Wales. One method to achieve a whole of government approach is through the establishment of a one-stop shop or go-to person that coordinates agencies and guides a developer through the planning approval process.
- 3.6** Mr Bill McAnally, Chair, Orana Regional Organisation of Councils, and Mayor, Narromine Shire Council commented that the system in New South Wales needs to be more streamlined ‘because it is an absolute nightmare now’ and councils need to go to three different government departments as part of the development process.<sup>99</sup>
- 3.7** Mr Michael Keys, Director of Planning and Environment, Albury City Council noted that New South Wales could adopt the one-stop shop approach that operates in Queensland to streamline the planning process and avoid conflicts between agencies:
- Instead of having different agencies you have a referral in the planning process and there is one agency that controls it and they feed out to their different interests and different agency representative but there is only one response. It is coordinated and you do not get the conflict that we might have with the Office of Environment and Heritage, the Office of Water or the Local Land Services. At the moment we get one that we can work with and get something happening on the ground and the other department just point blank refuses or raises the bar or changes it. There is no consistency of approach from the whole of Government ... we have an agency that has gone off in this direction and that one has gone that way. The system in Queensland has effectively brought them under one roof and said this is the Government’s response rather than different directions, conflict and confusion.<sup>100</sup>
- 3.8** Ms Melissa Watkins, Convener, Local Government Planning Directors Group was in favour of establishing a one-stop shop as it would improve the coordination of responses, be more timely and accountable and give local councils the ability to get developments happening much faster, either for a rezoning process, or a development application process.<sup>101</sup>
- 3.9** Mr Michael Toby, Corporate Affairs Manager, Costa Group recommended that ‘non-financial assistance’ could be provided to developers by way of a dedicated senior public servant and/or a one-stop regional development shop to assist and guide a local council and company through the planning approval process and particularly, the development approval process. Mr Toby considered this would be ‘invaluable for attracting regional investment and development’ to New South Wales.<sup>102</sup> He advised that from experience in other States, in

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<sup>99</sup> Evidence, Mr Bill McAnally, Chair, Orana Regional Organisation of Councils, and Mayor, Narromine Shire Council, 5 April 2016, p 27.

<sup>100</sup> Evidence, Mr Michael Keys, Director of Planning and Environment, Albury City Council, 5 April 2016, p 16.

<sup>101</sup> Evidence, Ms Melissa Watkins, Convener, Local Government Planning Directors Group, 5 April 2016, p 16.

<sup>102</sup> Evidence, Mr Michael Toby, Corporate Affairs Manager, Costa Group, 17 August 2016, p 18.

particular Victoria and Tasmania, a dedicated one-stop shop is ‘one of the most beneficial things the Government can do in order to generate and facilitate regional development’.<sup>103</sup>

**3.10** Mr Toby explained that Victoria has a good existing model including the group, ‘Invest Assist’ which comprises senior public servants, some of whom have been at the deputy secretary level. They have experience across the public service and have the benefit of knowing how the system works and knowing senior people in the relevant agencies and departments.<sup>104</sup>

**3.11** Mr Toby stated that the one-stop shop in Victoria is a great starting point for developments in regional areas:

When I talk about a one-stop shop, that literally becomes your starting point if I am a company contemplating an investment. I should say that what gets them excited is the number of jobs, in particular, but they also place a value on investment in regional areas that falls within the \$50 million to \$100 million range. As I said, in an urban setting that sort of investment is probably considered peanuts, but in a regional setting I would say it is quite significance. They are your starting point and from there they will work with you in navigating your way through that process, whether it is the planning process, environmental approvals, cultural heritage approval.<sup>105</sup>

**3.12** Mr Angus Witherby, Director, Planning and Environment, Moree Plains Shire Council commented that the go-to person in Queensland is ‘fantastic’, as there is one point of contact which has a problem-solving role:

... the issues are discussed amongst the State agencies, questions come back, you respond to them, you get a response out of them with the go-to person. There is a single integrated response rather than as the proponent having to go back and forth between 14 departments, all of whom are interested in procedure and compliance and regulation rather than problem solving. I get quite passionate about this because if we want investment in regional areas we need to have State agencies with a problem-solving focus, and that is where the go-to person can play a very significant role.<sup>106</sup>

**3.13** The NSW Cross Border Commissioner also saw the benefit of a go-to person and explained that developers do not care about the process, only the outcome:

There are certainly some advantages to having a single point of entry, and there are certainly some advantages to having a simplified process, because for the bulk of people who are making applications, they really do not care what happens within government, they just want the outcome.<sup>107</sup>

<sup>103</sup> Evidence, Mr Toby, 17 August 2016, p 22.

<sup>104</sup> Evidence, Mr Toby, 17 August 2016, p 19.

<sup>105</sup> Evidence, Mr Toby, 17 August 2016, p 19.

<sup>106</sup> Evidence, Mr Angus Witherby, Director, Planning and Environment, Moree Plains Shire Council, 27 April 2016, p 5.

<sup>107</sup> Evidence, Mr McTavish, 12 September 2016, p 10.

- 3.14** Ms Eryn Bath, Principal Consultant, SLR Consulting and Mr Daniel Bryant, Chief Executive Officer, ProTen Ltd also supported a go-to person.<sup>108</sup> Ms Bath further indicated that when it comes to poultry or a beef abattoir there is a lack of knowledge, and companies need a go-to person that has an understanding of the industry. She explained that at the moment the consent authority is hamstrung because it is completely reliant on other agencies which often request superfluous studies, as they have not been to the site or conducted a site inspection.<sup>109</sup>
- 3.15** Ms Lia Mahony, President, Tamworth Business Chamber stated that as the planning process has such resource-dominant requirements, the ability to have one point of contact is vitally important and would assist to standardise the process.<sup>110</sup>
- 3.16** Mr Brett Whitworth, Executive Director, Local Planning Liaison, Department of Planning and Environment indicated that the government would likely use the e-planning portal to coordinate development rather than implement the one-stop shop approach:

One other thing I should mention, if there is a concern about shepherding applications through the State Government process, we have been looking at a concept that is called a one-stop-shop. It probably will not manifest in that way, but using the e-planning portal so that if a State agency has a concurrence role or some sort of referral process for a development application, we will use the planning portal as a way of managing that and ensuring that we keep an eye on the time frames of the State agencies, and if there is an escalation we will look at how we can resolve that escalation for individual applications using the role that the secretary of planning and environment will have, or we can start getting a better understanding as to whether there are systemic issues.<sup>111</sup>

- 3.17** In addition, Mr Stephen Murray, Acting Executive Director, Regions, Department of Planning and the Environment advised that in terms of ‘shepherding’ developers through the planning process, Premier and Cabinet’s regional leadership group ‘was looking at a model of trying to set up someone through that group as a go-to person who could actually help direct traffic’. Further, he informed that the regional leadership group involves key agencies or clusters that talk regularly about issues and there is also a regional managers’ network that brings together key leaders from government agencies.<sup>112</sup>

### **Planning focus groups**

- 3.18** Inquiry participants also considered the re-introduction of planning focus groups as a method of pulling all relevant government departments together that are involved in a particular development. Mr Witherby, Moree Plains Shire Council argued that the focus planning group system had previously not worked, although it had potential if the system had more clarity:

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<sup>108</sup> Evidence, Ms Eryn Bath, Principal Consultant, SLR Consulting, 27 April 2016, p 12; Evidence, Mr Daniel Bryant, Chief Executive Officer, ProTen Ltd, 27 April 2016, p 12.

<sup>109</sup> Evidence, Ms Bath, 27 April 2016, p 13.

<sup>110</sup> Evidence, Ms Lia Mahony, President, Tamworth Business Chamber, 27 April 2016, p 17.

<sup>111</sup> Evidence, Mr Brett Whitworth, Executive Director, Local Planning Liaison, Department of Planning and Environment, 17 August 2016, p 35.

<sup>112</sup> Evidence, Mr Stephen Murray, Acting Executive Director, Regions, Department of Planning and the Environment, 17 August 2016, p 34.

I have been through the focus planning group system on a number of occasions, again on both sides of the fence, and although there was a chair the system did not work well to reconcile differences between state agencies. That tended to be all out there on the table and part of the bunfight. It often fell to the local councillor who was involved to try and reconcile some of those incompatibilities. Could that system work? Yes, it could but provided we clarify the interface between that group of people and the proponent.<sup>113</sup>

### Victorian Rural Council Planning Flying Squad

- 3.19** Costa Group submitted that the practice utilised by the Victorian Government known as the Rural Council Planning Flying Squad could be implemented in New South Wales as a method of attracting and facilitating investment that promotes regional development. The flying squad is part of the Victorian Department of Environment, Land, Water and Planning which moves around the State to work with and assist regional councils to process development applications.<sup>114</sup>
- 3.20** The Rural Council Planning Flying Squad program provides specialist expert and technical assistance to rural and regional councils on issues such as major projects and developments, long-term land use issues, strategic plans as well as immediate planning support with planning permit and amendment work. Its website noted that the ‘2016/17 Victorian State Budget provides funding of \$2.1 million for strategic planning in regional councils to make sure councils have access to the right tools and skills to complete detailed planning work’.<sup>115</sup>
- 3.21** Mr Murray, Department of Planning and the Environment in New South Wales noted that it used the flying squad concept for a while, ‘particularly when we were going through the phase of all the councils writing their new standard local environmental plans’. Resources in Sydney would assist the regional teams and, when required, would go out to regional New South Wales and talk to the councils.<sup>116</sup>
- 3.22** Further, Mr Whitworth, Department of Planning and Environment stated that currently the more appropriate mechanism for considering big development applications is through the joint regional planning panels, rather than flying squads:

One is that in order to ensure consistency and transparency of assessment, the very large development applications are determined by the joint regional planning panels, which seems to be a model that initially was resisted by councils but now seems to be quite well embraced because they can see that there both is an improvement in the time frame and there is an increase in the rigour of the assessment process.<sup>117</sup>

<sup>113</sup> Evidence, Mr Angus Witherby, Director, Planning and Environment, Moree Plains Shire Council, 27 April 2016, pp 6-7.

<sup>114</sup> Submission 27, Costa Group, p 4.

<sup>115</sup> Victorian Department of Environment, Land, Water and Planning, *Rural Council Planning Flying Squad Government*, <http://www.dtpli.vic.gov.au/planning/about-planning/rural-council-planning-flying-squad>.

<sup>116</sup> Evidence, Mr Murray, 17 August 2016, p 34.

<sup>117</sup> Evidence, Mr Whitworth, 17 August 2016, p 35.

### **Regional development agency**

- 3.23** Ms Watkins expressed the view that a government department should be established that focuses on regional development and coordinates other agencies and departments. She stated that it ‘really needs somebody that has a regional focus to coordinate regional infrastructure’.<sup>118</sup>
- 3.24** Mr Keys also saw the benefit of having a central coordinating agency as a method of ‘getting answers and having resolution of the issues [so] proponents, developers and the community know upfront where they stand’.<sup>119</sup> He advocated for New South Wales to establish an agency similar to Regional Development Victoria, which he stated is strongly supported by the Victorian Cabinet.<sup>120</sup>
- 3.25** Albury City Council noted that it is in a unique location on the New South Wales-Victorian border and due to its proximity and relationships with Victoria it has witnessed first-hand the different approaches to regional development in these jurisdictions. In particular, it noted the success of a strong and committed whole of government approach to regional development in Victoria, particularly through the Regional Development Victoria division, ‘which is focused on supporting the Government’s vision of creating a stronger regional Victoria through job creation, better infrastructure and new investment’.<sup>121</sup>
- 3.26** Albury City Council argued that Regional Development Victoria is successful because it ‘is adequately resourced, financed and supported by Government strategy, rather than a piecemeal or ad-hoc approach in response to specific issues or pressures’.<sup>122</sup>
- 3.27** In terms of a similar agency in New South Wales, Mr Gary Barnes, Deputy Secretary Skills and Industry, Department of Industry, Skills and Regional Development informed the committee that his division plays a significant role in supporting regional development in New South Wales. The division is focused on ensuring that businesses can thrive in New South Wales and collaborates with industry to ensure that the economy continues to grow and that the workforce is suitably skilled to support future economic growth. Mr Barnes noted that the division includes the Office of Regional Development, which provides greater focus on critical regional development policies, programs and functions.<sup>123</sup>

### **Committee comment**

- 3.28** The committee has heard a range of initiatives to improve the application and assessment of regional planning process to ensure there is a whole of government approach that adequately assists proponents to negotiate the planning framework. It is of vital importance that New South Wales adopts a whole of government approach to regional planning to facilitate investment in our State and to create opportunities in our regional communities. The fact that

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<sup>118</sup> Evidence, Ms Watkins, 5 April 2016, pp 12-13.

<sup>119</sup> Evidence, Mr Michael Keys, Director, Planning and Environment, Albury City Council, 12 September 2016, p 23.

<sup>120</sup> Evidence, Mr Keys, 5 April 2016, p 14.

<sup>121</sup> Submission 16, Albury City Council, pp 2-3.

<sup>122</sup> Submission 16, Albury City Council, pp 2-3.

<sup>123</sup> Evidence, Mr Gary Barnes, Deputy Secretary Skills and Industry, Department of Industry, Skills and Regional Development, 11 March 2016, p 32.

our neighbouring States – Victoria and Queensland – have simpler planning systems means that New South Wales may be left behind.

- 3.29** While we note the NSW Government is working to deliver more effective means to navigate the planning system through the development of the e-planning portal and operation of the Office of Regional Development, we are of the view that more needs to be done. Therefore, we recommend that the NSW Government establish a coordinated whole of government approach to regional planning by considering implementing a one-stop shop or go-to person, consider establishing a Regional Development NSW agency, or formalising a rural flying squad process; which we note would require a greater commitment in resources.

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### **Recommendation 10**

That the NSW Government consider options to coordinate government agencies' responses to regional project planning proposals to ensure expeditious approval of such projects. Options to consider should include:

- implementation of a one-stop-shop or go-to person to coordinate agency assessment and responses to development proposals
  - establishment of a Regional Development NSW agency to promote regional development and assist proponents and stakeholders
  - formalisation of a rural flying squad process to assist in assessing large and more complex regional development proposals in a prompt manner.
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## Chapter 4 Planning instruments and zoning

This chapter considers how environmental planning instruments such as State Environmental Planning Policies and Local Environment Plans can be better utilised to support regional development. Participants discuss the complexity of State Environmental Planning Policies, and the suitability of the exempt and complying development code for regional areas, while also calling for greater flexibility to the standard instrument Local Environment Plan template. In addition, the chapter will discuss zoning, including open zones and E zones, ministerial directions and consider whether fit for purpose land should be identified by councils.

### State Environmental Planning Policies

- 4.1** State Environmental Planning Policies (SEPPs) deal with matters of State or regional environmental planning significance. They are made by the Governor on the recommendation of the Minister for Planning and may be exhibited in draft form for public comment before being published on the NSW legislation website.<sup>124</sup>
- 4.2** There are a large number of SEPPs covering a range of issues and outcomes, including development standards, intensive agriculture, affordable housing and the exempt and complying development code. The NSW Government indicated that the Department of Planning and Environment is currently reviewing all SEPPs with a view to reduce the total number.<sup>125</sup>
- 4.3** Inquiry participants agreed that the number of SEPPs needs to be reduced, as the current system is too complex, with many inconsistencies.
- 4.4** The Local Government Planning Directors Group and Albury City Council stated that the high number of SEPPs creates inefficiencies in the plan-making and development assessment processes and there needs to be an emphasis on simplification.<sup>126</sup> Lake Macquarie City Council agreed with these views, stating that SEPPs must not override each other, or interfere and overly complicate the operation of Local Environment Plans (discussed from paragraph 4.50). It argued that limiting the number of SEPPs will assist in reducing costs for developers and the community. This is because the complexity of the current system increases transaction costs, increases the potential for errors and means legal advice is often required.<sup>127</sup>
- 4.5** Central NSW Councils and Bathurst Local Council expressed concern that the ‘plethora’ of SEPPs is difficult to navigate and often override local plans which have been developed based on local knowledge and community consultation. For example, they noted that the Seniors

<sup>124</sup> *State Environmental Planning Policies*, Department of Planning and the Environment website, <https://www.planningportal.nsw.gov.au/understanding-planning/legislation/state-environmental-planning-policies>.

<sup>125</sup> Submission 35, NSW Government, p 12.

<sup>126</sup> Submission 16, Albury City Council, p 6; Submission 19, Local Government Planning Directors Group, p 4.

<sup>127</sup> Submission 17, Lake Macquarie City Council, p 4.

Living and Affordable Housing SEPPs both permit the intensification of residential development, contrary to the provisions of the local plan.<sup>128</sup>

- 4.6** Moree Plains Shire Council and Namoi Councils Joint Organisation stated that SEPPs operate in a restrictive, rather than an enabling manner and often operate as alternative detailed statutory paths. It presented the SEPP (Exempt and Complying Development Codes) 2008 as an example of this complexity:

Exempt and Complying development is growing in complexity with every amendment yet frequently it is impossible to find a “box” in which to fit a straightforward, low impact development. In addition, this SEPP crosses over with other SEPPs such as the Infrastructure SEPP. While this facilitates many useful forms of infrastructure, without requiring specific development consent, of itself it is a complex and cumbersome tool.<sup>129</sup>

- 4.7** The Planning Institute of Australia, NSW Division argued that the long awaited ‘root and branch’ review and rationalisation of all current SEPPs should be completed expeditiously and considered that the ‘multitude’ of current SEPPs should be substantially reduced. It noted that to contribute to regional development, SEPPs must be updated on a regular basis to ensure they are up to date with best practice, the changing nature of land uses and the needs of the community.<sup>130</sup>
- 4.8** The Planning Institute also stated that the role of SEPPs should be to provide guidance to councils, the private sector and the community on the government’s expectations on the implementation of planning and land use policy. Further, it declared that SEPPs should be ‘restricted to high level matters of State or regional significance and should generally contain strategic planning principles and policy directions rather than detailed development controls’.<sup>131</sup>
- 4.9** Ms Melissa Watkins, Director, Environmental Services, Dubbo City Council noted that the number of SEPPs had been substantially reduced in the past decade. However, she saw SEPPs as a byproduct ‘of a piece of legislation that is not achieving the objectives that it was intended to do’ and thought that new, fulsome legislation would not require so many State policies.<sup>132</sup> Similar to the Planning Institute, Ms Watkins explained that SEPPs would work better as directives and interpretation of legislation rather than as another layer of assessment.<sup>133</sup>
- 4.10** Ms Watkins argued that the specificity of SEPPs is problematic, as they provide a blanket rule across the State:

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<sup>128</sup> Submission 2, Bathurst Local Council, p 4; Submission 36, Central NSW Councils, p 11.

<sup>129</sup> Submission 38, Moree Plains Shire Council, p 4; Submission 45, Namoi Councils Joint Organisation, pp 4-5.

<sup>130</sup> Submission 12, Planning Institute of Australia, NSW Division, p 6.

<sup>131</sup> Submission 12, Planning Institute of Australia, NSW Division, p 6.

<sup>132</sup> Evidence, Ms Melissa Watkins, Director, Environmental Services, Dubbo City Council, 5 April 2016, p 3.

<sup>133</sup> Evidence, Ms Watkins, 5 April 2016, p 3.

If you look at a lot of the State policies they are based on local issues so they deal ... with the number of outside light fittings on a house. It defies logic that we have a State policy that is controlling things like whether or not a development for change of use of a shop is exempt from complying. That would have different connotations in a regional centre as distinct from a metropolitan area but the same rules apply.<sup>134</sup>

**4.11** However, Dubbo City Council noted that the Department of Planning and Environment had in recent years gazetted a number of new SEPPs which it argued had added significant layers of uncertainty to the planning process. The council explained that, for example, SEPP (Infrastructure) 2007, added another layer of development permissibility for infrastructure and contains definitions that are ‘difficult to follow and understand, and are often overlooked or misinterpreted’.<sup>135</sup>

**4.12** Mr Manfred Boldy, Director Planning and Environment Services, Kyogle Council asserted that the planning system in New South Wales ‘fundamentally is still pretty much what it was in 1980, when the *Environmental Planning and Assessment Act* was introduced’. He contrasted the system to Queensland which only has one State code:

... and I cannot even give you the number of SEPPs [in New South Wales]. It does not matter whether there are 20, 30 or 40 of them; in Queensland there is one. There is one State code for all of those policies. The policies all reflect the State’s interest in planning matters and the codes articulate how those matters are looked at. The Act sets the framework for how assessments are done and the like. It is quite a legible system, not necessarily perfect but much easier to understand.<sup>136</sup>

**4.13** Kyogle Council considered that, where practicable, matters of State interest included in a SEPP should be mapped by the department administering the state’s land use planning framework. It explained that this would provide greater transparency and make such information more accessible to potential investors.<sup>137</sup>

**4.14** Further, Kyogle Council recommended that the Department of Planning rationalise and simplify all SEPPs into either a single SEPP, or far fewer SEPPs that only deal with operational guidance matters:

The single SEPP should be written as an expression of the State interests for land use and development planning clearly articulating the relevant issues, intended planning outcomes and any further specific plan making or development assessment requirements for each of the defined state interests including how this applies to local councils and state agencies alike.<sup>138</sup>

**4.15** Other inquiry participants raised the idea of introducing more region centric SEPPs or the introduction of a regional development SEPP.

