

**Submission
No 49**

INQUIRY INTO REGIONAL PLANNING PROCESSES IN NSW

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The Director
Standing Committee on State Development
Parliament House
Macquarie Street
Sydney NSW 2000

Dear Sir/Madam,

Inquiry into Regional Planning Processes in NSW

Thank you for the opportunity to make this submission in relation to the Standing Committee on State Development's inquiry into regional planning processes in NSW. This submission follows a meeting held between the Hon Rick Colless MLC, Tamworth Regional Council's Deputy Mayor Russell Webb and myself on the 7 April 2016.

ProTen was founded in New Zealand in 2001 to consolidate the broiler chicken farming businesses of four existing operations in New Zealand. Investment into the Australian market commenced in 2002. Between 2003 to 2006 all New Zealand assets were sold and the capital reinvested into the Australian market through acquisition and "green field" developments in regional NSW, primarily in the Tamworth and Griffith areas.

ProTen currently owns and operates nine poultry production complexes within Australia, including eight in NSW in the Tamworth and Griffith areas. Cumulatively, these complexes comprise 188 poultry sheds and have an annual capacity of close to 44 million birds. A tenth poultry production complex, which will comprise 80 poultry sheds and house up to 3.92 million birds, is currently under construction near Narrandera NSW. This development will bring ProTen's annual capacity to approximately 68 million birds.

ProTen has long term extendible contracts to supply chickens to Australia's largest chicken processor, Baiada Poultry, who markets and sells chicken products under the well established brand names of Steggle's and Lillydale.

The submission addresses the Standing Committee's key terms of reference which are most relevant to ProTen's continued investment in to the NSW market through new developments. The terms of reference are presented below in ***bold italics***, followed by ProTen's response in normal text.

(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

(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 biggest opportunity to improve the planning process and stimulate regional development is by providing a more streamlined environmental impact assessment (EIA) process. Key constraints in this regard include:

- The complexity of the NSW legislative framework when the *Environmental Planning and Assessment Act 1979* (EP&A Act) is combined with the numerous other pieces of State legislation and environmental planning instruments (EPIs) that are applicable to development applications.

The EIA process in NSW is considered lengthy, complex and expensive. This is linked to the internal timeframes for development assessment by consent authorities (regardless of statutory timeframes), the time taken to consult with the various other State and local government agencies that have an interest in the development proposal, and the time and resources required to prepare Environmental Impact Statements (EISs) which are sometimes unnecessarily lengthy and complex. The Terms of Reference or Secretary's Environment Assessment Requirements (SEARs) for EISs are generic and open ended, reflecting a risk adverse approach to scoping of environmental assessment, which in turn drives lengthy EIA processes. There is evidence that developers have left NSW to pursue development opportunities in other States where the EIA process is considered somewhat easier to navigate and government agencies and stakeholders are more embracing of the economic and social benefits that developers can bring to regional areas.

There is a clear opportunity to streamline the timeframes and complexity of EIA processes. This could be done through a review of the legal framework for EIA and/or by providing direction to regulatory authorities and how to apply the existing legal requirements in a more efficient and effective way. The aim should be to reduce unnecessary or duplicated time and costs for the proponent of the development, as well as for the consent authority and other consulted government agencies. While a stand-alone regional planning Act would provide the benefit of removing metropolitan issues from the realm of consideration in the EIA process for regional development, a broader review of all NSW environmental legislation is necessary to remove unnecessary complexities, duplications/repetitions and in some instances contradictions, and achieve a more streamlined process for EIA and development consent.

- The lack of coordination between the consent authority, whether the local council or Department of Planning and Environment (DP&E), and the various other government agencies that are either integrated approval authorities, concurrence authorities or simply consulted during the EIA process.

A one-stop-shop that brings together the consent authority with the various other State and local government agencies that have an interest in a development proposal would provide an opportunity to drive significant improvements in the EIA process, development application assessment process and development consent outcomes (including conditions of consent). Bringing senior decision makers across the various government agencies together early in the EIA process for larger developments would ensure that the materially significant issues are identified and prioritised early in the process, the approach is coordinated and timeframes are agreed on.

This may require (among other things) a shift back to planning focus meetings or pre-SEARs meetings and the development of an appropriate framework to allow a coordinated development assessment process, including site inspections and the development of project-specific/targeted SEARs.

- Lack of a merits-based or risk-based approach to larger development applications.

