REPORT OF PROCEEDINGS BEFORE

STANDING COMMITTEE ON STATE DEVELOPMENT

INQUIRY INTO NEW SOUTH WALES PLANNING FRAMEWORK

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At Albury on Friday 29 May 2009

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The Committee met at 9.45 a.m.

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PRESENT

The Hon. A. Catanzariti (Chair)

Reverend the Hon. F. J. Nile
The Hon. M. J. Pavey
The Hon. C. M. Robertson
The Hon. M. S. Veitch

CHAIR: I declare open the inquiry of the Standing Committee on State Development into New South Wales planning practices. This is the last of the five public hearings at regional locations. Before we proceed further I would like to make some comments about procedural matters. In accordance with the Legislative Council's guidelines for the broadcast of proceedings, only Committee members and witnesses may be filmed or recorded. People in the public gallery should not be the primary focus of any filming or photographs. In reporting the proceedings of this Committee members of the media must take responsibility for what they publish or for what interpretation is placed on anything that is said before the Committee. The guidelines for the broadcast of proceedings are available on the table by the door. I remind everyone that any messages for Committee members or witnesses must be delivered through the Committee clerks. Everyone, including Committee members, should turn off their mobile phones as they interfere with Hansard's recording of proceedings. I welcome our first witnesses from Albury City Council—the Mayor, Councillor Patricia Gould, Mr Les Tomich, and Mr Michael Keys.

PATRICIA ANN GOULD, Mayor, Albury City Council, 535 Kiewa Street, Albury, affirmed, and

MICHAEL PATRICK KEYS, Director, Planning and Economic Development, Albury City Council, 535 Kiewa Street, Albury, and

LESLIE GEORGE TOMICH, General Manager, Albury City Council, 535 Kiewa Street, Albury, sworn and examined:

CHAIR: If you should consider at any stage that certain evidence you wish to give or documents you may wish to tender should be heard or seen only by the Committee please indicate that fact and the Committee will consider your request. If you take any questions on notice today the Committee would appreciate the responses to those questions being sent to the secretariat within 21 days of the date on which the questions are forwarded to you. Before we commence with questions would anyone like to make an opening statement?

Mrs GOULD: Mr Chairman, we are pleased to be given an opportunity to appear before the Committee today to present our positions on the paper that was distributed to us. We will be dedicating our main discussion to the paper, which will be given by Mr Michael Keys.

CHAIR: Do you want to add anything, Michael?

Mr KEYS: Albury city's biggest concern with the current system is its drive towards overcomplication, making it difficult for people for whom it is designed to protect and to serve to understand, to work with and to operate within. Albury City Council has promoted a proactive stance in dealing with development assessment in the city of Albury that has been well recognised and well accepted by the community. We have a system that provides clarity, decisions and determination within a reasonable amount of time.

One of our key drivers has been to aim to take away delays and questionable decisions to ensure that the community has an expectation of what we can deliver from the perspective of residents and from the perspective of the development industry. We think that has achieved a reasonable outcome for all. One of our biggest concerns is probably the push at the moment to go towards a much more prescriptive base, which seems to overcomplicate the system. At the moment we have operated within a performance-based environment with our local environmental plan [LEP] and our development control plan [DCP], and that has achieved reasonable outcomes for the community on all fronts. It has encouraged development and it has provided an opportunity for diversity and affordability through its options and its lack of restrictions.

One of the key elements in our service is our customer service guarantee, which the council promotes to all industry—to both residents and to developers. The performance of that customer service guarantee is reliant on council staff and it is also reliant on our councillors. We have a commitment from our councillors that enables us to perform our duties and responsibilities in a reasonable and timely manner. Without that level of delegation and trust from the councillors the system would not perform as well as it does. In the last financial year our average turnaround time for development applications was 18 days net. Our performance is well recognised as being above the best in the State. We continue to promote that service and we think it is readily accepted.

In recent times changes have come about with the Government's push for exempt and compliant development provisions across the State. We are getting feedback from our local development industries that

those provisions are not acceptable and that they clutter up and slow down the process. Under the new provisions they are lodging development applications rather than complying development applications because they get better and quicker service from us through our customer service guarantee. That sums up our position at this time.

Mr TOMICH: In summing up, we firmly believe that merit-based planning delivers what a community looks for and needs. It must be—as ours is—outcomes focused. It delivers the objectives that are being set by the community through our various community plans and other strategic measures that we use. Our planning system, or our method of delivering planning in Albury, reflects what our community wants, needs and expects. That is evidenced or underpinned by the fact that we have been challenged on planning matters in the court 10 or 12 times in about 25 to 30 years. Our system works and it has worked well here for a long time. At this stage the new proposals will severely extend the time that it takes to approve planning. They will seriously clutter that system and fail to deliver what our community needs.

CHAIR: Your state in your submission that the planning system is focused on process not outcomes and that litigation prevents the best outcomes from being achieved. What is required to make the planning framework more outcome focused?

Mr KEYS: From our perspective because of the myriad of legislation—this goes back some years with the threatened species legislation, bushfire legislation and Native Vegetation Act—those things are all governed or looked after by different agencies, not just by the Department of Planning. There is not a central focus; the focus is on the outcomes of the system and the legislation that is designed for planning. This leads to confusion and it creates a number of loopholes and other obstacles that applicants have to try to decipher, understand and comprehend—let alone the professionals who put it in place on the ground.

We think that adding the extra hurdles and the additional requirements overcomplicates the system instead of focusing on the outcome at the end of the day that is trying to be achieved. From our perspective there is confusion between government agencies about who is responsible and also what outcomes they are seeking to achieve. To move back to a more centrally focused piece of legislation that has all those requirements within one Act and one regulation would make it easy to understand, would have one clear objective at the start that covers all those aspects, and would enable practitioners and the community to understand more easily and more clearly what the final outcome is supposed to be. In that way the conflict would not be apparent between agencies once it is implemented.

CHAIR: You advocate a national planning system that is based on best practice and that provided for cross-jurisdictional consistency. From your experience what problems arise from a lack of jurisdictional consistency?