<sup>134</sup> Evidence, Ms Watkins, 5 April 2016, p 3.

<sup>135</sup> Submission 30, Dubbo City Council, p 5.

<sup>136</sup> Evidence, Mr Manfred Boldy, Director Planning and Environment Services, Kyogle Council, 19 September 2016, p 9.

<sup>137</sup> Submission 31, Kyogle Council, pp 4-5.

<sup>138</sup> Submission 31, Kyogle Council, p 4.

- 4.16** Tamworth Regional Council stated that more local and regional SEPPs should be formulated to address particular areas of the State or specific industries that are vital to regional areas. As an example, it noted that a framework should be established to underpin poultry precinct planning in the greater Tamworth region. In addition, Tamworth Regional Council considered that existing SEPPs should be modified to ‘give effect to development assessment methodologies that are more appropriate to the objectives of a rural zoning and support regional development’.<sup>139</sup>
- 4.17** Mr Col Murray, Chairperson, Namoi Councils Joint Organisation, and Mayor, Tamworth Regional Council explained how these regional or industry SEPPs would work and interact with the Local Environment Plan:
- The model that we had worked up actually cut through some of the permissibility issues. There would be a policy defining a certain area where some of these contentious uses were permitted, always providing them at the prerequisites, but it was just more an enabling framework that actually allowed a developer some level of certainty—for example, if they chose to come in and put a feedlot in a certain area or something there might be a SEPP there that overlaid your LEP and gave it a bit more certainty.<sup>140</sup>
- 4.18** The poultry operator Baiada explained that a well drafted Regional Development SEPP would provide alternative provisions that apply to development of rural activities and rural industries. It argued that such a SEPP would also provide greater flexibility for consent authorities to weigh up the commercial and regional benefits of the proposed development against potential environmental and social impacts. Baiada envisaged that the SEPP could identify particular areas, such as ‘poultry precincts’, where intensive animal husbandry is supported and planned accordingly. It strongly supported the introduction of a Regional Development SEPP as it would shift the focus from ‘treating regional development as inappropriate development to a genuinely supported and preferred land use’.<sup>141</sup>
- 4.19** Another poultry operator, ProTen, also considered that a regional planning SEPP for regionally significant projects could enable development on a wider range of land zones in regional areas. It contended that current environmental planning instruments are somewhat skewed to supporting and encouraging traditional agriculture, mining developments and metropolitan developments and there is little policy support for other regionally significant projects. It noted that such ‘policy support may assist in stimulating regional development through providing more confidence to potential developers and their financial investors’.<sup>142</sup>
- 4.20** Ms Eryn Bath, Principal Consultant, SLR Consulting explained that poultry is currently seen as inappropriate development, regardless of where it is located. She asserted that this ‘stigma’ will not leave the industry and a policy needs to support its development. She also indicated that a regional development SEPP would need to provide the ability to override local planning provisions.<sup>143</sup>

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<sup>139</sup> Submission 26, Tamworth Regional Council, p 4.

<sup>140</sup> Evidence, Mr Col Murray, Chairperson, Namoi Councils Joint Organisation, and Mayor, Tamworth Regional Council, 27 April 2016, p 9.

<sup>141</sup> Submission 48, Baiada, p 4.

<sup>142</sup> Submission 49, ProTen, p 4.

<sup>143</sup> Evidence, Ms Eryn Bath, Principal Consultant, SLR Consulting, 27 April 2016, p 11.

- 4.21 Conversely, some regional councils did not consider SEPPs to be an appropriate mechanism to promote regional development.<sup>144</sup> For example, Tweed Shire Council argued that while SEPPs are an important element of the planning framework, and have a role to play with implementing region based policy, they are not a suitable vehicle for delivering broad regional development policy.<sup>145</sup>

***Committee comment***

- 4.22 The committee supports the Department of Planning and Environment's review of SEPPs in order to reduce the number and also to address inconsistencies between SEPPs.
- 4.23 While the committee is not generally supportive of introducing new SEPPs into the planning system, we do see the benefit of introducing a regional development SEPP to assist stimulating regional development by encouraging potential developers. For this reason, the committee recommends that the Minister for Planning consider a regional development SEPP in consultation with key stakeholders, while continuing the broader review and reduction in the number of SEPPs.

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**Recommendation 11**

That the Minister for Planning consider a regional development State Environmental Planning Policy to assist in stimulating regional development while continuing the broader review and reduction in the number of State Environmental Planning Policies.

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- 4.24 We note the views of some participants that existing SEPPs should be modified to include development assessment methodologies that are more appropriate to the objectives of a rural zoning and support regional development and recommend that the department consider this in their review of all SEPPs. The committee also notes evidence from participants that SEPP (Infrastructure) 2007 has added more complexity to the planning process and calls on the department to review this SEPP with a view to simplify its provisions and integrate it with other planning documents.

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**Recommendation 12**

That the Department of Planning and Environment consider modifying State Environmental Planning Policies to include development assessment methodologies that are more appropriate to the objectives of a rural zoning and supporting regional development.

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<sup>144</sup> See for example: Submission 3, Tweed Shire Council, p 8; Submission 30, Dubbo City Council, p 5; Submission 38, Moree Plains Shire Council, p 4; Submission 45, Namoi Councils Joint Organisation, pp 4-5.

<sup>145</sup> Submission 3, Tweed Shire Council, p 8.

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**Recommendation 13**

That the Department of Planning and Environment review State Environmental Planning Policy (Infrastructure) 2007 with a view to simplify and better integrate its provisions with other planning documents.

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**Exempt and complying development**

- 4.25** Complying and exempt development operate according to the SEPP (Exempt and Complying Development Codes) 2008.
- 4.26** A Complying Development Certificate is an alternative to a Development Application and is a fast track approval process for straightforward residential, commercial and industrial development. The major difference is that the requirements for a Complying Development Certificate apply across the State, while the requirements for a Development Application vary between local councils. If specific criteria are met, complying development can be determined by a council or accredited certifier. Complying development includes renovations to a home, building a swimming pool, or the construction of a new industrial building.<sup>146</sup>
- 4.27** Alternatively, minor building renovations or works which do not require planning or building approval are considered exempt development. Examples include building decks, garden sheds, carports, repairing a window or painting a house.<sup>147</sup>
- 4.28** Inquiry participants agreed that the current complying development framework is too complex and is not suited to regional areas.
- 4.29** Dubbo City Council accepted that while the idea of providing a common set of exempt and complying development criteria for the State had merit, it is too complex for regional areas where smaller councils often do not have the staff or expertise to undertake intricate assessment regimes.<sup>148</sup>
- 4.30** Ms Watkins contended that while there has been an increase in the availability of complying development locations in Dubbo, it has not been utilised by developers because the process is too complicated.<sup>149</sup> Mr Steven Jennings, Manager, City Strategy Services, Dubbo City Council also explained that there is a 10-day assessment turnaround and that it can be very difficult to get an overall assessment in that time. It has to go through a full Building Code of Australia assessment plus an assessment against complying development criteria. He noted that it can

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<sup>146</sup> *Complying development*, Department of Planning and Environment website, <https://www.planningportal.nsw.gov.au/understanding-planning/assessment-systems/complying-development>.

<sup>147</sup> Exempt development, Department of Planning and Environment website, <https://www.planningportal.nsw.gov.au/understanding-planning/assessment-systems/exempt-development>

<sup>148</sup> Submission 30, Dubbo City Council, p 6.

<sup>149</sup> Evidence, Ms Watkins, 5 April 2016, p 6.

get 'difficult to meet that turnaround and to really make sure that we can guarantee some good development outcomes'.<sup>150</sup>

- 4.31** Mr Tony Donoghue, Executive member, Riverina Eastern Regional Organisation of Councils and General Manager Coolamon Shire argued that the complying development process is now more complicated, and as such, there are fewer applications:

... when our complying and development was very flexible we had a policy that if you buy a residential property you should expect your next-door neighbour to have a shed, a pool, a house and everything related to residential living. So we were turning around complying development in three to five days. Probably 75 per cent of our applications were coming through that avenue. As soon as the State made that complying development more complicated we went from 100 applications—75 Complying Development Certificates [CDCs] and 25 Development Applications [DAs]—to 99 DAs and one CDC.<sup>151</sup>

- 4.32** Mr William Payne, Principal Engineer, Ardill Payne and Partners also noted that the complying development SEPP has not made the process easier. He explained that it is now often faster to lodge a development application than get a complying development certificate.<sup>152</sup> Mr Payne thought that the solution to this would be for the process to be more prescriptive:

I think it is the same as the DA process, a more prescriptive solution to what you need to do to a CDC. If you want to just extend or modify your house by a certain area, then you are allowed to tick that box. If it can be shown to be compliant with the Building Code of Australia [BCA], tick that box ....<sup>153</sup>

- 4.33** Richmond Valley Council agreed that it is often far easier to lodge a Development Application and that developers are avoiding some complying development types because the requirements are too onerous and rigid:

The Codes SEPP mandates that exempt or complying development within an LEP shall not apply to development where the same development type is specified in the Codes SEPP. However, this wasn't always the case. Savings provisions in the Codes SEPP enabled Complying Development to be done under either EPI where the same development type was identified. This gave additional flexibility to councils to setup exempt and complying development to suit their local needs, but gave developers choice of options. This flexibility should be reintroduced, with the Codes SEPP setting the State's standards and requirements as a benchmark.<sup>154</sup>

- 4.34** Namoi Councils Joint Organisation supported the enhancement of complying development opportunities. However, it argued that the current SEPP is poorly drafted which has

<sup>150</sup> Evidence, Mr Steven Jennings, Manager, City Strategy Services, Dubbo City Council, 5 April 2016, pp 6-7.

<sup>151</sup> Evidence, Mr Tony Donoghue, Executive member, Riverina Eastern Regional Organisation of Councils and General Manager Coolamon Shire, 12 September 2016, p 4.

<sup>152</sup> Evidence, Mr William Payne, Principal Engineer, Ardill Payne and Partners, 19 September 2016, p 32.

<sup>153</sup> Evidence, Mr Payne, 19 September 2016, p 33.

<sup>154</sup> Submission 28, Richmond Valley Council, p 2.

complicated low impact and minor development types. In particular, complying development can be very complex and open to misinterpretation<sup>155</sup> and it is often more complex to work out whether a project ‘fits’ into exempt or complying than to prepare a standard Development Application.<sup>156</sup>

- 4.35** To illustrate the negative effects of the complying development code, Central NSW Councils provided the example of Bathurst which had been operating local development provisions instead of the code:

Bathurst LGA is unique in that it has been permitted to operate local exempt and complying development provisions in parallel to the State Codes SEPP. Under the Bathurst Regional LEP 2014 exempt and complying development provisions it is estimated that one third of development activity is able to be dealt with as exempt development and some 80% of new dwellings are approved as complying development. On the two occasions when the local Bathurst provisions were switched off by the Codes SEPP virtually no complying development was approved and considerable exempt development was lost. Thus under the Codes SEPP approval times and the cost of development increased in the Bathurst region. Under local provisions approval times and costs of development have been reduced.

- 4.36** Central NSW Councils considered that the solution is for the government to implement a ‘tool box’ approach for councils to select their approach in order to be ‘relevant to their local area or to set a minimum benchmark with councils able to go beyond that benchmark if appropriate, based on their own community consultation’.<sup>157</sup>
- 4.37** In early 2016, the NSW Government announced a review of complying development for inland New South Wales with the intention of creating a new ‘Inland Code’ for regional and rural areas west of the Great Dividing Range. The purpose of the Inland Code is to make approvals for low-impact, straightforward building projects simpler and faster in rural and regional New South Wales. The Department of Planning and Environment released a paper for public comment reviewing the proposal.<sup>158</sup> The public exhibition period has concluded and the commentary is being considered by the department.
- 4.38** Ms Watkins welcomed the government’s proposal but stated that the language used is still complicated and should be written in a more straightforward manner.<sup>159</sup>
- 4.39** Mr Craig Jennion, Executive Director, Hunter, Housing Industry Association Limited was in favour of the draft Inland Code, as it will reduce the pressure on councils to undertake detailed assessments for minor and low-risk structures.<sup>160</sup>

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<sup>155</sup> Submission 45, Namoi Councils Joint Organisation, p 15.

<sup>156</sup> Submission 45, Namoi Councils Joint Organisation, p 17.

<sup>157</sup> Submission 36, Central NSW Councils, p 12.

<sup>158</sup> *Review of Complying Development for Inland NSW*, Department of Planning and Environment website, [http://planspolicies.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=7373](http://planspolicies.planning.nsw.gov.au/index.pl?action=view_job&job_id=7373)

<sup>159</sup> Evidence, Ms Watkins, 5 April 2016, p 6.

<sup>160</sup> Evidence, Mr Craig Jennion, Executive Director, Hunter, Housing Industry Association Limited, 17 August 2016, p 24.

- 4.40** Mr Troy Loveday, Assistant Director, Residential Development and Planning, Housing Industry Association Limited stated the organisation was also in favour of establishing a complying development code for coastal areas and had made representations to the department about the matter.<sup>161</sup>
- 4.41** Albury City Council noted that it had been working with the department to develop the Inland Code and supported complying development to include a greater range of development types. However, it opposed the inclusion of large or complex developments such as Greenfield subdivision or residential flat buildings which neighbours should have the opportunity to comment on.<sup>162</sup>
- 4.42** Alternatively, Kyogle Council stated that consideration should be given to the development of State-wide codes for the assessment of State interest matters where development consent or complying development approval is required for affected development. Codes should be available on the department's website, with 'ready-to-go' assessment sheets to assist applicants to understand the requirements and aid more timely assessments.<sup>163</sup>
- 4.43** Mr Stephen Murray, Acting Executive Director, Regions, Department of Planning and the Environment indicated that an Inland Code had been considered because councils and stakeholders told the department that metropolitan standards do not work for regional areas. He noted that regional and rural towns should have different parameters to metropolitan areas, in order to make the complying development process faster, easier and cheaper. He also said that the department is always looking for opportunities to make the system more user-friendly.<sup>164</sup>
- 4.44** For example, Mr Brett Whitworth, Executive Director, Local Planning Liaison, Department of Planning and Environment asserted that the Inland Code will include diagrams for the first time to help the layperson understand what is required when preparing a complying development application.<sup>165</sup>

#### **Balance of economic, social and environmental outcomes**

- 4.45** Some inquiry participants expressed that there needs to be a greater balance of economic, social and environmental outcomes in the planning system.
- 4.46** Mr Greg Pullen, Economic Development Manager, Shoalhaven City Council stated that there is a lack of balance between economic and environmental outcomes in regional New South Wales. He noted an example of where a development, that would have been an economic

<sup>161</sup> Evidence, Mr Troy Loveday, Assistant Director, Residential Development and Planning, Housing Industry Association Limited, 17 August 2016, p 28.

<sup>162</sup> Submission 16, Albury City Council, p 7.

<sup>163</sup> Submission 31, Kyogle Council, p 5.

<sup>164</sup> Evidence, Mr Stephen Murray, Acting Executive Director, Regions, Department of Planning and the Environment, 11 March 2016, pp 44-45.

<sup>165</sup> Evidence, Mr Brett Whitworth, Executive Director, Local Planning Liaison, Department of Planning and Environment, 17 August 2016, p 32.

driver for the area, was at put at risk due to a vulnerable species of orchids being found on the site.<sup>166</sup>

- 4.47** Kyogle Council expressed the view that there is a pre-disposition towards an ‘environmental’ reference in many of the planning instruments. While it accepted that this is a key social focus, it argued this can be confusing and underemphasise an instrument’s broader land use planning intent and its ability to act as an effective regional growth instrument. Kyogle Council recommend that reference to ‘environmental’ in the title of planning instruments and the *Environment Planning and Assessment Act 1979* be removed to more clearly reflect the ‘triple bottom line’ and also to ensure that all plans reflect a balance of environmental, social and economic considerations.<sup>167</sup>
- 4.48** Shoalhaven City Council also indicated there needs to be an acknowledgement that away from Sydney, government land ownership is more of a critical feature in balancing economic, social and environmental outcomes. Government needs to have a more responsive role, rather than a centralised role, in this regard.<sup>168</sup>

### ***Committee comment***

- 4.49** The committee notes the views of participants that the exempt and complying development SEPP has not made the process easier for regional New South Wales. We also note the department’s progress in implementing the Inland Code for exempt and complying development in order to move away from the Sydney-centric Statewide code that has been in operation. However, due to the importance of this code we would like to see the department and Minister prioritise its development and implementation. Further, we support the suggestion by the Housing Industry Association that the Minister for Planning consider the suitability of implementing a Coastal Code for non-metropolitan coastal regions in New South Wales and recommend accordingly.

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### **Recommendation 14**

That the Minister for Planning and the Department of Planning and Environment prioritise the development and implementation of the Inland Code for exempt and complying development.

### **Recommendation 15**

That the Minister for Planning consider the suitability of implementing a Coastal Code for exempt and complying development for the benefit of non-metropolitan coastal regions in New South Wales.

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<sup>166</sup> Evidence, Mr Greg Pullen, Economic Development Manager, Shoalhaven City Council, 26 May 2016, p 18.

<sup>167</sup> Submission 31, Kyogle Council, p 6.

<sup>168</sup> Submission 29, Economic Development Office Shoalhaven City Council, p 7.

## Local Environmental Plans

- 4.50** Local Environmental Plans (LEPs) guide planning decisions for local government areas and are created by councils in consultation with the local community. They control the form and location of new development, along with protecting open space and environmentally sensitive areas. Through zoning and development controls, they allow councils and other consent authorities to manage how land is used.<sup>169</sup>
- 4.51** Local Environment Plans start with a planning proposal for a development. In most cases this is conducted by a local council and then assessed by the Department of Planning and Environment. This is called the ‘Gateway’ process of which there are five steps:
1. The planning proposal - the relevant authority prepares the planning proposal. The relevant authority is usually the local council, however the Minister can appoint the Secretary of the Department of Planning and Environment or a joint regional planning panel to be the relevant planning authority.
  2. Gateway - the Minister (or delegate) decides whether the planning proposal can proceed (with or without variation) and subject to other matters including further studies being undertaken, public consultation, public hearings, agency consultation and time frames. ...
  3. Community consultation - the proposal is publicly exhibited as required by the Minister. A person making a submission may also request a public hearing be held.
  4. Assessment - the relevant planning authority reviews public submissions. Parliamentary Counsel then prepares a draft local environmental plan.
  5. The making of the LEP - with the Minister’s (or delegate’s) approval the local environmental plan is published on the NSW legislation website and becomes law.<sup>170</sup>
- 4.52** Development Control Plans are prepared and adopted by councils and provide detailed planning and design guidelines to support the planning controls in a Local Environmental Plan. It identifies additional development controls and standards for addressing development issues at a local level and can be applied more flexibly than a Local Environmental Plan.<sup>171</sup>

### Standard template

- 4.53** The Standard Instrument LEP Program was initiated in 2006 to create a common language and structure for LEPs. Prior to this, there were approximately 5,500 local planning instruments across the State, containing approximately 3,100 different land use zones and

<sup>169</sup> *Local Environmental Plans*, Department of Planning and the Environment website, <https://www.planningportal.nsw.gov.au/understanding-planning/legislation/local-environmental-plans>.

<sup>170</sup> *What is the Gateway process?*, Department of Planning and the Environment website, <http://www.planning.nsw.gov.au/Plans-for-Your-Area/Local-Planning-and-Zoning/The-Gateway-Process>.

<sup>171</sup> *Development Control Plans*, Department of Planning and the Environment website, <https://www.planningportal.nsw.gov.au/understanding-planning/legislation/development-control-plans>

1,700 land use definitions. The aim of the program was to have one LEP for each local government area, using a standard suite of land use zones and definitions.<sup>172</sup>

**4.54** The NSW Government indicated that there is still flexibility for councils to adapt LEPs to their various needs and circumstances through the selection of zonings and the tailoring of appropriate uses. This allows some level of flexibility, while maintaining the overall consistency of the Standard Instrument LEP. Standard instrument controls can be amended by councils through amending their principal LEP in order to reflect local needs and changing circumstances.<sup>173</sup>

**4.55** Mr Murray noted that the department 'is continually reviewing and updating the standard instrument' to reflect local clauses that are appropriate for different areas of the State.<sup>174</sup>

**4.56** Many inquiry participants were in favour of the standard template, but made various suggestions as to how it could be amended to provide more flexibility to regional councils in order to support and encourage regional development.