EIS documents lack a focus on the key issues as a result of a concern (or risk aversion) by development proponents and their engaged consultants that they will be challenged by the consent authority and/or consulted agencies for omitting an issue, even if not materially significant, causing an equal and often unwarranted coverage of all issues. This is driven in part by the sometimes generic preliminary environmental assessments/project briefing papers that are submitted by the proponent/consultant when seeking the SEARs and the always very generic SEARs that are issued by the DP&E, along with the all-encompassing input provided by consulted government agencies regardless of the nature and scale of the development proposal. The result is unnecessarily long EISs where the impact assessment detail is not proportional to the nature and scale of the development.

An example of this is the need to undertake field surveys for biodiversity or heritage when the development site has evidently been subjected to widespread historic clearing and long-term agricultural cropping and there is little, if any, remnants of the original or previous environment remaining. Another example is the need to undertake a hydrogeological assessment for a poultry development where there is negligible risk for any groundwater interaction. In this instance the agency approached the poultry development like it was a mining development. In these and other examples, the agencies appear to be wanting conservatism on conservatism, possibly due to a combination of being very risk adverse, lacking knowledge and experience in the poultry industry and also not having a great deal of experience west of the Great Dividing Range (i.e. outside of metropolitan areas).

This is where a more coordinated approach to the development assessment process (as briefly discussed above), including site inspections and the development of project-specific/targeted SEARs, would provide the opportunity for a merit-based or risk-based approach to larger development applications. It may also require the introduction of the new principle within Section 79C of the EP&A Act or within the stand-alone regional planning Act (if introduced) that would require the consent authority and consulted agencies to consider "proportionality" or the scale and nature of the development proposal when preparing project-specific/targeted SEARs (and associated input) and assessing the development application.

Placing a greater focus on the materially significant key issues during the EIA process would provide a means of making EIS documents more concise and useable and better informing the decision maker (and other consulted agencies).

(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

(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

Current environmental planning instruments and other policy documents are somewhat skewed to supporting and encouraging traditional agriculture, mining developments and metropolitan developments. There is little in the way of policy support for regionally significant developments whether they be agribusiness (e.g. intensive livestock agriculture) or regional tourism, etc. that have the potential to bring significant and sustained economic and social benefits to regional areas. Such policy support may assist in stimulating regional development through providing more confidence to potential developers and their financial investors.

This could be in the form of regional or State policy provisions that in certain circumstances override specific local policy/plan requirements for regionally significant development. In the same way that the *State Environmental Planning Policy (Infrastructure) 2007* (the Infrastructure SEPP) allows certain infrastructure to be developed with consent on a broad range of land zones, a SEPP for regionally significant projects could enable development (with consent) on a wider range of land zones in regional areas.

Such a SEPP could also redefine the thresholds for when developments, such as intensive livestock developments, move from being classified as "local development", "designated development" and through the "State significant development" (SSD), particularly where SSD status can provide greater development certainty, time savings and alignment with the provision of enabling infrastructure.

The provision of enabling infrastructure is also a critical consideration for siting of intensive livestock agriculture. Land use policy support for such developments in Regional Plans should be supported by similar support in the form of enabling infrastructure provision. Some of the principal siting requirements for intensive livestock agriculture include adequate transport routes and adequate access to a reliable supply of water and electricity. Any investigation will reveal that finding a site that is both available and fulfils the principle siting requirements in NSW is very difficult. The cost of upgrading roads and bridges and upgrading and/or extending water and electricity supply infrastructure is extremely costly and sometimes cost-prohibitive. While it is understood that many of the local councils within regional areas are resource-constrained, some form of infrastructure provision within Regional Plans may attract increased development opportunities. This could be in the form of financial assistance (cost sharing) from the State government, particularly where other existing developments and/or land uses will also benefit from the upgrade, or some other form of support/incentive such as fast tracking of the approval process for enabling infrastructure.

Local councils in regional areas need to recognise and better embrace the employment and additional market/business opportunities (and other flow-on benefits) that developments, such as intensive livestock agriculture, can bring. Local council, along with development corporations, should be seeking to maintain progress within their region, not stifle it with an overly risk-adverse and drawn out approach to development applications. Existing local businesses are no doubt keen to also prosper from the opportunities that new developments may bring.

Once again, thank you for the opportunity to make this submission. I would welcome the opportunity to discuss the issues covered in more detail with you/the Standing Committee.

I look forward to hearing the findings and outcomes of the inquiry in due course.

Yours sincerely,

Daniel Bryant
ProTen, CEO