Mr KEYS: In this unique location Victoria is less than a couple of kilometres away. We have practitioners, developers and community members who reside and work on different sides of the border and who are exposed to different legislation each and every day. We believe that the Victorian system offers some advantages compared with the system in New South Wales. Recent discussions have highlighted that if members of the community have no understanding of the system they are more keen to select their parcel of land over the Internet through electronic means, they will understand all the regulations relating to land-use planning that apply to their parcel of land, and they will have a clearer indication of the outcome or the expected use of that land.

In New South Wales that is not achievable at this point in time and there has been no clear mandate from the Government. We think that presents a significant opportunity. One of the other contentious issues in New South Wales is that there are no appeal rights for objectors, whereas in Victoria the system is heavily focused on an opportunity for appeals. This has led to a significant concern amongst community members, who have an expectation that they have an appeal right, regardless of whether or not it is a designated development, because of the education they may have received whilst working in or with the Victorian planning system. As I said before, the myriad of requirements of different government agencies in New South Wales creates concern and confusion amongst people who come from other States, and certainly from Victoria.

There are the additional requirements of integrated development referrals to concurrent agencies and referrals to agencies under other pieces of legislation. Specifically, here in Albury we have the Murray regional environmental plan 2, which we believe to be a fairly significantly outdated piece of legislation. Recently we had an application that was required to be referred to three government agencies in Victoria that no longer exist

because they have changed their shape or their form, or they have changed their requirements. Under the provisions of that legislation we had to refer applications to up to about 15 different agencies. The response times, the ability to get responses from government departments and to achieve an outcome at the end of the day adds value to the process and that is a matter of concern for us.

CHAIR: Would that be likely to occur if we had uniform legislation between the States or national legislation for this planning framework? Would that fix that problem? In your opinion what should be done?

Mr KEYS: Through the national framework there is an opportunity to introduce legislation that could operate across Australia. If there were less differentiation between planning legislation in each State it would make it easier for the community to understand how those systems operate and what would be their expectations for the regulation of land use in their area.

CHAIR: Are you advocating the implementation of national legislation?

Mr KEYS: I think what Albury is advocating—and I speak on behalf of the mayor and the council—is a national framework that is specific to each State. The broad principles and objectives that are established on a national basis must be based on best practice and implemented and rolled out across each State. Those should be the core principles that underpin the operation of that legislation.

The Hon. MELINDA PAVEY: Have we lost development opportunities to Victoria? You are a cross-border community. Over the past decade or so Wodonga has moved ahead. Has the planning system strangled opportunities in New South Wales compared with the planning system in Victoria?

Mr TOMICH: Madam Deputy-Chair, it is an intangible to try to measure that. Probably the most often-quoted statement in a border town is, "If you won't approve it or do it here, I can get it easier over the road." We are exposed to that also, as are some other centres. Can I perhaps illustrate one particular difference philosophically between the two States, which is why we advocate some consistency? Developer charges, as you realise, are very topical. Often mentioned as a source of some concern, not only for the development industry but also for councils, is that if you are in a border situation, the Victorian Government mandates that water and sewer developer contributions shall be no more than $500 per block; end of story.

The New South Wales Government philosophically says that councils should recover their costs from developers. Were we to attempt to recover our full cost or reasonable developer contributions in Albury—and I might use one of our peer cities, Wagga Wagga, as an example—we would have to charge in the order of around $14,000 or $14,500 per block. As it is, Albury is limited by our own decision, I would freely admit; but, by circumstances, the council recovers around about $8,500 per block because we have to compete very strongly with development and with land costs. In our sister city across the river, water and sewer are supplied for $1,000 an allotment. Our minimum costs are more like $3,500 or $4,000 a block, or greater than that—probably up towards $10,000, depending on the land's circumstances.

That is one very practical intangible example of where we are disadvantaged by different philosophical systems. How could this be fixed? Simply by our Government mandating a maximum of $500 per block. Obviously, there must be some type of recompense or recourse for those suppliers and providers in Victoria to recoup their costs. But certainly that gives you one very tangible example. Can I quote that, or convert that, into provable allotments? No, we cannot, but it is the subject of nearly every development application. If there is a potential development from outside, the cities will make that comparison and will argue that comparison.

The Hon. CHRISTINE ROBERTSON: Who picks up the shortfall in Victoria?

Mr TOMICH: That would be a question that you would have to direct to the Victorian Government. I have no idea how they recover, and why they recover.

The Hon. CHRISTINE ROBERTSON: Is it the council?

Mr TOMICH: I do not think so. The council does not supply water and sewerage in Victoria. It is supplied by a separate North East Region Water Authority. I think you will find that that is a corporatised entity.

CHAIR: We will check that out.

Mr TOMICH: You would have to seek details of that from the Victorian Government or that entity itself. We make no criticism of either in that regard, but it serves to illustrate a very real pressure point for councils anywhere above and below the river.

The Hon. MELINDA PAVEY: I want to ask about your biocertification. Can you advise the Committee on Albury's work towards seeking biocertification of its LEP?

Mr KEYS: The council's current process, I guess we could call it, would be the standardised LEP template, which has been long and drawn out.

The Hon. MELINDA PAVEY: We will ask you some more questions about that. I do not think Albury's example is going to be any different from any other council.

Mr KEYS: No. I sympathise with that. Part of that has been a biocertification process in which we have sought cooperation and assistance from both the Federal level and the State through the Department of Environment, Conservation and Climate Change. To say that it has been an easy process would be a complete lie. We have been working with them to try to achieve a reasonable outcome to get commentary back on our proposal for biocertification for anywhere up to two years.

We initiated the process back at the commencement of our LEP review. During that time we have dealt with a number of representatives from the same department as well as new representatives when staff has changed. As it has gone on, priorities and responses have changed in accordance with that department's outlook at the time. We currently are awaiting a final response.

Just recently, last week in fact, we submitted our final submission to the Department of Planning for a section 65 certificate to go in the submission. We have been waiting for a response from DECC on the biocertification report they provide, which then goes out on simultaneous public exhibition. Due to their lack of resources and staffing, they have advised us in the last six months that they are unable to provide that in the time frame that we were certainly seeking.

The council resolved to make a submission for the section 65 certificate back in December to the department. During that time we have had to rewrite the LEP to make changes because of the changes in those exempt and comply provisions, but also because we have been awaiting the biocertification report from the Federal level. Under the Environment Protection and Biodiversity Conservation Act [EPBC], we had cooperation initially. They were going to provide a report back to us. Under the provisions of that Act, we were also seeking higher certification at the same time. Initially they advised that they would do a similar process to DECC in that they would provide a written report assessment on our LEP for biocertification purposes.