**4.57** Queanbeyan City Council noted that the standard template has worked reasonably well. However, it explained that prior to its introduction, the government had intended that SEPPs and other State policies would be gradually repealed and incorporated into the standard template LEP. Queanbeyan City Council contended that while some work has been done in this area there are still further opportunities to incorporate SEPPs into the standard template. This would reduce complexity by capturing various planning controls in a single document.<sup>175</sup>

**4.58** Bathurst Regional Council argued that the standard instrument LEP has posed barriers to assist regional development and provided a particular example in relation to the definition of 'bulky goods':

Council's Retail Strategy recommended that Council adopt a definition for bulky goods similar to that which has been adopted by the Victorian planning system as this definition would best suit Bathurst's retail system. Notwithstanding Council's representations to the Government it was unable to implement that definition under the standard instrument LEP and that has placed challenges on the development of new bulky goods precincts within the City.<sup>176</sup>

**4.59** Bathurst Regional Council also noted it had encountered difficulties in developing detailed land use planning strategies under the one-size-fits-all standard instrument LEP. For example, it stated that the inability to add land use definitions made it difficult to achieve appropriate planning outcomes for the Mount Panorama precinct.<sup>177</sup>

**4.60** Ms Melissa Watkins Director, Environmental Services, Dubbo City Council, considered the introduction of the standard template to be a 'good step' as it brought all of New South Wales into line with a common language. However, in doing so, it allowed local government

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<sup>172</sup> Submission 35, NSW Government, pp 11-12.

<sup>173</sup> Submission 35, NSW Government, pp 11-12.

<sup>174</sup> Evidence, Mr Murray, 11 March 2016, p 48.

<sup>175</sup> Submission 9, Queanbeyan City Council, p 4.

<sup>176</sup> Submission 2, Bathurst Regional Council, p 4.

<sup>177</sup> Submission 2, Bathurst Regional Council, p 2.

planners to interpret zones and provisions in certain ways.<sup>178</sup> Ms Watkins and Mr Jennings noted that initially there was a strong push from government for uniform LEPs, but claimed this is no longer the case.<sup>179</sup>

- 4.61** Ms Watkins argued that there is now a disconnect between the standard template and land use strategies. Previously land use strategies were endorsed by the department and included in the objectives of a LEP. She explained that councils could rely on them in order to make changes to land use patterns. However, because the emphasis is no longer on strategic land use assessment, this has created an imbalance or variability across LEPs. Ms Watkins explained her views of when the standard template should be followed and when some flexibility should be allowed:

I would say that there should be some provisions that are mandatory but others should be more locally based and I think they should be reflective of the land use strategies. If a council does not have the land use strategies that underpin the decisions for the zonings then they should basically have to make the decisions based on a template. If you have got other evidence to support an alternative arrangement you should be permitted to do that. If you use the same suite of zone names, that is fine, and colours and all the other standardisation provisions that were included. But interpreting them on the ground in a local government context can be varied across New South Wales.<sup>180</sup>

- 4.62** Alternatively, Eurobodalla Shire Council explained that there is a lack of local regional adaptability to the standard instrument and recommended that metropolitan, rural and coastal standard LEPs be introduced rather than the one-size-fits-all system.<sup>181</sup>
- 4.63** This was supported by other councils. For example, Queanbeyan City Council argued that the LEP template should be revisited to produce variations to reflect the different circumstances of rural, coastal and metropolitan areas.<sup>182</sup> Similarly, Lake Macquarie City Council noted that current planning policies and practices, in particular the standard LEP, are excessively complex and metro centric, and do not allow for the nuances of regional areas. It recommended that a suite of templates be introduced that allow for regional differences.<sup>183</sup>
- 4.64** Lake Macquarie City Council also expressed that LEPs should be stand-alone instruments incorporating the relevant SEPP provisions and definitions, and dealing with inconsistencies that occur between instruments. SEPPs should not operate separately and instead should amend the local plan.<sup>184</sup>
- 4.65** Combined Development Group Pty Ltd stated that the standard instrument has tidied up zoning in Sydney areas, but these ‘prescriptive Sydney centric zones have caused greater problems, leaving regional councils and proponents searching for ways to get around them’. Combined Development Group Pty Ltd recommended that LEPs ‘transform from being a

<sup>178</sup> Evidence, Ms Watkins, 5 April 2016, p 2.

<sup>179</sup> Evidence, Mr Jennings, 5 April 2016, p 2; Evidence, Ms Watkins, 5 April 2016, p 2.

<sup>180</sup> Evidence, Ms Watkins, 5 April 2016, p 2.

<sup>181</sup> Submission 4, Eurobodalla Shire Council, p 2.

<sup>182</sup> Submission 9, Queanbeyan City Council, p 4.

<sup>183</sup> Submission 17, Lake Macquarie City Council, p 2.

<sup>184</sup> Submission 17, Lake Macquarie City Council, p 4.

static document with a 5-year life and a 5-year review, to being a dynamic responsive document that evolves quickly, efficiently in response to market need'. It noted that LEPs have a vital role to play, but they need to be dynamic.<sup>185</sup>

- 4.66** Namoi Councils Joint Organisation advocated for flexible and performance-based provisions to be incorporated within the LEP framework to enable regional councils to 'work outside the restrictive, and often metro-focused, [standard instrument] LEP framework'.<sup>186</sup>
- 4.67** Not all participants were in favour of standard templates. For example, restofnsw argued that the 'religious zeal with which the department has pursued the standard instrument despite the numerous objections of rural Councils is a triumph of process over substance'.<sup>187</sup>
- 4.68** NSW Farmers Association opposed LEPs because it feared for council's ability to unilaterally apply inappropriate zoning within local government areas, particularly over farm land, without due consideration of the effects of the re-zoning. NSW Farmers explained that while some local councils demonstrate a more flexible and practical interpretation of the standard instrument, others apply it as written and fail to tailor locally appropriate standards and guidelines for agricultural land. Furthermore, NSW Farmers were concerned that most local authorities do not routinely provide or conduct detailed analysis of the social and economic impacts of the proposed LEPs on local business, local landholders and the local economy.<sup>188</sup>

### Open zoning

- 4.69** Mr Stephen Murray, Acting Executive Director, Regions, Department of Planning and the Environment explained that zoning can be drafted as being either open or closed. Open zones only list the uses a council wish to prohibit, for example a recycling plant may be prohibited in a residential area. Other than that all other uses would be permitted, either with or without development consent.<sup>189</sup> Closed zones on the other hand only list accepted development types, with everything else being restricted.
- 4.70** Some inquiry participants advocated for more open zoning provisions to be included in LEPs to encourage development in regional areas.
- 4.71** The Planning Institute of Australia, NSW Division supported the use of open zoning in regional areas due to their flexibility. It explained that the disadvantage of closed zoning is that any proposed development that is slightly different to the zoning parameters has difficulty being approved.<sup>190</sup>
- 4.72** Namoi Councils Joint Organisation and Moree Plains Shire Council supported the use of open zonings to provide flexibility, noting that Queensland has utilised such a system for many years.<sup>191</sup>

<sup>185</sup> Submission 20, Combined Development Group Pty Ltd, p 4.

<sup>186</sup> Submission 45, Namoi Councils Joint Organisation, p 1.

<sup>187</sup> Submission 18, restofnsw, p 2.

<sup>188</sup> Submission 32, NSW Farmers Association, p 9.

<sup>189</sup> Evidence, Mr Murray, 11 March 2016, pp 41-42.

<sup>190</sup> Submission 12, Planning Institute of Australia, NSW Division, p 7.

<sup>191</sup> Submission 38, Moree Plains Shire Council, p 4.

- 4.73** Riverina Eastern Regional Organisation of Councils (REROC) indicated that zones should be open to allow councils to determine a Development Application on its merits and explained that closed zoning can be an impediment to development.<sup>192</sup>
- 4.74** Tweed Shire Council strongly supported open zoning, as it provides greater flexibility and avoids the need for further rezoning to permit uses not previously contemplated. It noted that project control spot-rezoning is inefficient, costly and has significant commercial risk.<sup>193</sup>
- 4.75** Mr Michael Keys, Director of Planning and Environment, Albury City Council supported open zoning,<sup>194</sup> while Mr Jeff Morgan, Divisional Manager, Strategic Services, Eurobodalla Shire Council noted that the council is shifting to having more open zones, even in some urban areas.<sup>195</sup>
- 4.76** Ms Eryn Bath, Principal Consultant, SLR Consulting noted that closed zoning is particularly restrictive for poultry, as this activity is primarily only permissible in one type of zone.<sup>196</sup>
- 4.77** Mr Darren Holloway, Committee Member, Planning Institute of Australia, NSW Division contended that open zoning could be used as a method of overcoming issues regarding set allotment sizes: ‘You could actually take off a minimum lot size out of an LEP and have other guidance in a development control plan or a State policy, whatever. Yes, it is definitely a possibility’.<sup>197</sup>
- 4.78** From a department perspective, Mr Murray considered there to be merit in open zoning for certain areas, but cautioned that ‘if you get too flexible then you will get things that can, particularly in rural and regional areas, really adversely affect the existing towns’. He explained:
- People look for the cheapest and easiest land to use. It is logical. If you are investing money, you want to minimise your input so that you maximise your return. So there is some benefit in having open zones but at the same time closed zones are good in particular areas where you say, “This area is predominately agriculture and we do not want to undermine that so we won't allow uses that are unsuitable or, more importantly, create or bring in uses that end up complaining about the agricultural use, cause conflict and then create an issue within the area.”<sup>198</sup>
- 4.79** Mr Murray also noted that under the current planning system, councils are open to choose the minimum lot sizes that suit their rural areas.<sup>199</sup>

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<sup>192</sup> Submission 43, Riverina Eastern Regional Organisation of Councils (REROC), p 3.

<sup>193</sup> Submission 3, Tweed Shire Council, p 4.

<sup>194</sup> Evidence, Mr Michael Keys, Director of Planning and Environment, Albury City Council, 5 April 2016, p 17.

<sup>195</sup> Evidence, Mr Jeff Morgan, Divisional Manager, Strategic Services, Eurobodalla Shire Council, 26 May 2016, p 10.

<sup>196</sup> Evidence, Ms Bath, 27 April 2016, p 11.

<sup>197</sup> Mr Darren Holloway, Committee Member, Planning Institute of Australia, NSW Division, 11 March 2016, p 23; Evidence, Mr David Broyd, Vice President, Planning Institute of Australia, NSW Division, 11 March p 23.

<sup>198</sup> Evidence, Mr Murray, 11 March 2016, pp 41-42.

<sup>199</sup> Evidence, Mr Murray, 11 March 2016, pp 41-42.

## Environmental Impact Statements and E zones

- 4.80** This section discusses environmental issues concerning Environmental Impact Statements (EIS) and E zones, with particular reference to a case study from the poultry industry regarding EIS triggers and the North Coast Region review of E zones.

### *Environmental Impact Statements*

- 4.81** EIS are prepared by a developer and represent their assessment of the likely environmental effects of their proposed development. The EIS is submitted with the development application. Proponents are expected to consult with relevant public authorities, who in turn are required to make relevant information available to the proponent.
- 4.82** An EIS must include a description of the project, the main effects the proposal is likely to have on the environment, a description of the measures envisaged to avoid, reduce or remedy significant adverse environmental effects and an outline of the main alternatives studied by the proponent.<sup>200</sup> When an EIS is triggered, the Department of Planning and Environment provide an opportunity for various government departments to provide State Environmental Assessment Requirements (SEARs) which need to be addressed in the EIS prepared by the applicant.
- 4.83** Inquiry participants stated that there are increasingly higher levels of protection for rural dwellings within rural zones under regional LEPs, particularly in terms of tolerance criteria for odour, noise and traffic. It was noted that these protections limit the ability for rural activities to be developed. The result is that a single rural dwelling may quarantine large expanses of rural areas from intensive agricultural and rural industry. Baiada contended that as part of recent EIS and development applications, it has been asked to consider potential ‘future dwellings’ as part of odour assessments where there is a theoretical possibility that a house may be constructed in the future on surrounding rural lots.<sup>201</sup>
- 4.84** Participants considered the biggest opportunity to improve the planning process and stimulate regional development is by providing a more streamlined EIS process, as it is lengthy, complex and expensive. It agreed that SEARs are generic and open ended, reflecting a risk adverse approach to scoping of environmental assessment. ProTen asserted that there is evidence that developers have left New South Wales to pursue development opportunities in other States where the process is easier to navigate.<sup>202</sup>
- 4.85** In addition, ProTen contended that the timeframes and complexity of processes should be streamlined, either through a review of the legal framework, or by providing direction to regulatory authorities about how to apply existing legal requirements in a more efficient way.<sup>203</sup> ProTen argued that a one-stop-shop, that brings together the consent authority with the

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<sup>200</sup> *Environmental Impact Assessments*, Department of Planning and the Environment website, <https://www.planningportal.nsw.gov.au/lodge-track-applications/lodge-your-application-or-certificate/lodge-your-application-department-0>.

<sup>201</sup> Submission 48, Baiada, pp 4-5.

<sup>202</sup> Submission 49, ProTen, pp 2-3.

<sup>203</sup> Submission 49, ProTen, pp 2-3.

various other State and local government agencies that have an interest in a development proposal, would provide significant improvements in the EIS process.<sup>204</sup>

### Case study: Poultry industry – zoning and EIS

Poultry industry representatives stated that it is very important to balance the needs of local residents and the environment with economic growth and investment. However, they contended that EIS triggers are set so low that they are required for even the smallest of viable farms. Because of this, the system ‘burdens business and hinders growth even when a project has been proven to be no threat to the environment and will have minimal impacts on surrounding homes’.<sup>205</sup>

For example, the threshold for designated development for poultry farms is 250,000 birds, which is less than a viable commercial farm. This low threshold triggers the requirement to prepare an EIS which can significantly delay projects as well as subjecting the application to third party appeal rights for even minor projects. The poultry operator, Baiada, recommended the trigger for designated development be increased to 500,000 birds. It noted that other rural industries are also subject to low designated development triggers and would benefit from being reviewed.<sup>206</sup>

The committee heard evidence asserting that there is currently a disincentive for businesses to undertake even relatively minor expansions of existing operations due to the costs associated with preparing an EIS and the risk of third party appeals.<sup>207</sup>

Poultry operators contended that EIS requirements are often generic, raise irrelevant issues and require the applicant to expend time and money on matters which have no bearing on the project. They recommended that greater responsibility be placed on government departments to ensure that the SEARs are relevant and reasonable to the project being considered.<sup>208</sup>

### *E zones*

- 4.86** The committee also considered the use of environmental zones or ‘E zones’, which include E2 (environmental conservation), E3 (environmental management) and E4 (environmental living).
- 4.87** The NSW Government indicated that following a review, the Minister for Planning had recently released a range of reforms for the application of E zones in the North Coast Region to resolve ‘a long standing challenge in protecting the ... most environmentally sensitive areas while respecting and safeguarding its farmland’. It stated that the reforms recognise that the primary use of the land, whether it’s for conservation or agriculture, must be the key driver behind the zoning decision so farmers and the community can proceed with confidence. The

<sup>204</sup> Submission 49, ProTen, pp 2-3.

<sup>205</sup> Evidence, Ms Elaine Dickson, Chief Risk Officer, Baiada, 27 April 2016, p 10.

<sup>206</sup> Submission 48, Baiada, pp 2-3.

<sup>207</sup> Submission 48, Baiada, pp 2-3.

<sup>208</sup> Submission 48, Baiada, pp 2-3.

NSW Government advised that the outcomes of this review are available as a model for other local governments to adopt.<sup>209</sup>

**4.88** EDO NSW noted that the review arose following perceived conflicts between agricultural and environmental uses of land in the region, and from apparent concerns that Far North Coast councils were introducing E zones on land previously zoned for rural use without evidence of the environmental significance of the land.<sup>210</sup>

**4.89** For example, the NSW Farmers Association stated that '[u]nfortunately our members' fears were realised when many local councils in coastal LGAs converted a significant amount of farm land to environmental zones ... in draft plans, and ... gazetting finalised plans with no consultation at all'.<sup>211</sup>

**4.90** Ms Jennifer Dennis, Senior Policy Officer, Planning, Local Government NSW noted there is a 'huge debate' currently about E zones and that councils are generally not in favour of them. She stated that the review addressed the concerns of farmers regarding the use of agricultural land which had been protected by E zones: 'The review came out with a more conservative or restrictive view of E zones because ... they were sterilising or there were concerns about them sterilising agricultural land'.<sup>212</sup>

**4.91** However, Ms Dennis explained that E zones have been misunderstood:

E zones have been misunderstood, which is why there has been such a kickback about them, and that is justified. E zones are not meant to preclude the underlying use of the land. An E zone is only meant to be about maintaining certain existing values of a property.<sup>213</sup>

**4.92** Further, Mr Murray from the Department of Planning and Environment noted that following the review, the five councils in the North Coast Region can no longer propose to put a biodiversity overlay because they would like to achieve a biodiversity corridor against cleared farmland. If an overlay applies, it does not prohibit or permit any development. He said: 'I understand the communities felt that these overlays are actual prohibitions that would require them to do things: they do not. They are only matters that must be considered'.<sup>214</sup>

**4.93** EDO NSW was concerned at the precedent set by the review. It opposed the new criteria for E2 and E3 zoning and explained that E zones should provide fundamental protections for thousands of hectares of forests, wetlands and wildlife habitats on the Far North Coast. It was concerned that the new criteria will undermine the objectives of E zones and unduly narrow their application.<sup>215</sup>

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<sup>209</sup> Submission 35, NSW Government, pp 13-14.

<sup>210</sup> Submission 23, EDO NSW, pp 14-15.

<sup>211</sup> Submission 32, NSW Farmers Association, p 9.

<sup>212</sup> Evidence, Ms Jennifer Dennis, Senior Policy Officer, Planning, Local Government NSW, 11 March 2016, pp 7-8.

<sup>213</sup> Evidence, Ms Dennis, 11 March 2016, pp 9-10.

<sup>214</sup> Evidence, Mr Murray, 11 March 2016, p 36.

<sup>215</sup> Submission 23, EDO NSW, p 7.

- 4.94 In addition, EDO NSW noted that the department is considering a revision of the Standard Instrument LEP to remove ‘aesthetic values’ from the zone objectives of the E2 and E3 zones. It argued that these changes would constitute a ‘considerable erosion of the fundamental objective of E2 and E3 zones, which is to protect, manage and restore areas with high or special ecological, scientific, cultural or aesthetic values’.<sup>216</sup>

### Ministerial directions

- 4.95 The Minister for Planning may make directions under s 117 of the *Environmental Planning and Assessment Act 1979*. Inquiry participants were either concerned that these directions added another layer of complexity to the planning system or that in some instances councils have not been adhering to the directions.
- 4.96 Kyogle Council argued that ministerial directions should be rationalised and simplified to provide detail for operational implementation issues only, for example plan making or development assessment procedures. It asserted that they should not be used for policy articulation or control specification purposes.<sup>217</sup> Further, Kyogle Council stated that there should be clarification regarding the hierarchy between SEPPs and ministerial directions, as the current system is confusing and may create uncertainty for investors and the general community.<sup>218</sup>
- 4.97 Queanbeyan City Council stated that there are 31 ministerial directions which must be considered, and where relevant, addressed in planning proposals. It noted that it can be ‘time consuming and resource hungry’ to incorporate these directions into planning proposals and called for relevant provisions to be incorporated into the standard template LEP.<sup>219</sup>
- 4.98 In contrast, Mr Bernard Grinberg, Director, Ballina Beach Village raised concern that local councils can ‘ignore or abuse’ planning documents such as ministerial directions and that there are no mechanisms in place to ensure the directions are followed:

When I raise these issues with either the local government department or the State planning department, they point at each other. Local government says it is a planning issue and the planning people say it is a local government issue. There is no single point at which council issues can be overseen and overreach can be prevented. The planning department people say they have no power; they have only advisory power with council.<sup>220</sup>

- 4.99 Mr Grinberg gave a personal account regarding the zoning of his property, where a ministerial direction was not followed by the council which put his case in the ‘too-hard basket’. This meant Mr Grinberg’s land was left in limbo and operating under a 1988 LEP.<sup>221</sup>

<sup>216</sup> Submission 23, EDO NSW, pp 14-15.

<sup>217</sup> Submission 31, Kyogle Council, p 5.

<sup>218</sup> Submission 31, Kyogle Council, p 5.

<sup>219</sup> Submission 9, Queanbeyan City Council, p 4.

<sup>220</sup> Evidence, Mr Bernard Grinberg, Director, Ballina Beach Village, 19 September 2016, p 24.