Up until what I think may have been February this year, that was all going along well. We had an initial draft report on that and we had responded to their concerns. Since that time they have changed their approach and have insisted that the council has to prepare the written assessment and report, and then provide that back to them. We do not have the additional resources, requirements and expertise in-house, so that has stalled us on that front with the EPBC Act, and we may not be seeking biocertification at the same time under the provisions of the Federal legislation. We are still reassessing that at the moment.

The Hon. MELINDA PAVEY: It has been a costly and time-consuming process?

Mr KEYS: The delays, the continual meetings, the reviews of where we thought we were back to starting again have been costly and certainly draining on our staff.

The Hon. MELINDA PAVEY: What do your regional planning people say about this process?

Mr KEYS: With the regional planning office or representatives—we actually operate from the regional offices in Wollongong and Queanbeyan—the uncertainty about biocertification seems to be the greatest concern on their part because it is still an evolving beast, so to speak. Comments from Parliamentary Counsel to the Department of Planning and DECC seem to continually change their responses in regard to that and continually change the outlook and promotion of biocertification, so it has been very confusing.

The Hon. MELINDA PAVEY: Could you expand on your relationship with the regional office and if you would like to see a stronger involvement with them in any final decision making?

Mr KEYS: Could I clarify that question? Is that final decision making with regard to the LEP?

The Hon. MELINDA PAVEY: Generally.

Mr KEYS: We have a reasonable relationship between our regional office and the Department of Planning. The officers in Queanbeyan certainly respond reasonably well to our questions and also provide us with some direction. Unfortunately, the direction that comes from above is the one that probably raises the greatest concerns and having to pass on the continual moving of the goalposts. We have had to change provisions in our LEP on at least six occasions. We also have had to undertake additional studies, such as a local environmental study, which, when we commenced our LEP review, we were not required to do.

The head office clearly advised us that we were not required to undertake those studies. We got to about a year into the process and then we were advised to go and undertake it, so it was an additional $25,000 to $30,000 as well as another three to four months. We have been reviewing some of that information to try to get that right over the past six or eight months, based on advice from the department, not so much from the regional office about change in direction, but the directions they are receiving from higher above. I think the continuing change in the platform of reform that has been tried to be rolled out and the changes that have been made on the run have had the greatest impact, both on their ability to provide a service to us and on our ability to respond to that service.

Mr TOMICH: Madam Deputy-Chair, may I add to that? There are two different levels to that question. One is the response. Certainly, we have a good relationship; they do respond. If the question is directed more to whether they make a decision, I would have to suggest that that appears to be a problem throughout the planning system in New South Wales. There is either an inability to make a decision or a lack of will to make a decision at any level, certainly apart from local. We are required to make decisions at local level, at the urging of council, the public, our community or our own desire to do so; but the higher in the planning system it gets at a regional and State level, the more impossible it is to get definitive answers that are basically stood by.

Michael said it a little softer than that, but we have been continually frustrated by their leading us in a direction in the belief that we will get a decision. Then we get a request for more information, and they change direction, and you still do not get a decision. In the past it has taken us years to get rezonings through because no-one will make a decision. The world will not stop if the decision is wrong, but at least it would be made.

CHAIR: You think it is from the top end coming back to the regional offices, and they are not giving the answers in time, or they are just frustrating the whole system?

Mr TOMICH: I do not know where the impasse occurs, but I am just making the observation that it is very, very hard for councils. Certainly it is very hard for our council—and I think my peers will support this—to get a decision. You do not see us very often fighting about whether it was a wrong decision: the problem is getting one. It took, in particular for some rezoning of land—and this goes back a couple of years now—nearly four years with everybody agreeing to get some land rezoned. As it was, the rezoning was potentially for a strategic outcome, I suppose you would say, and therefore there was not a client waiting. But the client could have gone anywhere in the world and done their business if they had been waiting for the New South Wales system. I cannot emphasise that enough. It is about time and decision making.

The Hon. CHRISTINE ROBERTSON: I am going to go right back. The process would appear to be in relation to not just LEPs and individual planning, but the long-term process to have a State strategic direction, a State Plan, a regional plan and then the local plan. All of them at some stage have some sort of a strategy or statement. First of all I would like to ask: What would the people of Albury perceive to be a region?

Mrs GOULD: That is a hard question.

The Hon. CHRISTINE ROBERTSON: In some places it is, and in some places it is not. I am not picking on you. It is different across the State.

Mr TOMICH: I suppose if I could start the discussion, I think Albury has the largest urban area, given that this region is closely associated with the river. Obviously our region appears to focus predominantly in and around, and up and down the Murray River. It varies for different purposes. For interest's sake, we are in one of

the councils in a group of councils called RAMROC—Riverina and Murray Regional Organisation of Councils—where we perceive we have a common interest. Our regional interests do not always quite extend to our sister city in Wagga Wagga because there are different drivers.

Wagga Wagga, by our observations, obviously is a drier inland city that is focused on a far bigger agricultural base as an area than is Albury, which is focused more on manufacturing in and around the river and less on agricultural interests within city boundaries. From a regional perspective I think probably in and around the Murray region, it is a common element for all councils, and therefore it delivers common benefits and deals with common issues and problems. It probably extends northwards up to, but does not necessarily include, Wagga Wagga.

The Hon. CHRISTINE ROBERTSON: If you are thinking about a region for this area, would the Murray-Darling Basin issue have to come into play in relation to plans that are coming into play? I think you are more complicated than are some places; that is all.

Mr TOMICH: Look, I do not know. If I could again start the conversation: It is probably not inconceivable that they could be a region, but it is starting to make it a very, very big region and it is starting to bring into play many influences and factors. I do not know whether that necessarily would deliver what you are seeking to achieve from a planning perspective anyway because you would simply have conflicting interests because of various things within the region. I believe that it would have to be more compact than that perhaps. But in our case it would have to be Murray related, to the extent that our sister city would obviously be related to the Murrumbidgee and to the influences of its surrounding cities. Even from a Griffith perspective, their total foci and interests are obviously different from Albury's. They are based upon irrigation schemes and agriculture to a far greater extent. Their planning should reflect that, as indeed our planning should reflect what we need.

The Hon. CHRISTINE ROBERTSON: The question is very complex. It is about service provision, the industrial base and the community. We have had heavy pressure in other parts of the State for catchment management authorities to become the planning authorities in the regions.

Mrs GOULD: I do not think that would work. We are very diverse in the Murray-Darling catchment area. Of course, the main focus is that the people down there come to shop here and get their transport from here. We have a commonality. But from a catchment area, I do not think it would work if you took the line of the Murray-Darling catchment area. There are other organisations in there playing their part. It is quite a distance and there are very diverse of activities in a city like ours compared to one down the river. Our boundary is around the Hume shire area and Albury city.

The Hon. CHRISTINE ROBERTSON: I am not asking these questions to have a go at you. In some places we have been they have managed to work together to create a regional perspective and then hook their stuff into that and then come back. It has been quite healthy, but obviously in some places that will not be feasible.

Mr KEYS: We have actually been privy to the draft regional strategy for the Murray area.

The Hon. CHRISTINE ROBERTSON: Who defined what was the Murray area?

Mr KEYS: The Department of Planning. That covers from further upstream from us on the New South Wales side right through to Wentworth and the border of South Australia and Victoria.

The Hon. CHRISTINE ROBERTSON: Have you had any participation in the draft or have you been asked to comment on it? Or did you manage to get it slipped to you?

Mr KEYS: We were invited to view it, but that was on the basis that this is what it is. It was supposed to be presented to Parliament in April. We were then going to be invited to look at the draft following that, even though we had significant concerns about the provisions back in December. The first draft was provided to the councils in the region in December and we offered comments. But during that time we also had this raft of planning reforms coming out that we had to make submissions about, respond to, and enact changes to our planning processes.

The Hon. CHRISTINE ROBERTSON: I realise the planning reforms have diverted from the strategic process. We have learned that.

Mr KEYS: From our point of view, it made it very difficult to respond in that short time frame before it was presented to Parliament. Some of the commitments or proposals within that regional strategy are very disparate purely because of the area they cover. We have a population of 49,000 in Albury, but we actually have a population in the area—with the two population bases—of nearly 85,000. We are being compared in terms of planning strategies with populations of 1,000 or 1,200 and declining. We still have a growth rate of one per cent in Albury. We are still going forward and we still have a need for State infrastructure and State involvement. However, there is no provision in the regional strategy for any significant infrastructure to be provided in Albury. The only mention is of a hospital at Deniliquin.

Mrs GOULD: That is not strategy.

Mr KEYS: The regional strategy highlights the need for State infrastructure. This is tied in with another provision they are looking at imposing on us through the LEP; that is, that the State can levy infrastructure charges on new urban growth areas. Obviously, being the largest centre, we have the greatest capacity for growth and, therefore, the greatest opportunity to derive revenue. That might be involved. But there is no basis on which we can charge or provide services in response to that.

The Hon. CHRISTINE ROBERTSON: Is this draft public?

Mr KEYS: I believe it has been circulated to the councils in the region as part of the consultation process that has been going on for 18 months. The Department of Planning advice was that it was going to be presented to Parliament for endorsement to go out for public exhibition. That was supposed to happen in April.

The Hon. CHRISTINE ROBERTSON: And it has not happened?

Mr KEYS: No.

The Hon. CHRISTINE ROBERTSON: If the threatened species and fire issues are to be amalgamated in the Department of Planning, how do you keep them as a priority on the agenda? We pretend we are not in planning, but a lot of government issues are controlled or handled by individual departments to ensure that their priority and importance is not diverted. If the Department of Planning had a little group of five persons giving advice on threatened species, how would you keep the priority of those issues on the agenda? I realise that going to different groups is an issue, but I want to understand what would happen if we recommended that everything be put together. How would you keep these issues as a priority?

Mr KEYS: I put a question back to you: Do they have a specific priority on their own or is it part of an overall picture? We are being asked to assess the development and to take each one of those into account from a council perspective and go off to different government departments. Why are they not all together and considered at one time from a government perspective? Do different arms of government have different priorities at different times?

The Hon. CHRISTINE ROBERTSON: They do.

Mr KEYS: That is how it appears from our perspective. If there are different elements that have different priorities, why does that affect or confuse the outcome? That is certainly what happens from where we sit. Having it all under one piece of legislation or one government department's responsibility would allow the priority to be assigned across the board, instead of them competing against each other. If they do have a place in regulation and assessment, they should be contained in the one piece of legislation and given a weighting according to their significance or importance.

The Hon. CHRISTINE ROBERTSON: To whom? It is very complicated. I am trying to get a handle on it.

The Hon. MICHAEL VEITCH: I want to explore the legislation and the legislative framework. I have been asking a series of questions during our hearings. It has been put to us a few times now that the Environmental Planning and Assessment Act 1979 has run its course or lived its life and that it is time for a new Act. It has also been put to us that there should be not one Act but an Act just for planning, an Act just for assessment and maybe an umbrella Act for all the environmental legislation so that it clearly articulates the

hierarchy upon which the environmental legislation works. Can I get your views on that very important question?

Mr KEYS: In my earlier comments I probably suggested that we agree with the principle of that sort of approach. We certainly believe the outcome is where the focus should be and strategic planning should have a clear mandate for providing for that. The assessment should be: Does it meet those requirements? It should not be overcomplicated and it should not be the difficult process that it appears to be, and is, for some people to get through.

The greatest problem with the environmental legislation at the moment is that it is not under one umbrella. We have to search through the maze of legislation to find out what are priorities from the applicant's, the proponent's and the council's point of view. If that was brought together we could get a handle on the priorities, what has to be met and the guidelines. That would produce a fairer outcome at the end of the day. The council would certainly agree that the EPA Act has had its day. It has been added to, amended and blended over 30 years.

When it was first introduced it was a world leader. It involved the community and it provided priorities for environmental legislation and environmental protection. I do not disagree with those principles. Because of the way it has changed over time it has taken away our ability to perform and to deliver on the ground. How will that be done? What time will it take for some of the planning reform opportunities, for workshops and for feedback sessions that have occurred over the past 18 months? Those questions have been asked continuously, certainly at most of the meetings that I have attended. The answer simply is that because of the time frame involved, politics being what it is, we require a commitment by the Government.