<sup>221</sup> Evidence, Mr Grinberg, 19 September 2016, p 27.

**Committee comment**

- 4.100** The committee acknowledges that many inquiry participants were in favour of the standard template, but made suggestions that it could be amended to provide more flexibility to regional councils, as the current standard template is too metro-centric.
- 4.101** The committee notes that the Standard Instrument LEP allows for consistency in the planning system. However, New South Wales is a large State and there are great differences between rural, coastal and metropolitan areas.
- 4.102** We support further consideration of suggestions made by a number of inquiry participants that three separate standard instruments be introduced that acknowledge these differences and provide some flexibility to the LEP system. For this reason the committee recommends that the Minister for Planning consider establishing separate Standard Instrument Local Environmental Plans for regional, coastal and metropolitan areas in New South Wales in consultation with key stakeholders.
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**Recommendation 16**

That the Minister for Planning review the feasibility of establishing separate Standard Instrument Local Environmental Plans for regional, coastal and metropolitan areas in New South Wales and publicly release the findings of this review.

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- 4.103** The committee accepts the arguments of participants for a greater use of open zoning provisions in LEPs. Development in regional areas should be encouraged and closed zoning can perhaps unintentionally make it difficult for development applications, which are otherwise supported, to be approved. Open zones might provide greater flexibility to councils and proponents. Because of this, we recommend that the Department of Planning and Environment develop a policy to encourage regional local councils to incorporate more open zoning provisions in Local Environment Plans.
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**Recommendation 17**

That the Department of Planning and Environment develop a policy to encourage regional local councils to incorporate more open zoning provisions in Local Environment Plans.

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- 4.104** The committee noted the evidence concerning the EIS process and SEARs, in addition to evidence of changing methods, technological requirements of agriculture and modern agricultural opportunities. Therefore, the committee recommends that the Department of Planning review the threshold for designated development EIS triggers in the Environmental Planning and Assessment Regulation 2000 and review the SEARs, in consultation with key stakeholders, particularly taking into account modern agricultural methods, requirements and opportunities and the standard template LEP.
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### Recommendation 18

That, in light of modern agricultural methods, requirements and opportunities, the Department of Planning and Environment review:

- the threshold for designated development Environmental Impact Statement triggers in the Environmental Planning and Assessment Regulation 2000 and
  - the State Environmental Assessment Requirements.
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- 4.105** The committee notes the department's reforms of E zones, particularly to provide more assurance to farmers that farmland will not be unnecessarily zoned as E2 or E3. However, the committee is of the view that a balance should be maintained between conservation and supporting agricultural industry.
- 4.106** The committee also notes the passage through the Parliament of the *Biodiversity Conservation Act 2016* and *Local Land Services Amendment Act 2016* in November 2016, which provide for the mapping of all land in New South Wales held under freehold and leasehold tenure as either Category 1 Exempt Land or Category 2 Regulated Land.
- 4.107** The committee is of the view that E zones should not be applied over Category 1 Exempt Land to ensure that restrictions on productive agricultural land are minimised. In addition, if approval has been granted under the *Biodiversity Conservation Act* and *Local Land Services Act 2013* for work on Category 2 Regulated Land, then further approvals should not be necessary under other legislative processes, and therefore any E zones applied over that land are extinguished. The committee understands that a further planning instrument will be developed to deal with these matters.
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### Recommendation 19

That the Department of Planning and Environment issue an instruction on the gazettal of the Native Vegetation Regulatory Maps under Part 5A of the *Local Land Services Act 2013*, that E zones cannot be applied on land mapped as Category 1 Exempt Land under that Part, and on approval of works on Category 2 Regulated Land any E zone applied over that land is extinguished.

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### Fit for purpose

- 4.108** Inquiry participants also considered the suitability of councils planning for the future by identifying areas of land that are fit for purpose for a particular industry, so when an application is received for a development on that particular land there would be an accelerated approval process.
- 4.109** Mr David Broyd, Vice President, Planning Institute of Australia, NSW Division supported the concept of fit for purpose, but explained it has to be established through solid strategic planning:

So you have got a solid strategic base to say yes if you want to develop certain industries in that location then there is an easier path to go down because the story is told already strategically and correctly. If the council is on board with that and provides the sort of service like Tamworth City Council does, which is very good at responding to development inquiries and facilitating development in line with those policies, then you have got a real opportunity to enable a regional centre to kind of stand out, and if you then network it in with the development industry and others, it works quite fast in the knowledge about which councils are right on side to give you the service to enable that easier development path to be created.<sup>222</sup>

- 4.110** Mr Keys was in favour of detailed land use strategies, stating it must be based on what areas should be developed, or are capable of supporting development, what should be preserved, and what is necessary to be preserved. He noted that Albury had successfully initiated a plan five years ago to provide some certainty about what may occur in the area in the future.<sup>223</sup>
- 4.111** Ms Jennifer Dennis, Senior Policy Officer, Planning, Local Government NSW discussed fit for purpose planning as a method of protecting prime agricultural land, noting there is currently pressure to subdivide land into hobby farms. She suggested that prime agricultural land could be protected by keeping the permissible lot size at 400 hectares or higher.<sup>224</sup>
- 4.112** Mr Tony Donoghue, Executive member, Riverina Eastern Regional Organisation of Councils and General Manager Coolamon Shire considered the issue of fit for purpose to be complex, as it is difficult to gauge where industries will want to develop:

This is where I think it gets difficult. In all my years of planning I can tell you that, no matter how much you plan for an industry to go to a point, at the end of the day the industry will decide whether to go and that will be based on some obscure thing you never thought of when you were trying to do the strategic plan.<sup>225</sup>

- 4.113** Ms Julie Briggs, Executive Officer, Riverina Eastern Regional Organisation of Councils agreed with these views and explained that it is easier for councils to establish industrial estates once an initial development has been established:

But once the chook shed goes there and it has got electricity, the next chook shed will go close because it does not have far to go for its infrastructure. They become like magnets. Some of our councils have set up industrial estates. Certainly for those councils to be able to say, "Right, this is where our industrial estate's going to be," and then be able to secure some funding towards putting in that baseline infrastructure, that would be good.<sup>226</sup>

- 4.114** In contrast to New South Wales, the Queensland *Regional Planning Interests Act 2014* identifies a range of area types including Priority Agricultural Areas. These are areas of regionally significant agricultural production that are identified in a regional plan. This ensures that businesses that seek to operate in these areas do not unreasonably constrain, restrict or

<sup>222</sup> Evidence, Mr Broyd, 11 March p 18.

<sup>223</sup> Evidence, Mr Keys, 5 April 2016, p 17.

<sup>224</sup> Evidence, Ms Dennis, 11 March 2016, p 6.

<sup>225</sup> Evidence, Mr Donoghue, 12 September 2016, p 9.

<sup>226</sup> Evidence, Ms Julie Briggs, Executive Officer, Riverina Eastern Regional Organisation of Councils, 12 September 2016, p 9.

prevent on-going agricultural operations. The assessment criteria for Priority Agricultural Areas allow for compatible resource activities to co-exist with high value agricultural land uses. However, the activity must not result in a material impact on a priority agricultural land use.<sup>227</sup>

- 4.115** Mr Brett Whitworth, Executive Director, Local Planning Liaison, Department of Planning and Environment stated that fit for purpose planning is difficult, as there are many factors to consider. As an example he provided details about an industrial estate near Wagga Wagga:

That is a challenge. For example, the Bomen industrial estate outside Wagga is an area that has been contemplated for heavy industrial development for some time. It has evolved from the location of the abattoir and the saleyards but also the location of the rail line close by and looks to have potential for an intermodal terminal as well. The Olympic Highway is also right next to it so it is a magic combination of all these things coming together. Yet there are still issues that you need to consider. There are the growing areas of Wagga such as Boorooma and Estella. If you have very heavy containers being clunked around at night, the noise might travel. These are some of those things about which you can say clearly the intent is to have heavy industrial agricultural industry in this area but sometimes it is about making sure that in the operation of those developments we understand how they will operate and how they can be managed so that we do not end up forcing them out and so that we can build in controls that do not need to be retrofitted later.<sup>228</sup>

- 4.116** Mr Whitworth also provided detailed information about the importance of councils strategically planning for the future use of land through LEPs, as well as through joint organisations to develop a wider regional picture:

Once we understand those important areas and the important corridors, we are then able to ask what areas are left and whether they are suitable for some sort of rural residential activity. ... Then every time you want to rezone land for development the regional plan will tell you, you need to work out whether it is agricultural land. ... We have been trying to encourage councils to look at that through their local environmental plans, but local environmental plans are effectively “at this point in time” statutory controls with a map and clauses. What we want to get councils thinking about is how their areas are going to grow and change over time, the strategic planning and the strategic intent that they want and linking that back to their community strategic planning that they need to do as councils working to the community. That is where the role of these joint organisations also comes together, because they can start knitting together some important stories not just about that place but about the region and where that place fits into the region. They can put that into their strategic plan. That then guides and directs people to say, “That area has always been identified for agriculture so we will not try to develop that, but this area has some potential for development as rural residential.”<sup>229</sup>

- 4.117** Mr Stephen Murray, Acting Executive Director, Regions, Department of Planning and the Environment stated that the department has scientifically mapped ‘regionally significant farmland’ on the North Coast in consultation with the local farming community. He advised

<sup>227</sup> Queensland Department of Infrastructure, Local Government and Planning, *Areas of regional interest*, <http://www.dilgp.qld.gov.au/planning/regional-planning/areas-of-regional-interest.html>.

<sup>228</sup> Evidence, Mr Whitworth, 17 August 2016, pp 39-40.

<sup>229</sup> Evidence, Mr Whitworth, 17 August 2016, p 39.

that the department strongly encourages councils to conduct local strategic planning to identify areas for businesses that are suited for industrial or residential development.<sup>230</sup>

### **Committee comment**

- 4.118** The committee accepts the evidence that when local councils identify and strategically plan fit for purpose land in their area, it may assist in accelerating the approval process and encourage potential enterprises to the area. We therefore recommend that the department encourage local councils to consider determining fit for purpose land when developing LEPs and land use strategies. In addition, we recommend that the department consider implementing Priority Agricultural Areas, similar to the process adopted in Queensland.
- 4.119** The committee acknowledges the difficulty and complexity of designing guidelines for developing a strategic fit for purpose land assessment process, and recommends the government initiate a consultative methodology involving all stakeholders to develop suitable guidelines for such a process.

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### **Recommendation 20**

That the Department of Planning and Environment encourage local councils to consider determining fit for purpose land when developing Local Environment Plans and land use strategies.

### **Recommendation 21**

That the Department of Planning and Environment conduct a review regarding the feasibility of implementing Priority Agricultural Areas, similar to the process adopted in Queensland.

### **Recommendation 22**

That the NSW Government initiate a whole of government consultative and stakeholder methodology to develop guidelines for a strategic fit for purpose land assessment process.

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<sup>230</sup> Evidence, Mr Murray, 11 March 2016, p 47.

## Chapter 5 Development contributions, delegation to councils and Aboriginal communities

This chapter examines a range of important matters including development contributions, local infrastructure contributions, levies and Voluntary Planning Agreements. The chapter also considers delegation to regional councils in the plan making process, which is an initiative that participants expressed strong support for. Further, the chapter identifies a number of proposals by the NSW Aboriginal Land Council regarding how the planning system can better assist Aboriginal communities in New South Wales to become economically sustainable through improved planning processes.

### Development contributions

- 5.1** Development contributions are payments made by a developer in the form of money, land or buildings to a consent authority to contribute to shared local infrastructure, facilities or services.<sup>231</sup>
- 5.2** Development contributions include local infrastructure contributions operating under s 94 of the *Environmental Planning and Assessment Act 1979* which are paid to the local council, and s 94A levies which are also paid to councils and constitute a percentage of the proposed development cost.<sup>232</sup>
- 5.3** Alternatively, a Voluntary Planning Agreement (VPA) may be initiated by a developer under s 93F of the *Environmental Planning and Assessment Act* to ‘dedicate land free of cost, pay a monetary contribution, or provide any other material public benefit to be used for a public purpose’. Under the Act, a public purpose includes public amenities or public services, affordable housing, transport or other infrastructure relating to land, or the conservation or enhancement of the natural environment.<sup>233</sup> The Secretary of the Department of Planning and Environment is required to keep a register of any VPAs entered into by the Minister for Planning.<sup>234</sup>
- 5.4** The committee heard evidence criticising the current s 94 system. For example, Mr William Payne, Principal Engineer, Ardill Payne and Partners asserted that small developers are not in favour of s 94 development costs as they are expensive, even for simple developments. He stated that other ways of funding infrastructure need to be pursued.<sup>235</sup> He continued, s 94 is a generic system that is in need of change, as it does not take into account the real impact of the development.<sup>236</sup>

<sup>231</sup> Ms Louise O’Flynn, *History of development contributions under the NSW planning system*, NSW Parliamentary Library Research Service, March 2011, p 1.

<sup>232</sup> *Environmental Planning and Assessment Act 1979*, s 94 and s 94A.

<sup>233</sup> *Environmental Planning and Assessment Act 1979*, s 93F.

<sup>234</sup> *Voluntary Planning Agreements*, Department of Planning and Environment website, <https://www.planningportal.nsw.gov.au/understanding-planning/voluntary-planning-agreements>.

<sup>235</sup> Evidence, Mr William Payne, Principal Engineer, Ardill Payne and Partners, 19 September 2016, p 31.

<sup>236</sup> Evidence, Mr Payne, 19 September 2016, p 34.

**5.5** Mr David Ireland, Director, PSA Consulting for Baiada noted that the s 94A levy is not operated consistently throughout the State, and this can make it complicated when looking to develop in different areas. He supported councils that have a policy of waiving infrastructure charges as a method to stimulate economic growth and encourage development in the local area.<sup>237</sup>

**5.6** Mr Tony Donoghue, Executive Member, Riverina Eastern Regional Organisation of Councils and General Manager of Coolamon Shire Council asserted that in order to encourage development, the council does not require many developer contributions. He argued that the council's planning documents are 'aspirational—we are trying to encourage growth—whereas the State planning documents are more constrictive'.<sup>238</sup> He explained:

That is because they are trying to restrict development in areas, where we want to be flexible enough to encourage growth at every opportunity. If that means wearing a little bit of developer charges in s 94 contributions for road networks, we would prefer to wear that and put that into our operations rather than to charge that to the developer.<sup>239</sup>

**5.7** Ms Julie Briggs, Executive Officer, Riverina Eastern Regional Organisation of Councils explained that more councils are adopting this approach as a method of subsidising development in smaller communities and giving the council a competitive edge. Also, it means that the developer will have more money to spend on costs such as electricity, water and gas.<sup>240</sup>

**5.8** Mr Tony McAteer, Coordinator of Strategic Planning and Environment, Richmond Valley Council stated the council also does not charge s 94 contributions, although it has a s 94 A plan.<sup>241</sup>

**5.9** Mr Michael Keys, Director of Planning and Environment, Albury City Council noted that the council often discounted developer contributions in order to stay competitive with Wodonga, which is just across the State border in Victoria:

A lot of that was in recognition of the contribution scheme and the way it is set up in Victoria where they do not have a similar scheme; they do it on a lot or development basis and they have development agreements. ... Probably more importantly, the main issue around then that we found was water and sewerage, where in the Victorian system there is a government utility that covers water and sewerage over the Wodonga area. Their contributions were \$500 per lot and they built a lot of their infrastructure funding through the charges; so their charges were a lot higher than ours.<sup>242</sup>

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<sup>237</sup> Evidence, Mr David Ireland, Director, PSA Consulting, 27 April 2016, p 14.

<sup>238</sup> Evidence, Mr Tony Donoghue, Executive member, Riverina Eastern Regional Organisation of Councils and General Manager Coolamon Shire Council, 12 September 2016, p 4.

<sup>239</sup> Evidence, Mr Donoghue, 12 September 2016, p 4.

<sup>240</sup> Evidence, Ms Julie Briggs, Executive Officer, Riverina Eastern Regional Organisation of Councils, 12 September 2016, p 5.

<sup>241</sup> Evidence, Mr Tony McAteer, Coordinator of Strategic Planning and Environment, Richmond Valley Council, 19 September 2016, p 11.

<sup>242</sup> Evidence, Mr Michael Keys, Director of Planning and Environment, Albury City Council, 12 September 2016, p 18.

- 5.10** Mr Keys explained that prior to a council review the contribution cost in Albury was \$8,000, when it should have been closer to \$35,000. After the review, contributions are now approximately \$19,000, which is still below other regional centres. Mr Keys indicated that this is because the council recognised that it cannot price itself out of the market.<sup>243</sup>
- 5.11** Mr John Sidgwick, Manager Planning and Building, City of Wodonga in Victoria detailed that Wodonga does not have a development contribution plan and instead works on a case-by-case basis where, for example, if a roundabout is required as part of a development, that cost is included within the charge. He noted this method can be ‘hit and miss’ and the council tends to only reclaim \$4,500 or \$5,000 for a contribution, which is significantly below the real cost. Mr Sidgwick explained that this means it is ‘ultimately the community ... that foots the bill and it causes long-term problems’.<sup>244</sup>
- 5.12** Mr Angus Witherby, Director, Planning and Environment, Moree Plains Shire Council supported the use of VPAs, but noted that they often fail to capture the full footprint of the impacts of particular types of development. For example a mine may affect multiple local council areas, not just the area where the mine is located.<sup>245</sup>
- 5.13** In addition, Mr Witherby considered it to be beneficial for the VPA process to occur in tandem with the development assessment process. Although he cautioned that ethically ‘there is of course the need to ensure that the VPA process is not seen as sweeteners to encourage development consent to be granted’.<sup>246</sup> Finally, he argued that the VPA process should look to establish community funds to assist the adjustment process at the end of an industry’s life. He noted that this could be achieved through progressive funding during the life of a business.<sup>247</sup>
- 5.14** When considering whether the Costa Group would prefer to contribute through a VPA or s 94, the Corporate Affairs Manager, Mr Michael Toby, stated that Costa would most likely prefer to pay the s 94, as it is a fixed amount and they would have certainty at the beginning of the project.<sup>248</sup>

### Case study: Dubbo Infrastructure and Services Impact Model

Ms Melissa Watkins, Director, Environmental Services, Dubbo City Council noted that a number of years ago Dubbo City Council entered into a VPA for the Cobbora mine. She explained the council’s frustration with the VPA process under the current Act, asserting it has no scientific basis. Following this, Dubbo worked on establishing ‘a bespoke impact assessment model’ with funding from the Department of Planning and Environment.<sup>249</sup>

<sup>243</sup> Evidence, Mr Keys, 12 September 2016, p 18.

<sup>244</sup> Evidence, Mr John Sidgwick, Manager Planning and Building, City of Wodonga, 12 September 2016, p 19.

<sup>245</sup> Evidence, Mr Angus Witherby, Director, Planning and Environment, Moree Plains Shire Council, 27 April 2016, pp 2-3.

<sup>246</sup> Evidence, Mr Witherby, 27 April 2016, pp 2-3.

<sup>247</sup> Evidence, Mr Witherby, 27 April 2016, pp 2-3.

<sup>248</sup> Evidence, Mr Michael Toby, Corporate Affairs Manager, Costa Group, 17 August 2016, p 20-21.

<sup>249</sup> Evidence, Ms Melissa Watkins, Director, Environmental Services, Dubbo City Council, 5 April 2016, p 4.

The Dubbo Infrastructure and Services Impact Model has now been implemented in VPAs for two developments; a small quarry mine and the new Alkane Resources zirconia project, which is a major development that has received government approval. Ms Watkins explained that the VPA negotiation achieved a \$25 million contribution for a major road upgrade, and \$230,000 a year for the life of project to contribute to the construction of additional roads, generated by the need for additional housing.<sup>250</sup>

Mr Steven Jennings, Manager, City Strategy Services, Dubbo City Council explained how the model was designed through statistical analysis and strategic planning:

The model was designed by the council with help from our consultants Remplan. It takes Australian Bureau of Statistics [ABS] data, national accounts data and a few other bits and pieces. It allows us to really go through and make an assessment of housing impacts, and again that is based on the data that is in the EIS that is provided. So it looks at housing impacts and how many houses need to be provided. That will give us a construction period, an operational period and a closure period. So it looks at how many houses are required for workers, and how many are required as an add-on factor. From there it will give us road infrastructure costs as well associated with actual vehicle trips. So that will cover the actual workers cars and heavy vehicles. It will also give us other factors that the council cannot really influence—it will tell us how many teachers are required and how many health professionals, such as doctors and nurses, are required.<sup>251</sup>

Ms Watkins noted that developers are in favour of the VPA model, as it is an accountable process where they can see where their money is being spent:

We are now seeing that developers can see opportunities to control the spending of contributions better if they have a VPA. They know there is going to be a contribution. So I can see large greenfield developers actually saying, ‘I’d rather enter into a VPA based on your model because we get to see that road built now whereas a s 94 plan for us is a collection of money that gets spent when council programs it to be spent.’<sup>252</sup>

In the case of Alkane, Ms Watkins explained that they ended up paying more through the VPA model process than they would have under a s 94 contribution, as the model assessed that the development would generate a need for another 213 affordable dwellings in Dubbo. Ms Watkins noted that the contribution is based on the impact of the development and the actual cost of infrastructure required and stated that this is developed through strategic planning: ‘Yes, it is not based on what Dubbo thought about or what the mine offered; it is based on the actual strategic planning, the national accounts and the applicant’s own EIS.’<sup>253</sup> She also argued that VPAs under this model could be used for small or large developments and also for closing down large scale projects.<sup>254</sup>

Ms Watkins advocated that the committee consider recommending Dubbo’s model as a package, as it adds rigour to the VPA process. She noted that the current VPA process ‘is a lottery’ where ‘[c]ouncils feel like they are forced to accept a number because they have no alternative’.<sup>255</sup>

<sup>250</sup> Evidence, Ms Watkins, 5 April 2016, p 4.