The Hon. MICHAEL VEITCH: Mr Keys, I refer to comments that you made earlier about the Victorian system and the way in which a parcel of land is identified. You can go on the Internet, go to the parcel of lands identifier, and it comes up with all the planning and development controls relating to that parcel of land. How long has that system been in place in Victoria?

Mr KEYS: It would be an absolute minimum of about six years. It came in at around the same time as Pittwater was exploring its avenues after its planning controls were electronically aligned, but it was mandated across the State. Every local government authority had to change its legislation to meet or to fall in line with the categories of development provided. They were funded and given resources to implement that and to make it happen. It was a significant commitment by the State in Mr Kennett's time. There was certainly a strong commitment from the top.

The Hon. MICHAEL VEITCH: I take it from your comments you are advocating that it is a positive step forward and that we should be looking at it in New South Wales?

Mr KEYS: I strongly urge the Government to consider it, as it will result in a reduction of confusion. One of the things about the standard LEP template is that it tries to take away a lot of the confusion. Essentially, it has the ability to provide a service to every community member, ratepayer, developer and proponent and even to council. They could pick out their parcel of land, or a parcel that they are interested in purchasing or developing, and find the legislation that applies to it in a quick and easy process. That would make it a lot more simple, open and transparent, and it would provide easy access for people.

The Hon. CHRISTINE ROBERTSON: Based on the local government zoning?

Mr KEYS: Under that system you could still have local government provisions. At the moment the standard LEP template makes it difficult for us to allow for community expectations and outcomes, but it would still bring it in. You could still build that into the system. Regardless of where you were you could click on a parcel and it would still bring up your local provisions and allow for local diversity and local expectations to be met.

The Hon. MICHAEL VEITCH: Does Albury City Council have the capacity to do that, or are you currently accepting electronic lodgement of development applications?

Mr KEYS: At the moment we do not have that capacity. We have a long-term plan for moving towards that platform, but that is at least two years away. Our current information technology resources are devoted to other areas. We also do not have the confidence within our property system, again because of

resourcing. If it became a priority we would certainly be looking at trying to fund that and to work towards it. But we need a significant commitment to that system from other areas to enable it to happen. The final point would be that we do not want to be the ones to go out on a limb and to make the mistakes first up. As a corporate entity we have made a decision that, whilst there is an opportunity to go out, develop new technology and work with new technology, it would require a significant commitment of ratepayer funds. We would then have to backtrack. We do not want to be the groundbreakers, but we certainly do not want to be too far behind.

The Hon. MICHAEL VEITCH: I refer to the comments in your submission relating to the community's involvement in and understanding of planning around your airport. Did you use the Australian Noise Exposure Forecast [ANEF] contouring arrangements?

Mr KEYS: Yes.

The Hon. MICHAEL VEITCH: What would be your assessment of your community's understanding of the ANEF process?

Mr KEYS: The community's understanding of the ANEF contours would be poor. We have tried to promote our strategic land-use planning which responds to the ANEF contours. That is the main way in which we have used it.

The Hon. MICHAEL VEITCH: Do you think that the ANEF process is a good tool for managing land use around airports?

Mr KEYS: There might be another tool of which I am not aware, but I think it is the best that we have at the moment. It provides a reasonable outcome and expectation.

The Hon. MICHAEL VEITCH: If your community has a poor understanding of and involvement in the ANEF contours around your airport, how are they involved in promoting it?

Mr KEYS: During our strategic planning processes, when the LEP goes out on exhibition, we have made provision for that. We have identified land that must be protected—land that is not suitable for residential development—and that sort of restriction will be imposed because of the ANEF contours. We have tried to explain and give a background reason why that land is identified in that regard. The opportunity is always there for the community to request or to ask for information about or in response to it, and we are happy to provide it.

Being the airport manager, we also have an ability to work with the operators. That has helped us respond to community inquiries or community concerns about aircraft noise. In recent times we have had the introduction of a jet service here, with Virgin flying into Albury. That has raised a few questions from some sectors of the community. We have worked with both airport management and planning staff and we have responded to them as a management tool within the organisation. We are taking that further as we are about to engage consultants to review our ANEF as part of the LEP process.

Reverend the Hon. FRED NILE: Mr Keys, following up on some of your earlier comments, as you know, the new planning reforms were introduced last year. Could you comment on what you see as being the positive and negative impacts of those planning reforms?

Mr KEYS: I do not want to harp on the negative aspects, but those are the first ones that come to mind. In regard to the planning reforms, the biggest impost on Albury city as an organisation has been the significant resources, time and effort required for planning staff to keep up with a raft of reforms to make ourselves aware of what is being proposed, to prepare submissions in response to what is being proposed, and then to receive no follow up or feedback to our responses. We have devoted a significant amount of resources to try to make ourselves aware of what changes are coming or are being rolled out. We are concerned that those changes are being rolled out without regard to the effect that they are having on the ground.

Earlier I touched on complying development certificates. There has been a significant drop off or decrease in development certificates. That is based not just on economic conditions; it based also on the response from industry to what is happening on the ground. Industry does not believe that it is delivering on its expectations; it believes it is making it more complicated. It is trying to come up with a one-size-fits-all solution. We do not agree and we do not believe, and will never support, that a one-size-fits-all approach is

suitable for the State from Bourke to Botany. The extremes are just too great and the expectations of those communities are completely different.

People living in Sydney are worried about close-density neighbourhoods. Even if they are not living in close-density neighbourhoods they are worried about where a window might be located. That does not come into these considerations. People do not want to change someone's lounge room window from one size or from one location to another; they have an expectation of what can be built next door to them. Typically, we have single-storey homes, but we also have a number of double-storey homes. The new exempt and complying residential development provisions have significantly complicated issues and have highlighted the unattractiveness of that legislation and what it sets out to achieve for normal residential homebuyers or builders.

Reverend the Hon. FRED NILE: One of the objectives was to simplify the system and to speed up the process. You do not believe that has happened?

Mr KEYS: Absolutely not. I think the system and the provisions that we had previously in our exempt and comply development under the development control plan, the LEP, achieved what the Government set out to do. We only had 19 per cent of our applications in the last financial year that were complying developments. That also has tied in with our processing of applications under a normal DA. While our provisions under comply and exempt development are a little more specific for local conditions and expectations, our ability to process a normal DA did not discourage people from having variations to it.

The Government at the moment seems to be saying, "This is the box it is going to fit into. This is the absolute minimum you must meet. If you are outside that, you will have to go through a normal DA. We are going to be able to take 50 per cent of all applications across the State and they will get into that field." It is not going to happen. It just does not allow for making it simple enough for people, first, to understand and, second, to respond without significant commitment from designers and the large building corporations.

For us, we have a significant level of companies that come from Melbourne and are based in Victoria. They design to the Victorian system and their designers respond to the Victorian system. They come up to New South Wales and they go through a completely new box. It is not working. Whereas previously we had the ability to provide a service in a guaranteed service time, our turnaround time is 21 days. Our customer service guarantee is 20 days for development applications. That does not include the notification period or when we have to go out in relation to further information.

For the last 11 months, every DA and 100 per cent of our development applications have been processed in that customer service time. It is not something that is unachievable, but there has to be a commitment. As we touched on before, we have a commitment from our councillors from the very top right through our organisation to provide that service. That service far outweighs any benefit that the exempt and comply provisions that the Government rolling out will achieve.

Reverend the Hon. FRED NILE: You gave the impression that you think because of the complications you will have fewer applications, but could that not be a result of the economic downturn?

Mr KEYS: As I touched on earlier, I do not believe it is purely a result of the economic downturn. Our discussions with the building industry and with local representatives here—certainly we have a large shed builder that operates in Albury—show they would do anywhere up to 250 applications in a year. Previously they would have had anywhere around 50 per cent of those falling under controlled development. They are now saying, "We think maybe 20 per cent might meet the complying development requirements. We are not going to worry about the complying development requirements because we need to go through a higher level of assessment prior to coming in to you, whereas we can just go through a DA process and sort that out", because of our commitment to service. We can get that done, on the ground, and happening.

The Hon. MELINDA PAVEY: Following up on the complying development comments, your 2007-08 market development performance monitoring report for Albury states that complying developments made up 19 per cent of its total determinations. Do you see that going up or down under the new arrangements?

Mr KEYS: Significantly decreasing under the new arrangements.

The Hon. MELINDA PAVEY: You mentioned the shed builder.

Mr KEYS: No, for residential buildings, alterations and additions.

The Hon. MELINDA PAVEY: What is the mindset of people now with the new arrangements? Do they just say, "Oh, that's too hard, and we'll just go through the whole process"?

Mr KEYS: A lot of the feedback has been to get down to the fine detail to make sure we actually meet every part of the criteria: "If it is too difficult and if it takes too much work, we will just lodge a DA because we will get the same result in a marginally longer time." Again, from those figures you quoted, our average time last year was a mean or a net of 18 days. Our average gross time is 39 days. We are not a council that holds onto applications for six months or nine months, or even for 12 months.

The Hon. MELINDA PAVEY: You are not like Leichhardt?

Mr KEYS: I will not mention other councils, but we certainly aim to give a service aimed to provide an outcome. It is to make a determination, and I think our general manager touched on that earlier.

Mr TOMICH: Mr Chairman, may I just elaborate on one point that Michael made? On several occasions he referred to the council's faith in the staff being extensive. The delegated authority for planning in Albury city and building is 100 per cent to the staff, with the ability of councillors to call up any applications. But 99 per cent of the time, the staff make a determination whether or not to send an application through to the council because it is extremely controversial. I have to say that because it puts it in the context of why we have few timing problems. The majority of the applications are quite capable of being approved without problems with the city or politicians. The odd one does go to council, and that is when the decision—we call it shared—is shared with our council rather than mandated that it has to go there.

Reverend the Hon. FRED NILE: What percentage would that be? Would it be one out of 100?

Mr TOMICH: In 1,000 applications we might put 10 or 15 a year to the council by our own choice. Of that 10 or 15, they may have been mentioned to us—say, half of those might have been raised by councillors— "This one is a particularly volatile application. Is there any chance that you could put it up?" It is a shared decision in that regard, and that has been in existence in Albury for 15 years.

The Hon. MELINDA PAVEY: Can you ascertain of the 10 or 15 out of 1,000 how many have gone against the council staff's recommendations?

Mr TOMICH: The odd one. I suppose that one more each and we are equal. Sometimes they have been challenged in court and the council has been found wanting, but at other times, though, generally the council is accepting of the staff's what we would term professional input into the application.

Mr KEYS: In three years out of all those that have been referred to council, there may have been two that have gone against the staff recommendation.

The Hon. CHRISTINE ROBERTSON: You mentioned that you have private certifiers. Are they using the DA system? Are they putting DAs into your planning department?

Mr KEYS: The companies that they are employed by for construction certificates are certainly putting DAs in, and they are still using private certifiers for the follow-up process.

CHAIR: What would you want from this Committee as far as concerns recommendations going to the Government for deliberation?

Mr TOMICH: There are probably several factors. From my perspective, Mr Chairman, I think that the legislation should require the Government to respond in far shorter time than it is given. I do not think that the resourcing of a government department is of concern to local communities. The Government needs, and rightly so, to have input into applications through its departments, but the time periods are just far too long.

The Hon. MICHAEL VEITCH: So you want prescriptive time periods?

Mr TOMICH: That is right. It is a nonsense because in many instances we feel—and I have no tangible evidence of this—that perhaps our applications are only looked out on the thirty-eighth day because it is

a 40-day time period, and then they find something that requires further information. We have all done that from time to time. I believe that that should be achievable. Whether they all sit in one department or whether there is umbrella legislation that pulls together the approval process from a government perspective or not is not of concern to Albury; but it should happen. The method is not of concern to us, but it should happen that when things are referred you can get an overall decision on a planning application, which we can then take to the next stages of the process.

I am sure that some people in this room who have had to deal with the RTA in relation to something to do with threatened species and something to do with water know it is a terribly convoluted process in this State to get all three anywhere near philosophically together, let alone in the actual practical application of what they want. In that regard I believe that that has to be pulled together. If the State is going to respond, it must respond quickly because time is of the essence in relation to developer inquiry and to make development occur in New South Wales. We base a lot of our comments on the fact that because of our location we get a lot of applications from developers who are from the Victorian side. They can go, through various means in Victoria, and get a more inclusive government response, and they can get it quickly. That is the key, I believe, to New South Wales moving a lot faster.