<sup>251</sup> Evidence, Mr Steven Jennings, Manager, City Strategy Services, Dubbo City Council, 5 April 2016, p 4.

<sup>252</sup> Evidence, Ms Watkins, 5 April 2016, p 5.

<sup>253</sup> Evidence, Ms Watkins, 5 April 2016, p 6.

<sup>254</sup> Evidence, Ms Watkins, 5 April 2016, p 6.

<sup>255</sup> Evidence, Ms Watkins, 5 April 2016, p 5.

Mr Keys stated that although Albury has not had a great deal of exposure to VPAs, it considered it a flexible system and was happy to encourage it. Mr Keys endorsed Ms Watkins' comments about the Dubbo model: 'It is like a breath of fresh air, to be honest, in terms of trying to understand what those implications are and being able to have something that can be utilised in that way has my full support'.<sup>256</sup>

Mr Stephen Murray, Acting Executive Director, Regions, Department of Planning and the Environment explained that the department has been looking at using the Dubbo Infrastructure and Services Impact Model across New England.<sup>257</sup>

In addition, Mr Brett Whitworth, Executive Director, Local Planning Liaison, Department of Planning and the Environment asserted that the department is considering codifying the use of these VPAs:

But I think the idea about codifying the use of VPAs, particularly coming out of those VPAs used for mining projects or wind farm projects, is something that the department is very attuned to and it is something that has been discussed. We may even have guidelines that we are working on in that space.<sup>258</sup>

**5.15** On 3 November 2016 the Hon Rob Stokes MP, Minister for Planning released a draft ministerial direction regarding VPAs<sup>259</sup> and the department released a draft revised practice note and draft planning circular on VPAs.<sup>260</sup>

**5.16** The next day the department announced it was seeking public feedback on these documents to improve the policy framework for VPAs to ensure:

- public benefit from the VPA that relates to the development
- a fair, reasonable and transparent VPA negotiation process identifying appropriate infrastructure through an assessment of local community needs.<sup>261</sup>

### Committee comment

**5.17** The committee notes that the Minister for Planning has commenced a review of the VPA process. We also note the evidence concerning the Dubbo Infrastructure and Services Impact Model. The evidence suggests that the model adds accountability and rigour to the VPA

<sup>256</sup> Evidence, Mr Michael Keys, Director of Planning and Environment, Albury City Council, 5 April 2016, p 17.

<sup>257</sup> Evidence, Mr Stephen Murray, Acting Executive Director, Regions, Department of Planning and the Environment, 17 August 2016, p 41.

<sup>258</sup> Evidence, Mr Brett Whitworth, Executive Director, Local Planning Liaison, Department of Planning and the Environment, 17 August 2016, p 41.

<sup>259</sup> The Hon Rob Stokes MP, Minister for Planning, Planning Agreement Direction, *VPA Draft ministerial direction*, 3 November 2016, <http://www.planning.nsw.gov.au/~media/Files/DPE/Other/vpa-draft-ministerial-direction.ashx>.

<sup>260</sup> Department of Planning and Environment, Draft planning circular, *Strategic planning and infrastructure funding*, 3 November 2016, <http://www.planning.nsw.gov.au/~media/Files/DPE/Circulars/vpa-draft-planning-circular.ashx>.

<sup>261</sup> Department of Planning and Environment website, *Improving Voluntary Planning Agreements*, <http://www.planning.nsw.gov.au/Policy-and-Legislation/Infrastructure/Improving-Voluntary-Planning-Agreements>.

process and allows a local council to assess the impact of a new development and request a figure that will assist in providing the infrastructure necessary to support the development. We also note the potential of the model to assist in considering the impact on a small community when a development closes down.

- 5.18** The committee recommends that the Department of Planning and Environment consider the Dubbo Infrastructure and Services Impact Model as part of its review of VPAs and work with local councils to ensure they undertake adequate strategic planning to effectively implement any contribution models.

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### **Recommendation 23**

That the Department of Planning and Environment consider the Dubbo Infrastructure and Services Impact Model as part of its review of Voluntary Planning Agreements, and work with local councils to ensure they undertake adequate strategic planning to effectively implement any contribution models.

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## **Delegation to regional councils in the plan making process**

- 5.19** In October 2012 a planning circular was distributed which implemented two changes to improve plan-making processes, increase transparency, and increase councils' roles and responsibilities, by:
- delegating the making of some local environmental plans (LEPs) to councils
  - allowing for independent reviews of some council and departmental decisions in the plan making process.<sup>262</sup>
- 5.20** The NSW Government noted that in the 2014-15 financial year, just over two thirds of all LEPs were finalised by the relevant council under delegation; a 20 per cent increase from the previous year.<sup>263</sup> In the same period, over 85 per cent of Gateway determinations (see chapter 4.51 for an explanation) for planning proposals in regional areas were issued under internal delegation by the department's nine regional offices. Regional offices manage the Gateway process, including the delegation of plan making functions to councils. The NSW Government indicated that by working closely with councils, 'the regional teams are able to bring a much stronger local perspective to the process of plan making in regional areas'.<sup>264</sup>
- 5.21** All inquiry participants supported delegation to councils, but a number of participants made suggestions as to how the process could be further improved.
- 5.22** Eurobodalla Shire Council argued that the plan making process still takes far too long and the time taken to receive Gateway determinations from the department should be improved. It also indicated that delegations should be allowed to make minor reclassifications of public land.<sup>265</sup> Tamworth Regional Council also argued that delegation could be used to streamline

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<sup>262</sup> NSW Department of Planning and Infrastructure, *Delegations and independent reviews of plan-making decisions*, Planning circular, 29 October 2012, p 1.

<sup>263</sup> Submission 35, NSW Government, p 6.

<sup>264</sup> Submission 35, NSW Government, p 7.

<sup>265</sup> Submission 4, Eurobodalla Shire Council, p 3.

processes for minor amendments that do not increase the development potential of the subject land. It noted there are cases where minor errors to mapping or incorrect properties have been included in a published comprehensive LEP.<sup>266</sup>

- 5.23** Kyogle Council noted that the plan making process provides appropriate ‘checks and balances’ to ensure that State planning policies are reflected in regional and local plans. It agreed that additional delegation to councils or Joint Regional Planning Panels could be considered for minor amendments to LEPs where the amendments are consistent with the Act and other stated planning instruments.<sup>267</sup> Local Government NSW also argued that councils should be able to approve minor planning proposals for local development and be provided with ‘real’ decision making powers.<sup>268</sup>
- 5.24** The use of delegations was considered a positive step in the plan making process by Albury City Council, as many regional councils have sufficient expertise and experience in the interpretation and plan making requirements. However, it suggested that the processes for rezoning could be simplified ‘through the use of delegations and removal of bureaucratic processes that serve no reasonable purpose’.<sup>269</sup>
- 5.25** Shoalhaven City Council supported delegation, but stated that regional councils need support and clear guidance in the application of these delegations. In addition it asserted that delegations should be seen as a partnership between State and local government rather than a shifting of responsibility, in order to deliver the most appropriate outcome for the community.<sup>270</sup>
- 5.26** Ms Melissa Watkins, Director, Environmental Services, Dubbo City Council stated that there needs to be a greater understanding of the differing nature between regional and metropolitan planning by department staff based in Sydney. She provided an example of the Siding Springs Regional Environmental Plan where the Sydney and regional offices had differing views:

The regional office completely understands our point of view about not imposing as a requirement, for instance, a limit on the number of outside lights on a house in a city like Dubbo, but the Sydney people who are preparing the provisions from the Sydney office are not in agreement because they have a different perspective of what goes on in the region. We have found that to be a very, very frustrating process where we have the support of the regional office but we are not getting any support from Sydney.<sup>271</sup>

- 5.27** In terms of the role of regional offices, Mr David Broyd, Vice President, Planning Institute of Australia, NSW Division noted that there are ‘very capable people of significant professional experience and standing in every regional office of the department’. However, he contended that there still tends to be a centralisation in Sydney that is not necessary for many issues and could be delegated to the regional office for decision-making.<sup>272</sup>

<sup>266</sup> Submission 26, Tamworth Regional Council, pp 4-5.

<sup>267</sup> Submission 31, Kyogle Council, pp 6-7.

<sup>268</sup> Submission 47, Local Government NSW, p 6.

<sup>269</sup> Submission 16, Albury City Council, p 6.

<sup>270</sup> Submission 29, Economic Development Office, Shoalhaven City Council. pp 5-6.

<sup>271</sup> Evidence, Ms Watkins, 5 April 2016, p 3.

<sup>272</sup> Evidence, Mr David Broyd, Vice President, Planning Institute of Australia, NSW Division, 11 March 2016, pp 20-21.

- 5.28** Mr Stephen Murray, Acting Executive Director, Regions, Department of Planning and the Environment explained that the director of regions has the delegation to allow a rezoning process to commence, modify the process and make a LEP. He also indicated that where possible the department is ‘delegating the finishing of the process and the making of the plan through to the council so they can make the local decision that suits their local area’.<sup>273</sup>

### **Committee comment**

- 5.29** The committee supports delegation to regional councils in the plan making process. The department should continue working with councils to delegate further responsibilities in order to reduce delays in the plan making process and ensure that plans are made with local knowledge for the benefit of the local area. In particular, the committee considers that minor amendments to LEPs could be delegated to councils where the amendments are consistent with the Act and other planning instruments.

### **Aboriginal communities**

- 5.30** The NSW Aboriginal Land Council made a range of suggested recommendations to the committee relating to Aboriginal communities, including improving engagement and consultation, enhancing economic development and supporting Aboriginal and cultural heritage.
- 5.31** NSW Aboriginal Land Council contended that local Aboriginal land councils are not adequately consulted by local councils regarding the planning process:
- ... despite local Aboriginal land councils often being the single biggest land owner in a local government area, and despite the unique status of Aboriginal peoples as the First Peoples of NSW and owners of Aboriginal culture and heritage, the Aboriginal Land Council network consistently reports low levels of engagement by local councils. This is particularly evident in the development of strategic initiatives, such as the development of LEPs and assessment of major development proposals.<sup>274</sup>
- 5.32** It recommended that regional planning instruments include a set of mandatory requirements for planning authorities to consult and engage with Aboriginal people, including local Aboriginal land councils. Further, NSW Aboriginal Land Council suggested that the Department of Planning and Environment develop training and capacity building initiatives to assist local Aboriginal land councils to engage in the planning process.<sup>275</sup>
- 5.33** In terms of economic development, NSW Aboriginal Land Council argued that regional planning processes and plans should broadly integrate the objectives of the *Aboriginal Land Rights Act 1983*, including facilitating the social, cultural and economic development of Aboriginal communities.
- 5.34** In addition, some local government authorities have a tendency to view land owned by the Aboriginal community as public environmental assets. It argued that this process of

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<sup>273</sup> Evidence, Mr Murray, 11 March 2016, pp 46-47.

<sup>274</sup> Submission 25, NSW Aboriginal Land Council, p 9.

<sup>275</sup> Submission 25, NSW Aboriginal Land Council, p 5.

‘downzoning’ for environmental conservation purposes eliminates the development potential of those lands.<sup>276</sup> NSW Aboriginal Land Council recommended that local Aboriginal land councils should have access to specific appeal mechanisms for adverse zoning decisions made by local governments which affect the economic development potential of Aboriginal land.<sup>277</sup>

**5.35** NSW Aboriginal Land Council also suggested that all LEPs include provisions to facilitate economic self-determination of Aboriginal communities<sup>278</sup> and that local governments be required to consult with and integrate the strategic priorities of local Aboriginal land councils when drafting or amending LEPs.<sup>279</sup>

**5.36** Regarding Aboriginal and cultural heritage, the current regulatory framework contained in the *National Parks and Wildlife Act 1974* only includes recognition of, and protection for, a narrow scope of Aboriginal culture and heritage objects and places. NSW Aboriginal Land Council asserted that regional planning processes do not provide recognition of the importance of these features, ‘which are critical to the integrity and maintenance of Aboriginal identity and wellbeing’.<sup>280</sup> It made the following recommendations to address this issue:

- regional planning laws must include a mechanism to allow decisions to be made against development proposals on the grounds of existing Aboriginal culture and heritage values in that area
- cumulative impact assessments for Aboriginal culture and heritage must be undertaken for all developments, and mechanisms to refuse developments on this basis incorporated
- there should be Aboriginal representation on Joint Regional Planning Panels which are referred matters which involve Aboriginal culture and heritage issues
- strategic planning should include mandatory minimum requirements for local governments and regional bodies to undertake cultural values mapping in partnership with LALCs and Aboriginal peoples.<sup>281</sup>

**5.37** The Department of Planning and Environment responded to the recommendations made in the NSW Aboriginal Land Council submission by stating that it actively engages with the council ‘on a regular basis and the Government is working in a number of policy areas that are relevant to the broad themes raised by the NSW Aboriginal Land Council’,<sup>282</sup> in particular:

- Regional Plans which are being developed to include directions and actions that commit the NSW Government to undertaking a strategic assessment of land held by Local Aboriginal Land Councils to see how they can best be planned, managed and developed for the benefit of local Aboriginal communities. This commitment will require close collaboration with the LALCs and local councils so that priority sites for further investigations of their economic opportunities can be identified.
- The NSW Government, through the Office of Environment and Heritage, is committed to reforming the regulations for Aboriginal cultural heritage. This includes preparing stand-alone legislation that delivers a more effective and

<sup>276</sup> Submission 25, NSW Aboriginal Land Council, p 9.

<sup>277</sup> Submission 25, NSW Aboriginal Land Council, p 5.

<sup>278</sup> Submission 25, NSW Aboriginal Land Council, p 10.

<sup>279</sup> Submission 25, NSW Aboriginal Land Council, p 5.

<sup>280</sup> Submission 25, NSW Aboriginal Land Council, pp 11-12.

<sup>281</sup> Submission 25, NSW Aboriginal Land Council, p 5.

<sup>282</sup> Answers to questions on notice, Department of Planning and Environment, 6 May 2016, p 1.

efficient process for heritage protection and development approvals. The reforms aim to create a system that enables Aboriginal cultural heritage to be considered upfront in land-use planning and development processes. This will promote better cultural heritage outcomes, improve the efficiency and effectiveness of consultation with Aboriginal people and provide greater certainty to industry.

- A business case is being developed to identify the funding necessary for service and infrastructure upgrades in 59 Aboriginal communities that are owned by Local Aboriginal Land Councils. This project is being undertaken in close consultation with NSW Aboriginal Land Council representatives.
- The department is collaborating with Local Aboriginal Land Councils in the development of a "Planning for non-Planners" training course. This will help build the capacity of Local Aboriginal Land Councils and communities to participate in planning for their communities including by identifying opportunities for the economic development of land.
- The department is also exploring ways to improve the cultural competency within State and local government planning authorities to improve engagement and service delivery of planning processes and outcomes for Aboriginal communities.<sup>283</sup>

### Committee comment

**5.38** The committee strongly supports the development of Aboriginal communities through active participation in the planning process. We have recently released the report *Economic development in Aboriginal communities* where we made 39 recommendations to the NSW Government<sup>284</sup> which broadly address many of the issues raised by the NSW Aboriginal Land Council. The committee commends these recommendations to the government. However, we would specifically like to see the government take action on the following matters raised by the NSW Aboriginal Land Council to this inquiry:

- regional planning instruments must include a set of mandatory requirements for planning authorities to consult and engage with Aboriginal people
- strategic planning should include mandatory minimum requirements for local governments and regional bodies to undertake cultural values mapping in partnership with Local Aboriginal Land Councils and Aboriginal peoples
- there should be Aboriginal representation on Joint Regional Planning Panels.

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<sup>283</sup> Answers to questions on notice, Department of Planning and Environment, 6 May 2016, pp 1-2.

<sup>284</sup> Standing Committee on State Development, NSW Legislative Council, *Economic development in Aboriginal communities* (2016), pp x-xiv.

## Appendix 1 Submissions

No	Author
1	Mr Adam Horrocks
2	Bathurst Regional Council
2a	Bathurst Regional Council
3	Tweed Shire Council
4	Eurobodalla Shire Council
5	NSW Housing Industry Association Ltd
6	Narromine Shire Council
7	Cr Duncan Dey
8	Mr Mervyn Prendergast
9	Queanbeyan City Council
10	Kempsey Shire Council
11	Mr John Fredrick Sercombe
12	Planning Institute of Australia. NSW Division
12a	Planning Institute of Australia. NSW Division
13	Name suppressed
14	Association of Consulting Surveyors NSW Inc
15	Regional Development Australia Mid North Coast
16	Albury City Council
17	Lake Macquarie City Council
18	restofnsw.org
19	Local Government Planning Directors Group
20	Combined Development Group Pty Ltd
21	NSW Minerals Council
22	Illawarra Pilot Joint Organisation
23	EDO NSW
24	Nature Conservation Council of NSW
25	NSW Aboriginal Land Council
26	Tamworth Regional Council
27	Costa Group
28	Richmond Valley Council
29	Shoalhaven City Council, Economic Development Office
30	Dubbo City Council

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<b>No</b>	<b>Author</b>
31	Kyogle Council
32	NSW Farmers Association
33	Gunnedah Shire Council
34	Darkinjung Local Aboriginal Land Council
35	NSW Government
36	Central NSW Councils
37	Regional Development Australia Far South Coast
38	Moree Plains Shire Council
39	Large Format Retail Association
40	Dr Ian Tiley
41	Orana Regional Organisation of Councils
42	ACT Government
43	Riverina Eastern Regional Organisation of Councils
44	Cessnock City Council
45	Namoi Councils Joint Organisation
46	Ms Dianne Hockey
47	Local Government NSW
48	Baiada
49	ProTen
50	Confidential
51	Ardill Payne and Partners

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## Appendix 2 Witnesses at hearings

<b>Date</b>	<b>Name</b>	<b>Position and Organisation</b>
<b>Friday 11 March 2016 Parliament House</b>	Mr Shaun McBride	Senior Strategy Manager, Local Government NSW
	Ms Jennifer Dennis	Senior Policy Officer, Planning, Local Government NSW
	Mr David Broyd	Vice President, Planning Institute of Australia (NSW)
	Mr Darren Holloway	Committee Member, Planning Institute of Australia (NSW)
	Ms Clare McHugh	Executive Director, Policy and Programs, NSW. Aboriginal Land Council.
	Mr Steve Murray	A/Executive Director, Regions, Department of Planning and the Environment
	Mr Gary Barnes	Deputy Secretary, Skills and Industry, Department of Industry, Skills and Regional Development
	Mr Chris Hanger	Director, Office of Regional Development, Department of Industry, Skills and Regional Development
	Mr Mitchell Isaacs	Director, Planning Policy and Assessment Advice, Department of Primary Industries
	Mr Derek Rutherford	Director South Branch, Regional Operations Group, Office of Environment and Heritage
<b>Tuesday 5 April 2016 Western Plains Cultural Centre, Dubbo</b>	Ms Melissa Watkins	Director, Environmental Services, Dubbo City Council
	Mr Steven Jennings	Manager, City Strategy Services, Dubbo City Council
	Ms Melissa Watkins	Convenor, Local Government Planning Directors Group
	Mr Michael Keys	Director, Planning and Environment, Albury City Council
	Clr Bill McAnally	Chair, Orana Regional Organisation of Councils and Mayor, Narromine Shire Council
	Mr Ashley Wielinga	General Manager, Warren Shire Council
	Ms Belinda Barlow	Executive Officer, Orana Regional Organisation of Councils

<b>Date</b>	<b>Name</b>	<b>Position and Organisation</b>
<b>Wednesday 27 April 2016</b> <b>West Tamworth Leagues Club</b> <b>Tamworth</b>	Clr Col Murrary	Chairperson, Namoi Councils Joint Organisation and Mayor of Tamworth Regional Council
	Clr Owen Hasler	Board Member, Namoi Councils Joint Organisation and Mayor, Gunnedah Shire Council
	Mr Angus Witherby	Director, Planning and Environment, Moree Plains Shire Council
	Mr Daniel Bryant	Chief Executive Officer, ProTen Ltd
	Ms Eryn Bath	Principal Consultant, Environmental Management, Planning and Approvals, SLR Consulting
	Ms Elaine Dickson	Chief Risk Officer, Baiada
	Mr David Ireland	Director, PSA Consulting
<b>Thursday 26 May 2016</b> <b>Narooma Golf Club</b> <b>Narooma</b>	Ms Lia Mahoney	President, Tamworth Business Chamber
	Mr Jeff Morgan	Divisional Manager, Strategic Services, Eurobodalla Shire Council
	Ms Sarah Cooper	Business Assistance Manager, Eurobodalla Shire Council
<b>Wednesday 17 August 2016</b> <b>Parliament House</b>	Mr Greg Pullen	Economic Development Manager, Shoalhaven City Council
	Ms Rachel Walmsley	Policy and Law Reform Director, Environmental Defenders Office NSW
	Mr Nari Sahukar	Senior Policy and Law Reform Solicitor, Environmental Defenders Office NSW
	Ms Jeanette Brokman	Co-Convenor, Better Planning Network Inc.
	Mr Michael Toby	Corporate Affairs Manager, Costa Group
	Mr Craig Jennion	Executive Director, Hunter, NSW Housing Industry Association
	Mr Troy Loveday	Assistant Director, Residential Development and Planning, NSW Housing Industry Association
	Mr Stephen Murray	A/Executive Director, Regions, Department of Planning and Environment
	Mr Brett Whitworth	Executive Director, Local Planning Liaison, Department of Planning

<b>Date</b>	<b>Name</b>	<b>Position and Organisation</b>
<b>Monday 12 September 2016</b> <b>Elizabeth Room,</b> <b>Albury Entertainment Centre,</b> <b>Albury</b>	Ms Julie Briggs	Executive Officer, Riverina Eastern Regional Organisation of Councils (REROC)
	Mr Tony Donoghue	REROC Executive Member and General Manager, Coolamon Shire
	Mr James McTavish	NSW Cross Border Commissioner, NSW Department of Industry
	Mr Frank Zaknich	General Manager, Albury City Council
	Mr Michael Keys	Director Planning and Environment, Albury City Council
	Mr John Sidgwick	Manager Planning and Building, City of Wodonga
	Mr Bob Wheeldon	Chair, Rest of NSW Inc.
<b>Monday 19 September 2016</b> <b>Fenwick Room, Ramada Hotel,</b> <b>Ballina</b>	Mr Tony McAteer	Coordinator of Strategic Planning and Environment, Richmond Valley Council
	Ms Paula Newman	Strategic Planning Coordinator, Lismore City Council
	Ms Shannon Burt	Director Sustainable Environment and Economy, Byron Shire Council
	Mr Manfred Boldy	Director Planning and Environmental Services, Kyogle Council
	Mr Vince Connell	Director Planning and Regulation, Tweed Shire Council
	Mr Alex Smith	Chief Executive Officer, Regional Development Australia, Northern Rivers
	Ms Kerry Grace	Chief Executive Officer, Regional Development Australia, Mid North Coast (RDAMNC)
	Ms Lorraine Gordon	Former Chief Executive Officer, RDAMNC and currently Program Director, Farm Co-operatives and Collaboration Pilot Program, Southern Cross University
	Mr Bernard Grinberg	Director, Ballina Beach Village
Mr Bill Payne	Principal, Ardill Payne and Partners	



## Appendix 3 Minutes

### Minutes no. 2

Thursday 13 August 2015

Standing Committee on State Development

Office of the Clerk's meeting room, Parliament House, Sydney, at 1.00 pm

#### 1. Members present

Mr Pearce, *Chair*

Mr Veitch, *Deputy Chair*

Mr Colless

Ms Cotsis

Mrs Maclaren-Jones

#### 2. Apologies

Mr Green

#### 3. Previous minutes

Resolved, on the motion of Mr Veitch: That draft minutes no. 1 be confirmed.

#### 4. Correspondence

The committee noted the following items of correspondence received:

- 4 August 2015 – Letter to Chair from Hon Leslie Williams MP, Minister for Aboriginal Affairs, requesting the committee to consider terms of reference for an inquiry into strategies to support economic development in Aboriginal communities.

#### 5. Consideration of terms of reference

The Chair tabled the following terms of reference received from the Hon Leslie Williams MP, Minister for Aboriginal Affairs, on 4 August 2015:

1. That the Standing Committee on State Development inquire into and report on strategies to support economic development in Aboriginal communities in New South Wales, including but not limited to:
  - a. Options for sustainability and capacity building of NSW Aboriginal communities into the future, utilising existing community networks and structures.
  - b. Leveraging economic development support, including provided by the Commonwealth Government and the private sector.
  - c. Establishment and sustainability of Aboriginal owned enterprises.
2. That the committee report by 30 September 2016.

Resolved, on the motion of Mrs Maclaren-Jones: That the committee adopt the terms of reference.

#### 6. Inquiry into economic development in Aboriginal communities

##### 6.1 Proposed timeline

Resolved, on the motion of Mrs Maclaren-Jones: That the committee adopt the following timeline for the administration of the inquiry:

- Sunday 11 October 2015 – submission closing date
- Friday 13 November – public hearing (Sydney)
- February 2016 – site visit and hearing
- April 2016 – site visit and hearing
- April/May 2016 – second round of submissions, closing date before final hearing

- May 2016 – public hearing (Sydney)
- August 2016– report deliberative.

## 6.2 Stakeholder list

Resolved, on the motion of Mr Veitch: That the committee write to the following stakeholders to invite them to make a submission to the inquiry:

- Department of Premier and Cabinet
- Public Service Commission
- NSW Aboriginal Land Council
- Department of the Prime Minister and Cabinet (Indigenous Affairs)
- Department of Employment
- Australian Research Council
- Local Government NSW
- All local governments in NSW
- Aboriginal Child, Family & Community Care State Secretariat (ABSEC)
- Aboriginal Disability Network
- Aboriginal Employment Strategy (AES)
- Aboriginal Enterprises in Mining, Exploration and Energy Ltd (AEMEE)
- AIME (Australian Indigenous Mentoring Experience)
- Australian Indigenous Education Foundation
- Australian Indigenous Governance Institute
- Australian Indigenous Leadership Centre
- Australian Institute of Aboriginal and Torres Strait Islander Studies
- Centre for Aboriginal Economic Policy Research
- Clontarf Foundation
- Council of Social Service of New South Wales (NCOSS)
- Generation One
- Mission Australia
- National Indigenous Youth Leadership Group
- Public Interest Advocacy Centre
- Reconciliation Australia
- Social Ventures Australia (Indigenous Social Enterprise Fund)
- Wesley Uniting Aboriginal Employment Services
- Aboriginal Health and Medical Research Council
- Centre for Aboriginal Economic Policy Research, Australian National University
- Centre for Citizenship and Public Policy, University of Western Sydney
- Centre for Research on Social Inclusion, Macquarie University
- Institute for Land, Water and Society, Charles Sturt University
- Jumbanna. University of Technology, Sydney
- Nulungu Research Institute, The University of Notre Dame
- Social Policy Research Centre, The University of New South Wales
- Social Policy Research Network, University of Sydney
- ANZ
- Australia Post
- BHP Billiton
- Brierty
- CocaCola
- Crown Resorts
- Downer

- Fortescue Metals
- NAB
- Rio Tinto
- Sodexo
- Westpac
- Woodside
- Aboriginal Justice Centre
- Aboriginal Legal Service
- Australia Institute
- Australian Chamber of Commerce and Industry
- Centre for Independent Studies
- Centre for Policy Development
- Eidos Institute
- Grattan Institute
- Indigenous Business Australia
- Indigenous Land Corporation
- Institute for Aboriginal Development Inc.
- Minerals Council of Australia
- NSW Mining
- NTSCorp
- Sydney Institute.

### 6.3 Advertising

The committee noted that all inquiries are advertised via twitter, stakeholder letters and a media release distributed to all media outlets in New South Wales.

## 7. Other business

Mr Colless tabled the following terms of reference received from the Hon Troy Grant MP, Deputy Premier, on 13 August 2015:

That the Standing Committee on State Development inquire into and report on regional planning processes in New South Wales, and in particular:

- a. opportunities to stimulate regional development under the planning framework including through legislation, policy, strategy and governance;
- b. constraints to regional development imposed by the planning framework and opportunities for the framework to better respond to regional planning issues;
- c. the suitability of a stand-alone regional planning Act;
- d. the effectiveness of environmental planning instruments including State Environmental Planning Policies and Local Environmental Plans (including zoning) to stimulate regional development, and opportunities to improve their effectiveness;
- e. opportunities to increase delegations for regional councils in regard to planning processes;
- f. opportunities for strategic planning to assist in responding to challenges faced by communities in regional areas, including through Regional Plans;
- g. opportunities for government-led incentives that promote regional development
- h. pathways to improve decision making processes for regional development proposals, including increasing the use of complying development, improving the negotiation process for voluntary planning agreements, and reducing costs associated with assessment;
- i. any other related matter.

Resolved, on the motion of Mr Colless: That the committee adopt the terms of reference.

Resolved, on the motion of Mr Colless: That the committee defer consideration of the timeline and stakeholder list for the inquiry into regional planning process in New South Wales until the next meeting of the committee.

**8. Adjournment**

The Committee adjourned at 1.10 pm *sine die*.

Cathryn Cummins

**Clerk to the Committee**

**Minutes no. 3**

Thursday 27 August 2015

Standing Committee on State Development

Members' Lounge, Parliament House, Sydney, at 1.04 pm

**1. Members present**

Mr Pearce, *Chair*

Mr Colless

Ms Cotsis

**2. Apologies**

Mr Green

Mrs Maclaren-Jones

Mr Veitch, *Deputy Chair*

**3. Previous minutes**

Resolved, on the motion of Mr Colless: That draft minutes no. 2 be confirmed.

**4. Correspondence**

The committee noted the following item of correspondence received:

- 13 August 2015 – Letter to Chair from the Hon Troy Grant MP, requesting the committee to consider terms of reference for an inquiry into regional planning processes.

**5. Conduct of the inquiry into regional planning processes in NSW**

**5.1 Proposed timeline**

Resolved, on the motion of Mr Colless: That the committee adopt the following timeline for the administration of the inquiry:

- Friday 11 December 2015 – submission closing date
- Friday 4 March 2016 – public hearing (Sydney)
- Site visits and hearings to be determined following the release of the 2016 parliamentary sitting calendar.

**5.2 Stakeholder list**

Resolved, on the motion of Mr Colless: That members have until COB Monday 31 August 2015 to amend the Chairs' proposed list of stakeholders or nominate additional stakeholders, and that the committee agree to the stakeholder list by email, unless a meeting of the committee is required to resolve any disagreement.

### 5.3 Advertising

The committee noted that all inquiries are advertised via twitter, stakeholder letters and a media release distributed to all media outlets in New South Wales.

## 6. Conduct of the inquiry into economic development in Aboriginal communities

### 6.1 Aboriginal culture and communication workshop

The committee noted that GPSC No. 3 is considering attending a workshop on different communication and consultation methods for Aboriginal communities. The committee will consider participating in the workshop once more details become available.

## 7. Adjournment

The committee adjourned at 1.07 pm *sine die*.

Samuel Griffith

**Clerk to the Committee**

### Minutes no. 4

Friday 16 October 2015

Standing Committee on State Development

Members' Lounge, Parliament House, Sydney at 9:45 am

### 1. Members present

Mr Pearce, *Chair*

Mr Veitch, *Deputy Chair*

Mr Colless

Ms Cotsis (*at 9.50am, until 11.05am*)

Mr Green (*until 11.45am*)

### 2. Apologies

Mrs Maclaren-Jones

### 3. Previous minutes

Resolved, on the motion of Mr Colless: That draft minutes no. 3 be confirmed.

### 4. Correspondence

The committee noted the following items of correspondence received:

- 19 August 2015 – From Dr Iris Kirkpatrick, Assistant Director, Corruption Prevention Division, Independent Commission Against Corruption, requesting a meeting to discuss a project related to the Local Aboriginal Land Council Boards.

The Chair advised that he and the secretariat would be meeting with Dr Kirkpatrick on Wednesday 28 October 2015 and undertook to advise the committee of the outcome of the meeting.

## 5. Inquiry into economic development in Aboriginal communities

### 5.1 Public submissions

The committee noted that submission nos. 3-11 were published by the committee clerk under the authorisation of an earlier resolution.

### 5.2 Partially confidential submissions

The committee noted that the committee clerk is liaising with the author of submission no. 2 to omit certain identifying details of the author, which are to remain confidential.

### 5.3 Confidential submissions

Resolved, on the motion of Mr Colless: That the committee keep submission no. 1 confidential, as per the request of the author.

### 5.4 Request for extensions

The committee noted that extensions have been granted for making a submission to the following organisations:

- NSW Ombudsman Office
- NTSCORP
- NSW Premier and Cabinet
- NSW Aboriginal Land Council
- Eurobodalla Shire Council
- Prime Minister and Cabinet.

### 5.5 Aboriginal cultural awareness and inter-cultural communication training

Resolved, on the motion of Mr Veitch: That Aboriginal cultural awareness and inter-cultural communication training be held for the committee on Friday 16 October from 10am to 12pm, facilitated by Professor Diana Eades and Mr Dave Widders, and that the total cost of \$3960.42 for this training be shared with General Purpose Standing Committee No. 3.

Ms Cotsis joined the meeting.

### 5.6 Public hearing 13 November 2015

Resolved, on the motion of Mr Colless: That the committee defer the scheduled public hearing on 13 November 2015 until the first half of 2016.

### 5.7 Aboriginal cultural awareness and inter-cultural communication training

The committee moved to the Waratah Room.

Professor Diana Eades and Dave Widders provided the committee with Aboriginal cultural awareness and inter-cultural communication training. Members of General Purpose Standing Committee No. 3 also attended the training.

Ms Cotsis left the meeting at 11.05 am.

Mr Green left the meeting at 11.45 am.

## 6. Adjournment

The committee adjourned at 12:15 pm *sine die*.

Cathryn Cummins

**Clerk to the Committee**

### Minutes no. 5

18 November 2015

Standing Committee on State Development

Members' Lounge, Parliament House, Sydney, at 2.00 pm

#### 1. Members present

Mr Pearce, *Chair*

Mr Colless

Ms Cotsis

**2. Apologies**

Mr Veitch, *Deputy Chair*  
Mr Green  
Mrs Maclaren-Jones

**3. Previous minutes**

Resolved, on the motion of Mr Colless: That draft minutes no. 4 be confirmed.

**4. Inquiry into economic development in Aboriginal communities****4.1 Public submissions**

The committee noted that submission nos 12-14 were published by the committee clerk under the authorisation of the resolution appointing the committee.

**5. Inquiry activity for 2016**

Resolved, on the motion of Ms Cotsis: That the draft proposal for inquiry activity for 2016 be agreed to, subject to members confirming their availability.

**6. Adjournment**

The committee adjourned at 2.05 pm, *sine die*.

Rebecca Main  
Clerk to the Committee

**Minutes no. 6**

Friday 26 February 2016  
Standing Committee on State Development  
Macquarie Room, Parliament House, Sydney, at 9.20 am

**1. Members present**

Mr Pearce, *Chair*  
Mr Veitch, *Deputy Chair*  
Mr Colless  
Ms Cotsis (left at 12.10 pm)  
Mr Green  
Mr Mallard (*substituting for Mrs Maclaren-Jones*)

**2. Previous minutes**

Resolved, on the motion of Mr Veitch: That draft minutes no. 5 be confirmed.

**3. Correspondence**

The committee noted the following items of correspondence were received:

- 13 December 2015 – Email from Mr Bernard Grinberg to the committee requesting to appear as a witness for the inquiry into regional planning processes in NSW and providing information about his background
- 19 February 2016 – Email from Ms Cerin Loane, Nature Conservation Council of NSW to the committee declining to attend public hearing for the inquiry into regional planning processes in NSW
- 23 February 2016 – Email from Ms Hema Hariharan, NTSCorp declining to attend public hearing for the inquiry into economic development in Aboriginal communities and offering to provide further information to their submission if needed

- 23 February 2016 – Email from Mr Tim Archer, Department of Planning and Environment declining to attend public hearing for the inquiry into economic development in Aboriginal communities and offering to provide a written submission.

#### **4. Inquiry into regional planning processes**

##### **4.1 Public submissions**

The committee noted that submission nos. 2-12 and 14-46 were published by the committee clerk under the authorisation of the resolution appointing the committee.

##### **4.2 Partially confidential submissions**

Resolved, on the motion of Mr Green:

- That the committee keep the following information confidential, as per the request of the secretariat: adverse mention in submission no. 1
- That the committee keep the following information confidential, as per the request of the author: name and identifying information in submission no. 13.

#### **5. Inquiry into economic development in Aboriginal communities**

##### **5.1 Public submissions**

The committee noted that submission nos. 2 and 15-28 were published by the committee clerk under the authorisation of the resolution appointing the committee.

##### **5.2 Partially confidential submissions**

Resolved on the motion of Mr Veitch: That the committee keep the following information confidential, as per the request of the author: identifying information of third parties in the attachment to submission no. 26.

#### **6. Future inquiry activity – site visits**

##### **6.1 Travel by charter plane**

Resolved on the motion of Mr Colless: That the committee authorise the use of a charter plane for the site visit to Dubbo and Brewarrina in April 2016.

#### **7. Public hearing – Inquiry into economic development in Aboriginal communities**

##### **7.1 Public hearing**

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witnesses were sworn and examined:

- Mr Jason Ardler, Head, Aboriginal Affairs
- Ms Amity Durham, Executive Director, Social Policy, Department of Premier and Cabinet
- Mr Jason Brouff, Manager, Aboriginal Land Claims, Aboriginal Lands Unit, Crown Lands, Department of Primary Industry – Land.

The evidence concluded and the witnesses withdrew.

The following witnesses was sworn and examined:

- Mr Gary Barnes, Deputy Secretary, Economic, Skills and Regional Development, NSW Department of Industry
- Ms Louisa Mamouny, A/Executive Director, Industry Policy, Economic and Regional Development, NSW Department of Industry
- Ms Heather McGregor, Director, Aboriginal Learning Circle, North Coast Institute, TAFE NSW

- Mr Mervyn Donovan, Team Leader, Aboriginal Education Unit, TAFE Strategy and Finance, TAFE NSW
- Mr Raghu Venkat, Senior Manager, Business and Product Development, Indigenous Business Australia.

The evidence concluded and the witnesses withdrew.

The following witnesses was sworn and examined:

- Mr Roy Ah-See, Chairperson, NSW Aboriginal Land Council
- Mr Craig North, Executive Director, Indigenous Land Corporation
- Mr Tri Nguyen, General Counsel, Indigenous Land Corporation
- Ms Trish Button, Eastern Divisional Manager, Indigenous Land Corporation.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Shane Phillips, Chairman and Chief Executive Officer, Tribal Warrior.

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Dr Janet Hunt, Associate Professor, Centre for Aboriginal Economic Policy Research, Australian National University.

Dr Hunt tendered the following documents:

- Working Paper No 75/2010 entitled “Looking after Country in New South Wales: Two Case Studies of Socioeconomic Benefits for Aboriginal People” by J Hunt, Centre for Aboriginal Economic Policy Research, The Australian National University
- Working Paper No 90/2013 entitled “Looking after Country in New South Wales: Implementing a Land & Sea Country Plan on the far south coast”, Centre for Aboriginal Economic Policy Research, ANU College of Arts & Social Sciences.

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Ms Debbie Barwick, Chairperson, NSW Indigenous Chamber of Commerce.

Ms Barwick tendered the following documents:

- Package of materials about the New South Wales Indigenous Chamber of Commerce including a Memorandum of Understanding with the NSW Government and pamphlets.

The evidence concluded and the witness withdrew.

## 8. **Tendered documents**

Resolved on the motion of Mr Veitch: That the committee accept the following documents tendered during the public hearing:

- Looking after Country in New South Wales: Two Case Studies of Socioeconomic Benefits for Aboriginal People
- Looking after Country in New South Wales: Implementing a Land & Sea Country Plan on the far south coast
- Package of materials about the New South Wales Indigenous Chamber of Commerce.

## 9. Adjournment

The committee adjourned at 2.50 pm until Friday 11 March 2016 (*public hearing for regional planning processes*).