The Hon. CHRISTINE ROBERTSON: It would be a process to coordinate the process rather than a jumbling together of the departments.

Mr TOMICH: For the sake of our hypothetical, we need to refer the application to the Department of Planning and know that it would come back with the government requirements. Whether they are transport, threatened species, water or whatever is irrelevant. It would come back as a commitment from government within a reasonable time stating the requirements. We would then do our part of the planning process and deliver to the community.

CHAIR: Thank you very much for being here this morning and for your contributions. We will do the best we can.

Mrs GOULD: Thank you for having us. Please take on board the cohesive approach of everyone coming together and getting it done very efficiently when planning applications are submitted. That is very important. Local government seems to be getting its act together very well and we are proud of the way we are doing things. We hope that the government departments we have to deal with will become better at what they are doing and be more responsive. As you heard today, that is what we need.

CHAIR: That is what we are aiming for.

(The witnesses withdrew)

IAN JOSEPH GRAHAM, Consultant Planner, 57 Cooramin Street, Wagga Wagga, New South Wales, sworn and examined:

CHAIR: Welcome to this hearing. If you should consider at any stage that certain evidence you wish to give or documents you wish to tender should be heard or seen only by the Committee, please indicate that and the Committee will consider that request. If you do take any questions on notice today, the Committee would appreciate it if the responses to those questions could be sent to the Committee secretariat within 21 days of the date on which the questions are forwarded to you. Would you like to make a brief opening statement?

Mr GRAHAM: I might have got the wrong handle on it. I have a lengthy statement, but it is aimed at addressing the first term of reference—the planning legislation and principles and the guide to change. I have a background in town planning with local government in Wagga Wagga for 30-odd years. I come from the perspective of being a country planner in a regional city where there is a need for growth and development as opposed to a city environment where there is a need to control growth and where some people do not want growth or want it restricted or controlled. I come with a different perspective with regard to planning issues.

I will address only term of reference 1(a). The matters I want to address in particular are the planning framework, the EPA Act, the standard planning instrument and the Achilles heel of development—the assessment under section 79C. I want to start with an illustration of that as part of the assessment because someone pointed out that this was an opportunity to make a statement and that is how I came to become involved this morning. It started out with an appeal in the Land and Environment Court only a couple of weeks ago—*Bomen Agricultural Machinery v Wagga Wagga City Council*. I note that the Mayor of Wagga Wagga and the Director of Planning Services were here this morning. They might be at a disadvantage, as they might know all the ins and outs of the appeal. The issue about which they are concerned is the law versus commonsense. That is my concern in the planning system. If you want to relocate an agricultural machinery business onto a property where you can service plant and machinery you cannot sell anything and you have to classify yourself as a motor showroom.

We had a debate in the court about whether a tractor was a motor vehicle. We never got around to considering the merits of the application; it perished on the fact that agricultural machinery included tractors, but it did not extend to implements that were pulled, for example, air seeders or balers. They are not motor vehicles so therefore they were not ancillary to that activity, which in some ways is a shame. When you have a situation such as that and you try to interpret the New South Wales Environmental Planning and Assessment Act you go to the *Macquarie Dictionary* for a definition, notwithstanding the fact that the motor vehicle Act clearly defines the meaning of the term "motor vehicle". There should be some mechanism that gives consideration to definitions across a broad range of issues.

There should be some integration of the legislation in New South Wales so that any term defined in the legislation is capable of interpretation. The legislation should include a provision something along these lines: if a term is defined in other Acts, for example, the motor vehicle Act or the roads Act, that is the definition that should be used and not the definition in the *Macquarie Dictionary*. Such an exercise would cost the council and the applicant in the order of $110,000 and it would take about 18 months to reach such a position. That is an aside to indicate the path that we should go down.

The Hon. MICHAEL VEITCH: How many opponents were there to the development? Who took it to the Land and Environment Court?

Mr GRAHAM: There was an appeal against council's decision to refuse it on that legal ground.

The Hon. CHRISTINE ROBERTSON: The council refused the application?

Mr GRAHAM: The council refused the application and the applicant appealed the council's decision. Council's argument was on the basis that it was not a motor showroom because it sold headers and air seeders. Those were goods, goods have to be retailed from a shop, and shops are not permitted in a rural zone. That was the general drift of the argument. We should have some other means that enable us to review decisions such as that because of the costs involved and the time delays. Before you go to court and you spend time and money on section 82A reviews and reconsiderations of applications that needs to be done independently of council. Perhaps the proposed joint regional planning committees could provide that facility. I am not up to speed with whether that is part of their role, but I think they kick into gear on 1 July.

It would be interesting to have some other mechanism to review those decisions without the need to go through all that expense, only to perish on the basis of a legal definition rather than on the merits of an application. In other words, they never got back to looking at first principles, what was involved, and what they were trying to achieve. I turn my attention to section 79C—what I consider to be the Achilles' heel of assessment. Applicants are required to address, and council is required to consider, planning instruments—whether they are regional, State or local planning instruments—development control plans, and any planning agreements in the regulations. The main considerations relate to looking at the objectives of the Act, the objectives of the instruments and zones, and numerically defined development standards. That is the hub of the assessments.

Notwithstanding current reforms to the standard instrument, the housing code that has just come out further defines things and supposedly makes it easier for the community. Complying development was touched on earlier. Regardless of those facts, many of the development applications still need council's consent. I think the new system falls down a little because of the objectives. They are a keen element in determining a zone. The zone seems to be the prominent basis for the determination. The land-use table is associated with it and those uses are permitted with consent and others are prohibited, coupled with the objectives of the zone. It is easy to define those zones that are permitted and those that are prohibited, but it is much more difficult to define how to comply with an objective.

Not a lot of work has been done on objectives. What criteria need to be established to enable you to comply with an objective? In my view much more work needs to be done to establish the values of those objectives. We must have some weighted criteria to show us how to go about doing that. We must put a weight on various elements of the objectives within the zone and we need a mechanism in order to do that. Often the objectives you use to determine things are in isolation to other council plans and objectives. In other words, in New South Wales no great emphasis is placed on integrating these plans. Councils are not obliged to prepare plans of management or economic development strategies, but they do it. They are obliged to prepare social and recreational plans and a number of other plans such as state of environment and natural resource management plans.