Rebecca Main

**Clerk to the Committee**

## Minutes no. 7

Friday 11 March 2016

Standing Committee on State Development

Macquarie Room, Parliament House, Sydney, at 9.17 am

### 1. Members present

Mr Pearce, *Chair*

Mr Veitch, *Deputy Chair*

Mr Colless

Mr Green

Mrs Maclaren-Jones

Mr Wong

### 2. Previous minutes

Resolved, on the motion of Mr Veitch: That draft minutes no. 6 be confirmed.

### 3. Correspondence

The committee noted the following items of correspondence were received:

- 26 February 2016 – Email from Mr Alex MacDonald, Media, restofnsw to the secretariat requesting that restofnsw be invited by the committee to give evidence at a hearing for the inquiry into regional planning processes in NSW.
- 2 March 2016 – Email from Doug Gordon of Yarnteen Ltd. advising that Yarnteen is not in a position to meet with the committee during its Central Coast site visit on 14 March 2016.

### 4. Inquiry into economic development in Aboriginal communities

#### 4.1 Public submissions

The committee noted that submission nos. 29-31 were published by the committee clerk under the authorisation of the resolution appointing the committee.

#### 4.2 Late submissions

The committee noted that late submissions were expected from the following organisations:

- Department of Prime Minister and Cabinet
- Gandangara LALC
- NSW Indigenous Chamber of Commerce
- NSW Department of Planning and Environment
- Office of the Registrar, Aboriginal Land Rights Act.

### 5. Inquiry into regional planning processes

#### 5.1 Public submissions

The committee noted that submission no. 47 was published by the committee clerk under the authorisation of the resolution appointing the committee.

#### 5.2 Public hearing

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witnesses were sworn and examined:

- Mr Shaun McBride, Senior Strategy Manager, Local Government NSW
- Ms Jennifer Dennis, Senior Policy Officer, Local Government NSW

Mr Green tendered the following document:

- Alex Druce 'Council land grab scare, Green zones threat to farmland', *The Land*, Sydney, 10 March 2016, p 3.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr David Broyd, Vice President, Planning Institute of Australia (NSW)
- Mr Darren Holloway, Committee Member, Planning Institute of Australia (NSW)

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Ms Clare McHugh, Executive Director, Policy and Programs, NSW Aboriginal Land Council.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Steve Murray, Acting Executive Director, Regions, Department of Planning and the Environment
- Mr Gary Barnes, Deputy Secretary Skills & Industry, Department of Industry, Skills and Regional Development
- Mr Chris Hanger, Director Regional Development, Skills and Industry Policy, Department of Industry, Skills and Regional Development
- Mr Mitchell Isaacs, Director Planning Policy and Assessment Advice, Department of Primary Industry
- Mr Derek Rutherford, Director South, Regional Operations Group, Office of Environment and Heritage

The evidence concluded and the witness withdrew.

## 6. **Tendered documents**

Resolved on the motion of Mr Wong: That the committee accept and publish the following document tendered during the public hearing:

- Alex Druce 'Council land grab scare, Green zones threat to farmland', *The Land*, Sydney, 10 March 2016, p 3.

## 7. **Adjournment**

The committee adjourned at 3.00 pm until Monday 14 March 2016 (*site visit for economic development in Aboriginal communities*).

Rebecca Main  
Clerk to the Committee

**Minutes no. 8<sup>285</sup>**

Monday 14 March 2016

**Minutes no. 9**

Tuesday 5 April 2016

Standing Committee on State Development

Bankstown Airport, Sydney, 8.18 am

**1. Members present**Mr Pearce, *Chair*Mr Veitch, *Deputy Chair*

Mr Colless

Mrs Maclaren-Jones

Mrs Houssos (substituting for Mr Wong)

**2. Apologies**

Mr Green

**3. Draft minutes**

Resolved, on the motion of Mrs Maclaren-Jones: That draft minutes nos 7 and 8 be confirmed.

**4. Correspondence**

The committee noted the following items of correspondence:

***Received***

- 22 March 2016 – letter from Mr Michael Keys, Director Planning & Environment, Albury City Council, to the Chair, requesting that the committee conduct a public hearing in Albury for the inquiry into regional planning processes in NSW.

***Sent***

- 22 March 2016 – letter from the Chair, to the Hon Troy Grant, Deputy Premier, Minister for Justice and Police, Minister for the Arts, and Minister for Racing, and Member for Dubbo, advising of the site visit to Dubbo on Tuesday 5 April
- 22 March 2016 – letter from the Chair, to Mr Kevin Humphries, Member for Barwon, advising of the site visit to Merriman Shearing School on Wednesday 6 April
- 22 March 2016 – letter from the Chair, to Mr Sean Gordon, Chief Executive Officer, Darkinjung Local Aboriginal Land Council, thanking him for the site visit briefing the committee attended on 14 March 2016
- 22 March 2016 – letter from the Chair, to Mr Andrew Smith, Chief Executive Officer, Worimi Local Aboriginal Land Council, thanking him for the site visit briefing the committee attended on 14 March 2016
- 22 March 2016 – letter from the Chair, to Mr Laurie Perry, Chief Executive Officer, Wonnarua Nation Aboriginal Corporation, thanking him for the site visit briefing the committee attended on 14 March 2016
- 23 March 2016 – letter from the Chair, to the Hon Robert Brown MLC Chair of GPSC No. 5 informing him of the committee's 2013 inquiry into the adequacy of water storages in NSW.

**5. Inquiry into economic development of Aboriginal communities****5.1 Public submissions**

The committee noted that the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 32, 33, 34.

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<sup>285</sup> Minutes no. 8 relates solely to the inquiry into economic development in Aboriginal communities.

## 5.2 Tended documents

Resolved, on the motion of Mr Colless: That the committee accept the following documents tendered during the site visit to Wonnarua but keep them confidential at the request of the author:

- Booklet entitled ‘Wonnarua A sense of belonging’
- Document entitled ‘Wonnarua Nation Aboriginal Corporation Strategic Plan 2014/15 – 2017/18’
- Document entitled ‘Wonnarua Nation Aboriginal Corporation Newsletter, September 2015’.

Resolved, on the motion of Mrs Maclaren-Jones: That the committee accept and publish the following documents tendered during the site visit to Darkinjung:

- Document entitled ‘Discussion paper: The New South Wales Aboriginal Land Claims Process, ADW Johnson Pty Ltd, 2012’
- Submission from Darkinjung Local Aboriginal Land Council to the Standing Committee on State Development for the inquiry into regional planning processes in New South Wales
- Darkinjung case studies – Halekulani
- Darkinjung case studies – North Wyong Development Plans
- Document entitled ‘Sustainable Lands Strategy’
- Document entitled ‘Darkinjung Local Aboriginal Land Council Performance Report July-Dec 2015’, Jawun
- Document entitled ‘Barang Regional Alliance Prospectus 2016’,
- Document entitled ‘Empowered communities: Empowered Peoples’.

## 5.3 Answers to questions on notice

The committee noted that the answers to questions on notice provided by the following witnesses were published by the committee clerk under the authorisation of the resolution appointing the committee:

- Dr Janet Hunt, Associate Professor, Centre for Aboriginal Economic Research, Australian National University
- Mr Roy Ah See, Chair, NSW Aboriginal Land Council
- Ms Tricia Button, Eastern Divisional Manager, Indigenous Land Corporation.

The committee noted that the NSW Government witnesses requested an extension for their answers to questions on notice till 5 April 2016.

## 6. Site visit – Inquiry into regional planning processes in NSW and the Inquiry into economic development of Aboriginal communities – Dubbo

The committee travelled to Dubbo College, South Campus.

The committee was briefed by the following people on the work of the Clontarf Foundation:

- Mr Brendan Maher, Community Partnerships Manager,
- Chris McDonald, Regional Manager
- Charlie Maher, Dubbo South Director
- Nick O’Sullivan, NSW Employment Officer
- Ged Winterton, Dubbo South Operations Officer
- Mr Ian Neubauer, Executive Principal, Dubbo South College
- Mr Ross Gorrie, Principal, Dubbo South College
- Ms Di Baker, Deputy Principal, Dubbo South College
- School students participating in the Clontarf Foundation program.

Mr Maher tended the following documents:

- Document entitled ‘Impact of the Clontarf Academies’, Acil Allen Consulting
- Document entitled ‘Assessment of Offending by Participants of the Clontarf Foundation Programme, Curtin University
- Document entitled ‘Clontarf Foundation Annual Report 2014’, Clontarf Foundation.

## 7. Public hearing – Inquiry into regional planning processes in NSW and the Inquiry into economic development of Aboriginal communities – Dubbo

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witness were sworn and examined:

- Mr Darren Toomey, CEO, Dubbo Local Aboriginal Land Council

Mr Toomey tendered the following documents:

- Document entitled 'Economic Development Policy', NSW Aboriginal Land Council
- Document entitled 'Community and Business Plan', Dubbo Local Aboriginal Land Council.

The evidence concluded and the witnesses withdrew.

Resolved, on the motion of Mr Veitch: That the committee accept and publish the following documents tendered by Mr Toomey:

- Document entitled 'Economic Development Policy', NSW Aboriginal Land Council
- Document entitled 'Community and Business Plan', Dubbo Local Aboriginal Land Council.

The following witness were sworn and examined:

- Ms Rene Wykes, Acting CEO, Murdi Paaki Regional Enterprise Corporation

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Steven Jennings, Manager, City Strategy Services, Dubbo City Council
- Ms Melissa Watkins, Director, Environmental Services, Dubbo City Council

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Michael Keys, Director of Planning and Environment, Albury City Council

The following witness appeared on a former oath:

- Ms Melissa Watkins, Convener, Local Government Planning Directors Group

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Belinda Barlow, Executive Officer, Orana Regional Organisation of Councils
- Mr Bill McAnally, Chair, Orana Regional Organisation of Councils, and Mayor, Narromine Shire Council
- Mr Ashley Wielinga, General Manager, Warren Shire Council

The evidence concluded and the witnesses withdrew.

## 8. Adjournment

The committee adjourned at 4.00 pm until Thursday 6 April (*site visit to Brewarrina*).

Rebecca Main

**Clerk to the Committee**

**Minutes no. 10<sup>286</sup>**

Wednesday 6 April 2016

**Minutes no. 11**

Wednesday 27 April 2016

Standing Committee on State Development  
Armidale, at 10.00 am

**1. Members present**

Mr Pearce, *Chair*

Mr Veitch, Deputy Chair

Mr Colless

Mr Green

Mrs Maclaren-Jones

**2. Apologies**

Mr Wong

**3. Site visit –Inquiry into economic development of Aboriginal communities – Wattleridge IPA**

The committee travelled to Wattleridge Indigenous Protection Area.

The committee was briefed by the following people on the work of Banbai Enterprise:

- Ms Tanya Elone (Manager)
- Mr Tremane Patterson (Head Supervisor)
- Mr Cody Patterson (Head Supervisor)
- Mr Dominic Cutmore (Ranger)
- Mr Clive Ahoy (Chairperson of BEDAC)
- Ms Bridgett Ahoy (Assisting Manager)

**4. Previous minutes**

Resolved, on the motion of Mrs Maclaren-Jones: That draft minutes nos. 9 and 10 be confirmed.

**5. Correspondence**

The committee noted the following items of correspondence:

***Received***

- 19 April 2016 – email from Mr Brendan Maher, Clontarf Foundation, to the secretariat requesting that the two documents provided to the committee remain confidential (Item 5.2).

***Sent***

- 14 April 2016 - letter from the Chair, to Mr Adam Marshall, Member for Northern Tablelands, advising of the site visit to Wattleridge Indigenous Protected Area on Wednesday 27 April 2016
- 14 April 2016 - letter from the Chair, to Mr Kevin Anderson, Member for Tamworth, advising of the public hearing in Tamworth on Wednesday 27 April 2016
- 14 April 2016 - letter from the Chair, to Mr Kevin Humphries, Member for Barwon, advising of the site visit to Whitehaven Maules Creek Mine on Thursday 28 April 2016
- 14 April 2016 - letter from the Chair, to Mr Brendan Maher, Clontarf Foundation, thanking him for the site visit briefing the committee attended on 5 April 2016
- 14 April 2016 - letter from the Chair, to Mr Ross Gorrie, Dubbo College, South Campus, thanking him for the site visit briefing the committee attended on 5 April 2016

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<sup>286</sup> Minutes no. 10 relates solely to the inquiry into economic development in Aboriginal communities.

- 14 April 2016 - letter from the Chair, to Mr Ian Bateman, Merriman Shearing School, thanking him for the site visit briefing the committee attended on 6 April 2016
- 14 April 2016 - letter from the Chair, to Mr Rory Lynch, Indigenous Land Corporation, thanking him for the site visit briefing the committee attended on 6 April 2016
- 14 April 2016 - letter from the Chair, to Ms Catherine Edwards-Bott, Brewarrina Business Cooperative, thanking her for the site visit briefing the committee attended on 6 April 2016.

## **6. Inquiry into economic development of Aboriginal communities**

### **6.1 Public submissions**

The committee noted submissions published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos 14a, 14b, 31a and 35.

### **6.2 Tended documents**

Resolved, on the motion of Mr Green: that the committee accept the following documents tendered by Mr Brendan Maher, Community Partnership Manager, Clontarf Foundation, during the site visit to Dubbo South College and keep them confidential at the request of the Clontarf Foundation:

- Document entitled 'Impact of the Clontarf Academies', Acil Allen Consulting and Clontarf Foundation
- Document entitled 'Assessment of Offending by Participants of the Clontarf Foundation Programme, Curtin University.

Resolved, on the motion of Mr Green: that the committee accept and publish the following document tendered by Mr Brendan Maher, Community Partnership Manager, Clontarf Foundation:

- Document entitled 'Clontarf Foundation Annual Report 2014', Clontarf Foundation.

### **6.3 Answers to questions on notice**

#### **6.3.1 Public answers to questions taken on notice**

The committee noted the answers to questions on notice provided by the following witnesses, published by the committee clerk under the authorisation of the resolution appointing the committee.

- TAFE NSW
- Tribal Warrior.

#### **6.3.2 Partially confidential answers to questions taken on notice**

Resolved, on the motion of Mr Colless: that the committee publish the NSW Government response, omitting the answer to question two and the document referred to in question seven entitled 'NSW Department of Aboriginal Affairs Environmental Health & Community Infrastructure Project of 62 existing Aboriginal Communities NSW Final Report' which are to remain confidential at the recommendation of the secretariat; and at the request of the NSW Government respectively.

### **6.4 Site visit report**

Resolved, on the motion of Mrs Maclaren-Jones: that the committee accept and publish the report for the site visit to Wonnarua Nation Aboriginal Corporation, Worimi LALC and Darkinjung LALC.

## **7. Inquiry into regional planning processes in NSW**

### **7.1 Public submissions**

The following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos 2a, 12a, 48 and 49.

## 7.2 Answers to questions on notice

The following answers to questions on notice and supplementary questions were published by the committee clerk under the authorisation of the resolution appointing the committee:

- NSW Aboriginal Land Council
- Planning Institute Australia, NSW Division
- Department of Planning and Environment
- Local Government NSW.

## 8. Public hearing – Inquiry into regional planning processes in NSW and the Inquiry into economic development of Aboriginal communities – Tamworth

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witness was sworn and examined:

- Ms Fiona Snape, CEO, Tamworth Local Aboriginal Land Council.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Cr Col Murray, Chairperson of Namoi Councils Joint Organisation and Mayor of Tamworth Regional Council
- Cr Owen Hasler, Namoi Councils Joint Organisation Board Member and Mayor of Gunnedah Shire Council
- Mr Angus Witherby, Director Planning & Environment, Moree Plains Shire Council.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Daniel Bryant, CEO, ProTen Ltd
- Ms Eryn Bath, Principal Consultant, Environmental Management, Planning and Approvals, SLR Consulting
- Ms Elaine Dickson, Chief Risk Officer, Baiada
- Mr David Ireland, Director, PSA Consulting

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Ms Lia Mahony, Tamworth Business Chamber

The evidence concluded and the witness withdrew.

## 9. Next meeting

The committee adjourned at 5.30 pm until 8.00 am, Thursday 28 April 2016, Tamworth, (*site visit to Whitehaven Coal Mine, Maules Creek*).

Rebecca Main  
Clerk to the Committee

**Minutes no. 12<sup>287</sup>**

Thursday 28 April 2016

**Minutes no. 13**

Wednesday 25 May 2016

Standing Committee on State Development

Merimbula, at 10.45 am

**1. Members present**Mr Pearce, *Chair*Mr Veitch, *Deputy Chair*

Mr Colless

Mr Green

Mrs Maclaren-Jones

Mr Wong

**2. Previous minutes**

Resolved, on the motion of Mr Veitch: That draft minutes nos. 11 and 12 be confirmed.

**3. Correspondence**

The committee noted the following items of correspondence:

***Received***

- 12 May 2016 – Email from Deputy Ombudsman (Aboriginal Programs), Daniel Lester, to the Chair, inviting members of the State Development Committee to the 1 June 2016 launch of the NSW Ombudsman's 'Special Report Parliament on Economic Development for Aboriginal people in NSW'.

***Sent***

- 12 May 2016 – Letter from the Chair to the Hon. Andrew Constance MP, Member for Bega, Minister for Transport and Infrastructure, advising him that the committee will be conducting a site visit and hearing in the far South Coast on 25 and 26 May, 2016
- 12 May 2016 – Letter from the Chair to the Hon Adrian Piccoli MP, Minister for Education, regarding funding and the Clontarf Foundation
- 12 May 2016 – Letter from the Chair to Mr Tim Muldoon, Group Manager Community Relations and Property, Whitehaven Coal Limited, thanking him for the site visit briefing and tour of the coal mine the Committee attended on 28 April 2016.

**4. Inquiry into economic development of Aboriginal communities****4.1 Tendered documents**

Resolved, on the motion of Mr Green: That the committee accept and publish the following documents tendered by Mr Tim Muldoon, Group Manager Community Relations and Property, Whitehaven Coal Limited:

- Whitehaven Coal Corporate Profile
- Reconciliation Action Plan 2015-2017
- Maules Creek Coal Project – About Maules Creek
- Aboriginal and Torres Strait Islander Community Relations
- Committed to the Narrabri Community.

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Minutes no. 12 relates solely to the inquiry into economic development in Aboriginal communities.

**5. Site visit reports**

Resolved, on the motion of Mrs Maclaren-Jones: That the committee accept and publish the:

- Report for the Dubbo and Brewarrina site visits to the Clontarf Foundation project operating from Dubbo College South Campus, Merriman Shearing School, and the Brewarrina Business Cooperative site visits to Guyra and Tamworth.
- Report for the Guyra and Tamworth site visits to the Wattleridge Protected Area and the Whitehaven Coal Mine at Maules Creek.

**6. Inquiry into regional planning processes in NSW****6.1 Answers to questions on notice**

The committee noted that the answers to questions on notice provided by the following witnesses were published by the committee clerk under the authorisation of the resolution appointing the committee:

- Ms Melissa Watkins, Director Environmental Services, Dubbo City Council
- Ms Melissa Watkins, Convenor, Local Government Planning Directors
- Ms Carolyn McNally, Secretary, Department of Planning and Environment.

**7. Australian Regional Development Conference**

Resolved, on the motion of Mr Green: That the Chair attend and present at the Australian Regional Development Conference on 5 and 6 September 2016 in Canberra about the progress of the inquiry into regional planning processes in NSW and that Mr Veitch also attend the conference.

**8. Attendance of Ms Shauna Jarratt at site visit to Jigamy Farm**

Resolved, on the motion of Mr Veitch: That the committee authorise Ms Jarratt to accompany the committee and attend the private meeting at the site visit to Jigamy Farm.

**9. Site visits –Inquiry into economic development of Aboriginal communities – Bundian Way walk and Jigamy Farm with Eden LALC and Twofold Aboriginal Corporation, and Narooma with Wagonga LALC**

The committee travelled to and walked the Bundian Way Story Trail and then travelled on to Jigamy Farm.

The committee was briefed by the following people from the Eden LALC and Twofold Aboriginal Corporation:

- Mr Les Kosez, Acting CEO, Eden Local Aboriginal Land Council and Chairperson of the Twofold Aboriginal Corporation
- Mr Chris Bird, CEO, Twofold Aboriginal Corporation
- Mr Ben Cruse, Chairperson, Eden Local Aboriginal Land Council, Deputy Chair, Twofold Aboriginal Corporation
- Noel Whitem, Bundian Way Project Manager, Eden Local Aboriginal Land Council.

The committee then travelled to Narooma and was briefed by the following people from the Wagonga LALC:

- Ronald J Mason, Board member, Wagonga LALC
- Victoria Moore, Community Member, Wagonga LALC.

**10. Next meeting**

The committee adjourned at 4.45pm until 10.00 am, Thursday 26 May 2016, Narooma Golf Club (*public hearing*).

Rebecca Main  
Clerk to the Committee

**Minutes no. 14**

Thursday 26 May 2016

Standing Committee on State Development

Narooma Golf Club, Narooma, 10.45 am

**1. Members present**

Mr Pearce, *Chair*

Mr Colless

Mr Green

Mrs Maclaren-Jones

Mr Wong

**2. Apologies**

Mr Veitch, *Deputy Chair*

**3. Public hearing – Inquiry into regional planning processes in NSW and the Inquiry into economic development of Aboriginal communities – Narooma**

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witness was sworn and examined:

- Mr John Brierly, NSW Aboriginal Fishing Rights Group
- Mr Wally Stewart, NSW Aboriginal Fishing Rights Group
- Mr Danny Chapman, NSW Aboriginal Fishing Rights Group
- Mr Robert Chewying, NSW Aboriginal Fishing Rights Group.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Jeff Morgan, Divisional Manager, Strategic Services, Eurobodalla Shire Council
- Ms Sarah Cooper, Business Assistance Manager, Eurobodalla Shire Council.

Ms Cooper tendered the following document:

- *Wallaga Dreaming*, Wallaga Lake Community, June 2014.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Greg Pullen, Economic Development Manager, Shoalhaven City Council.

The evidence concluded and the witness withdrew.

**4. Adjournment**

The committee adjourned at 1:45pm, until Friday 24 June 2016.

Rebecca Main

**Clerk to the Committee**

**Minutes no. 15**

Friday 24 June 2016

Standing Committee on State Development

Room 1136, Parliament House, Sydney 10.31 am

**1. Members present**Mr Pearce, *Chair*Mr Veitch, *Deputy Chair*

Mr Colless

Mr Green

Mrs Maclaren-Jones (*via teleconference*)

Mr Wong

**2. Previous minutes**

Resolved, on the motion of Mr Veitch: That draft minutes nos. 13 and 14 be confirmed.

**3. Correspondence**

The committee noted the following items of correspondence:

***Received***

- 27 May 2016 – Email from the Hon. Adrian Piccoli MP, Minister for Education, providing information regarding the Clontarf Foundation as requested by the Chair (*previously circulated*).
- 16 June 2016 – Email to committee from Mr Laurie Perry, Chief Executive Officer, Wonnarua Nation Aboriginal Corporation, providing an update on progress for his organisation (*attached*).
- 23 June 2016 – Email to committee from Mr Laurie Perry, Chief Executive Officer, Wonnarua Nation Aboriginal Corporation, providing additional information and an article from the Koori Mail.
- 23 June 2016 – Email to Senior Council Officer from Ms Loretta Price, Advisor – Indigenous Employment and Training, Voyages, providing information about the organisation's residential enterprise based training and employment strategy.

***Sent***

- 31 May 2016 – Letter from the Chair to Mr Les Kosek, A/Chief Executive Officer, Eden Local Aboriginal Land Council, thanking him for the site visit briefing and tour of the Bundian Way on 25 May 2016.
- 31 May 2016 – Letter from the Chair to Ms Cheryl Moreton, Chief Executive Officer, Wagonga Local Aboriginal Land Council, thanking her for the site visit briefing on 25 May 2016.

**4. Inquiry planning for the remainder of 2016**

Resolved, on the motion of Mr Veitch: That the updated schedule for the remainder of 2016 for the inquiries into economic development of Aboriginal communities and regional planning processes be agreed to.

**5. Inquiry into regional planning processes in NSW****5.1 Answers to questions taken on notice**

Resolved on the motion of Mr Green: That the answers to questions on notice provided by the following witnesses, be published by the committee clerk under the authorisation of the resolution appointing the committee:

- Eurobodalla Shire Council
- Tamworth Regional Council.

## **6. Inquiry into economic development in Aboriginal communities.**

### **6.1 Tendered documents**

Resolved, on the motion of Mr Wong: That the committee accept the following document tendered by Ms Sarah Cooper, Business Assistance Manager, Eurobodalla Shire Council, during the hearing at Narooma:

- Wallaga Dreaming, Wallaga Lake Community, June 2014.

### **6.2 Site visit report**

Resolved, on the motion of Mr Veitch: That the committee accept and publish the report for the site visit to the Bundian Way and Jigamy Farm with Eden LALC and Wagonga Local Aboriginal Land Council, Narooma.

The committee noted that all of the site visit reports will be published on the committee's website.

### **6.3 Consideration of Chair's draft discussion paper**

The Chair submitted his draft discussion paper, entitled 'Economic development in Aboriginal communities: Discussion paper', which, having been previously circulated, was taken as being read.

Chapter 1 read.

Resolved, on the motion of Mr Veitch: That chapter 1 be adopted.

Chapter 2 read.

Resolved, on the motion of Mr Colless: That chapter 2 be adopted.

Chapter 3 read.

Resolved, on the motion of Mr Green: That chapter 3 be adopted.

Chapter 4 read.

Resolved, on the motion of Mr Veitch that paragraph 4.51 be omitted and insert instead: Voyages was established in 2011 to own and manage the Ayres Rock Resort in the Northern Territory, in addition to some of the Indigenous Land Corporation's other tourism assets in the area. Voyages provides a best practice model in Indigenous employment and training and includes:

- a residential employment-based training program
- accredited training and on-the-job experience
- trainees are employed while training and a guaranteed job on completion
- support by an Indigenous Engagement team encouraging continual skills development and greater retention
- rolling trainee intake to build numbers and experience
- cultural education for all staff
- access to health and wellbeing programs.

Resolved, on the motion of Mrs Maclaren-Jones: That chapter 4 be adopted.

Chapter 5 read.

Resolved, on the motion of Mr Green: That a case study on Eden Local Aboriginal Land Council – Bundian Way project be inserted after paragraph 5.33.

Resolved, on the motion of Mr Green: That chapter 5 be adopted.

Chapter 6 read.

Resolved, on the motion of Mr Colless: That chapter 6 be adopted.

Resolved, on the motion of Mr Veitch: That the draft discussion paper, as amended, be adopted by the committee and published in accordance with standing order 226(4) on 7 July 2016.

Resolved, on the motion of Mr Colless: following publication, the discussion paper be sent to inquiry participants and interested parties with a letter inviting submissions on the paper.

Resolved, on the motion of Mrs Maclaren-Jones: That the committee secretariat correct any typographical, grammatical and formatting errors prior to tabling.

Resolved, on the motion of Mr Green: That the discussion paper be launched at an event on Thursday 7 July 2016, with inquiry participants and key stakeholders invited to attend.

Resolved, on the motion of Mr Colless: That the committee authorise the secretariat to provide the case studies to organisations in order to seek their permission for use of their logos as background.

## 7. Next meeting

The committee adjourned at 10:43 am, until Thursday 7 July 2016, Jubilee Room, 10.00 am (TBC) – *Launch of the Economic development in Aboriginal communities: Discussion paper.*

Rebecca Main

**Clerk to the Committee**

## Minutes no. 16

Wednesday 18 March 2016

Standing Committee on State Development

Macquarie Room, Parliament House, Sydney, at 9.12 am

### 1. Members present

Mr Pearce, *Chair*

Mr Veitch, *Deputy Chair*

Mr Colless

Mr Green

Mrs Maclaren-Jones

Mr Wong

### 2. Previous minutes

Resolved, on the motion of Mr Veitch: That draft minutes no. 15 be confirmed.

### 3. Correspondence

The committee noted the following items of correspondence were received:

- 15 July 2016 – email Mr Mark Denning, Operations Manager, Indigenous Land Corporation, providing information regarding the Merriman Shearing School graduates' results
- 15 July 2016 – email Mr Laurie Perry, Chief Executive Officer, Wonnarua Nation Aboriginal Corporation, providing information regarding the 3rd National Indigenous Economic Development Forum to be held in Darwin, 19- 21 October 2016
- 20 July 2016 – email Mr Greg Pullen, Shoalhaven Council, unable to attend roundtable for the inquiry into economic development in Aboriginal communities
- 4 August 2016 – email Mr David McNamara, Director Secretariat, NSW Planning Assessment Commission, advising that due to prior commitments he cannot attend to give evidence for the regional planning hearing on 17 August but is willing to provide a written response to any questions the committee may have.
- 10 August 2016 – email Mr Nathan Martin, Department of Premier and Cabinet, the department will not be proving a submission to the inquiry
- 11 August 2016 - email Mr Nathan Martin, Department of Premier and Cabinet, declining the committee's invitation for the Department of Premier and Cabinet to attend the roundtable.

#### 4. Australian Regional Development Conference

The Chair informed the committee that he was not selected to present at the Australian Regional Development Conference on 5 and 6 September 2016 in Canberra about the progress of the inquiry into regional planning processes in NSW and that he will therefore not be attending. Mr Veitch will still be attending.

#### 5. Inquiry into regional planning processes

##### 5.1 Confidential submission

Resolved on the motion of Mrs Maclaren-Jones: That the committee keep submission no. 50 confidential, as per the request of the author as it contains sensitive information.

##### 5.2 Public hearing

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witnesses were sworn and examined:

- Ms Rebecca Walmsley, Policy and Law Reform Director, EDO NSW
- Mr Nari Sahukar, Senior Policy and Law reform Solicitor, EDO NSW

Ms Walmsley tendered the following document:

- EDO NSW Report, *Merits Review in Planning in NSW*, July 2016.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Ms Jeanette Brokman, Co-Convenor, Better Planning Network

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Michael Toby, Corporate Affairs Manager, Costa Group.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Craig Jennion, Regional Director (Hunter Region) NSW Housing Industry Association
- Mr Troy Loveday, Assistant Director Residential Development and Planning, NSW Housing Industry Association.

The evidence concluded and the witnesses withdrew.

The Chair noted that Mr Stephen Murray, Acting Executive Director, Regions, Department of Planning and the Environment, did not need to be sworn as he had already sworn an oath at an earlier hearing for this inquiry.

Mr Stephen Murray was admitted.

The following witness was sworn and examined:

- Mr Brett Whitworth, Executive Director, Local Planning Liaison, Department of Planning and Environment.

The evidence concluded and the witnesses withdrew.

The public and media withdrew.

**6. Tendered documents**

Resolved on the motion of Mrs Maclaren-Jones: That the committee accept and publish the following document tendered during the public hearing:

- EDO NSW Report, *Merits Review in Planning in NSW*, July 2016.

**7. Adjournment**

The committee adjourned at 2.36 pm until Thursday 18 August 2016 (*roundtable for economic development in Aboriginal communities*).

Rebecca Main

**Clerk to the Committee**

**Minutes no. 17<sup>288</sup>**

Thursday 18 August 2016

**Minutes no. 18**

Monday 12 September 2016

Standing Committee on State Development

Elizabeth Room, Albury Entertainment Centre, Albury at 10.37 am

**1. Members present**

Mr Pearce, *Chair*

Mr Veitch, *Deputy Chair*

Mr Colless

Mr Green

Mr Wong

**2. Apologies**

Mrs Maclaren-Jones

**3. Previous minutes**

Resolved, on the motion of Mr Veitch: That draft minutes no. 16 be confirmed.

**4. Correspondence**

The committee noted the following items of correspondence were received:

***Received***

- 23 August 2016 – email from Mr Tim Archer, Department of Planning and Environment, declining the committee's invitation to make a submission in response to the discussion paper to the inquiry into economic development in Aboriginal Communities
- 26 August 2016 – email from Mr Laurie Perry, Wonnarua Nation Aboriginal Corporation, advising of additional projects being undertaken regarding the inquiry into economic development in Aboriginal communities
- 1 September 2016, email from Mr Laurie Perry, Wonnarua Nation Aboriginal Corporation, advising the newly elected Northern Territory Government made a pre-election commitment to support the work of Indigenous rangers with \$14 million over four years.

<sup>288</sup>

Minutes no. 17 relates solely to the inquiry into economic development in Aboriginal communities.

**5. Inquiry into economic development in Aboriginal communities**

**5.1 Discussion paper – public submissions**

The committee to note submissions published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos 37, 46, 47, 48 and 49.

**6. Inquiry into regional planning processes in New South Wales**

**6.1 Answers to questions on notice**

The committee noted that the answers to questions on notice provided by the following witness were published by the committee clerk under the authorisation of the resolution appointing the committee:

- EDO NSW, received 2 September 2016.

**6.2 Public hearing**

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witnesses were sworn and examined:

- Ms Julie Briggs, Riverina Eastern Regional Organisation of Councils (REROC)
- Mr Tony Donoghue, Executive Member, REROC and General Manager, Coolamon Shire Council.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr James McTavish, NSW Cross Border Commissioner.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Frank Zaknich, General Manager, Albury City Council
- Mr Michael Keys, Director Planning and Environment, Albury City Council
- Mr John Sidgwick, Manager Planning and Building, City of Wodonga.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Bob Wheeldon, Rest of NSW.

The evidence concluded and the witness withdrew.

**7. Adjournment**

The committee adjourned at 2.36 pm until Monday 19 September 2016 (Ballina hearing, regional planning processes inquiry).

Samuel Griffith  
Clerk to the Committee

**Minutes no. 19**

Monday 19 September 2016  
 Standing Committee on State Development  
 Ramada Hotel, Ballina at 9.49 am

**1. Members present**

Mr Pearce, *Chair*  
 Mr Colless  
 Mr Green  
 Mrs Maclaren-Jones  
 Mr Wong

**2. Apologies**

Mr Veitch

**3. Previous minutes**

Resolved, on the motion of Mrs Maclaren-Jones: That draft minutes nos 17 and 18 be confirmed.

**4. Correspondence**

The committee noted the following items of correspondence were sent:

***Sent***

- 9 September 2016 – letter from the Chair to Mr Gregory Aplin MP, Member for Albury, advising of the committee’s hearing in Albury for the regional planning processes inquiry
- 14 September 2016 – letter from the Chair to Ms Tamara Smith MP, Member for Ballina, advising of the committee’s hearing in Ballina for the regional planning processes inquiry.

**5. Inquiry into regional planning processes in New South Wales****5.1 Public submission**

The committee noted the following submission was published by the committee clerk under the authorisation of the resolution appointing the committee: submission no. 51.

**5.2 Public hearing**

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witnesses were sworn and examined:

- Mr Tony McAteer, Coordinator of Strategic Planning and Environment, Richmond Valley Council
- Ms Paula Newman, Strategic Planning Coordinator, Lismore City Council
- Ms Shannon Burt, Director Sustainable Environment and Economy, Byron Shire Council
- Mr Manfred Boldy, Director Planning and Environmental Services, Kyogle Council
- Mr Vince Connell, Director Planning and Regulation, Tweed Shire Council

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Alex Smith, Chief Executive Officer, Regional Development Australia Northern Rivers
- Ms Kerry Grace, Chief Executive Officer, Regional Development Australia Mid North Coast (RDAMNC)
- Ms Lorraine Gordon, Former Chief Executive Officer, RDAMNC and currently Program Director, Farm Co-operatives and Collaboration Pilot Program, Southern Cross University.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Bernard Grinberg, Director, Ballina Beach Village

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Bill Payne, Principal, Ardill Payne and Partners

The evidence concluded and the witness withdrew.

## 6. Adjournment

The committee adjourned at 2.30 pm until Friday 23 September 2016 (Report deliberative economic development in Aboriginal communities).

Samuel Griffith

**Clerk to the Committee**

### Minutes no. 20<sup>289</sup>

Friday 23 September 2016

### Draft minutes no. 21

Monday 21 November 2016

Standing Committee on State Development

Room 1254 at 10.02 am

## 1. Members present

Mr Pearce, *Chair*

Mr Veitch, *Deputy Chair*

Mr Colless

Mr Graham

Mr Green

Mrs Maclaren-Jones (*from 10.05 am*)

## 2. Committee membership

The committee noted that Mr Graham replaced Mr Wong as a member of the committee from 4 November 2016.

## 3. Draft minutes

Resolved on the motion of Mr Green: That draft minutes nos 19 and 20 be confirmed.

## 4. Inquiry into regional planning processes in NSW

### 4.1 Answers to questions on notice

The committee noted that the following answers to questions on notice and supplementary questions were published by the committee clerk under the authorisation of the resolution appointing the committee:

- Better Planning Network

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<sup>289</sup> Minutes no. 20 relates solely to the inquiry into economic development in Aboriginal communities.

- City of Wodonga
- Ballina Beach Village
- Regional Development Australia Mid North Coast.

#### 4.2 Consideration of Chair's draft report

The Chair submitted his draft report entitled 'Regional planning processes in New South Wales', which, having been previously circulated, was taken as being read.

Resolved on the motion of Mr Colless: That recommendation 4 be amended by omitting 'agriculture' and inserting instead 'all rural industries'.

Resolved on the motion of Mr Veitch: That recommendation 5 be amended by inserting the following dot point at the end:

- 'identify job targets'.

Resolved on the motion of Mr Colless: That paragraph 3.4 be omitted as follows:

'Mr Bob Wheeldon, Chair, Rest of NSW Inc stated there is no clear decision making in New South Wales and, as an example, noted that someone he knew needed two approvals in order to build a swimming pool. Mr Wheeldon argued that many people in his area are leaving the State for Victoria:

In our area people just decide 'Well, I will just live in Mildura. I won't bother with any of that'; they have got other things to do with their life. That is why Victoria has gone so far ahead.'

Resolved on the motion of Mr Colless: That recommendation 10 be amended by omitting 'That the NSW Government consider options to coordinate government agencies' responses to regional planning proposals, such as to' and inserting instead 'That the NSW Government considers options to coordinate government agencies' responses to regional project planning proposals to ensure expeditious approval of such projects. Options to consider should include'.

Resolved on the motion of Mr Veitch: That recommendation 11 be amended by omitting 'That the Minister for Planning consider introducing' and inserting instead 'That the Minister for Planning consider'.

Resolved on the motion of Mr Colless: That recommendation 11 be amended by omitting 'of all' and inserting instead 'in the number'.

Resolved on the motion of Mr Veitch: That recommendation 18 be amended by:

- omitting at the end 'particularly taking into account modern agricultural methods, requirements and opportunities'
- inserting after 'That', 'in light of modern agricultural methods, requirements and opportunities,'.

Resolved on the motion of Mr Green: That paragraph 4.105 be amended by omitting at the start 'The committee supports' and inserting instead 'The committee notes'.

Resolved on the motion of Mr Colless: That the following new paragraphs and recommendation be inserted after paragraph 4.105:

'The committee notes the passage through the Parliament of the *Biodiversity Conservation Act 2016* and *Local Land Services Amendment Act 2016* in November 2016, which provide for the mapping of all land in New South Wales held under freehold and leasehold tenure as either Category 1 Exempt Land or Category 2 Regulated Land.

The committee is of the view that E zones should not be applied over Category 1 Exempt Land to ensure that restrictions on productive agricultural land are minimised. In addition, if approval has been granted under the *Biodiversity Conservation Act* and *Local Land Services Act 2013* for work on Category 2 Regulated Land, then further approvals should not be necessary under other legislative processes, and therefore any E zones applied over that land

is extinguished. The committee understand that a further planning instrument will be developed to deal with these matters.

**Recommendation x**

That the Department of Planning and Environment issue an instruction on the gazettal of the Native Vegetation Regulatory Maps under Part 5A of the *Local Land Services Act 2013*, that E zones cannot be applied on land mapped as Category 1 Exempt Land under that Part and on approval of works on Category 2 Regulated Land any E zone applied over that land is extinguished.'

Resolved on the motion of Mr Colless: That the following new paragraph be inserted after paragraph 4.116:

'The committee acknowledges the difficulty and complexity of designing guidelines for developing a strategic fit for purpose land assessment process, and recommends the government initiate a consultative methodology involving all stakeholders to develop suitable guidelines for such a process.'

Resolved on the motion of Mr Colless: That the following new recommendation be inserted after recommendation 20:

**Recommendation x**

That the NSW Government initiate a whole of government consultative and stakeholder methodology to develop guidelines for a strategic fit for purpose land assessment process.'

Resolved on the motion of Mr Colless: That the committee note its appreciation for the work undertaken by the secretariat during the inquiry, in particular the work of Samuel Griffith.

Resolved on the motion of Mrs Maclaren-Jones: That:

- the draft report, as amended, be the report of the committee and that the committee present the report to the House
- the transcripts of evidence, submissions, tabled documents, answers to questions on notice and correspondence relating to the inquiry be tabled in the House with the report
- upon tabling, all unpublished attachments to submissions be kept confidential by the committee
- upon tabling, all unpublished transcripts of evidence, submissions, tabled documents, answers to questions on notice and correspondence relating to the inquiry be published by the committee, except for those documents kept confidential by resolution of the committee
- the committee secretariat correct any typographical, grammatical and formatting errors prior to tabling
- that the report be tabled on Monday 28 November 2016.

**5. Future inquiry activity**

The committee discussed ideas regarding future inquiries for the committee.

**6. Adjournment**

The committee adjourned at 10.52 am *sine die*.

Samuel Griffith  
**Clerk to the Committee**