However, there is no integration of those plans that gives them some sway when dealing with these objectives. We do not know what weight will be placed on them. Additionally, when you consider applications you do not know from an applicant's point of view or a developer's point of view whether there is a draft. There are many such applications in the pipeline at the moment. What weight should be given to them? It is a consideration and it generates uncertainty. What weight will be given to them? When you apply for development you do not know. It is necessary to consider underpinning the development with new planning and assessment tools—planners will hate this—and computer-based transparency. You can establish a planning balance sheet to achieve those objectives and that can be done through community consultation. You then weight the criteria.

You move away from the individual interpretation of the value system of the assessing officer giving it more credibility and transparency and cutting out some of the inconsistency that that might involve. By and large I think planners do a really good job. However, I think this will give a bit more certainty and a bit more clarity to what is being considered. There is a need for councils to move away from the law being able to dictate. I know that that is a strong argument but in planning we need to get back to first principles. What are we trying to achieve? What will be the outcomes? Modify and qualify them. At the end of the day do not let the law be the sole arbiter of these matters. Embrace integrated planning and include strategic planning in that.

It is not a compulsory or a statutory requirement in New South Wales but I think somehow it should be built into the system. That should also be a consideration, as it is in some other States. Look at alternative means of development application review and reconsideration—I touched on that—by an independent party. I touched also on complying development. I agree with the points made earlier by the representatives from Albury City Council. It is easier to go down the track of a development application rather than a complying development. Yet I am firmly of the view that complying development does hold a key. I suppose I can speak as a consultant planner. It may sound as though you are currying favour to foster your own business, but it seems to me that you could make greater use of the complying development if it was better massaged, so that it becomes more accountable and becomes available for private consultants or principal certifiers to be engaged in it. They can be accountable and checked in the same way as you would go to the motor registry. You have to go with a pink slip. Someone is authorised to give you a pink slip or a blue slip, and you can be qualified on that basis and checked and audited. It seems to me that that is an appropriate mechanism to take the pressure off the resource

demand on local councils and help to reduce some of that time. That will let them get on with the planning and enable them to process the applications.

The other points I wanted to make were about the standard instrument. I heard the term and I agree with it, "one size fits all". I just think that it is inappropriate to have one size fits all when you look at the different environments that that is supposed to cover. This side of the sandstone curtain is totally different to the other side. The growth rates are different and the pressures are different. To try to think that you can have one industrial zone, such as industrial 1, which covers heavy industry, and equate that to what I am familiar with, which is the back of Bomen at Wagga, and with what can go into the middle of Balmain, is not practical. Industrial 1 is for attracting industries that have a large footprint and need anything up to 40 hectares to accommodate a whole range of attributes and impacts that you would not experience in Balmain. To have to come up with one zone does not allow you to differentiate.

In my view, having a standard instrument across the State gives certainty, but it creates some difficulties in being customised, which is something that someone else has already touched on, particularly the customisation of a prohibited development and permitted land uses if you allow that across the range. At times it creates inconsistency, which then seems to me to defeat the purpose of it. It is the case that councils can manipulate to a degree what is prohibited and what is allowed, but the difficulty is that maybe you will end up with a situation where you have inconsistencies.

My earlier point about dealing with objectives in the LEPs is still the same. You have individual interpretation of that without a lot of guidelines about what it means. As I said, the broad zones make it difficult to distinguish particular areas—I have touched on that—particularly in differentiating an area, such as Bomen, where you might want to make an area at least regional if not of State significance. That is relevant when a council has a vision, and it is a credible one, to tackle development in that area and attract development on a large scale, such as transport and entities that are involved in handling, treating and processing primary products. They require significant infrastructure and significant management. Yet the council is lumbered with this one standard zone that it has to apply elsewhere in the city for the same permitted uses. It seems to me that it just gets really difficult to manage.

Why is there not a capacity for the Department of Planning to allow or to create a new mindset in terms of regional plans? If you have an area within large provincial cities such as Albury, Dubbo or Tamworth within which to create areas of regional significance, we would give them a special concession or special consideration in terms of what can go in there. The current system of assessment is biased, as I said, towards the law and development standards because it makes it easier to implement. In some respects you might as well have a clerical system and a legal officer to implement this planning scheme rather than planners. It would be better to get the planners to do the planning and qualify the objectives and then make that easier to interpret by other people. That can be done in the private or public regimes to make it easier.

It should be considered along the lines of the BCA, where you have deemed-to-comply performance criteria. It seems to me that that is a good model. It seems to work all right. Why can planners not do something along those lines in terms of planning legislation involving those community values, weighting of criteria and assessment? Touching on the regional industrial area again, the reason I advocate this is that at the moment, if you come into a large area zoned industrial, you have to go through all the environmental assessments. Most of it is designated development of that scale which you would experience. It requires significant environmental assessment.

In saying this, I am not trying to circumvent that at all, but the argument is: Why would you not designate an area and do one environmental assessment and study over a large area? As developers come in, they have to pick it up and they have the ability to know what the limitations are to be able to fit into that area and what the criteria are that they have to meet. That would enable you to reduce the time and cost involved, and hopefully facilitate development in those areas where, in my view, you are trying to enable regional cities and regions to develop their own critical mass to attract people away from Sydney and take some of the pressures off Sydney. That goes to the dilemmas of Sydney and the pressures there that are caused by congestion.

To do something like have an umbrella over an area where you have all the rules there, you do not have to go through consultation. You can have your bunfight up front, or your consultation, and then at the end of the day you have to sign off for the community, the Government and government agencies to say, "This is the basis on which you can operate here. You do not need to go through the major assessment, but you need to do certain things to fit in here." The things that would be put into place would be a set of overall performance standards

and individual monitoring and auditing systems, which would have to be established to see what the overall collective impacts are.

Integrated waste management would be better than individuals trying to do their own thing and trying to fit them in as they come along. That will make the area able to be nominated for some sort of State and Commonwealth assistance and incentives for people to relocate to these areas. You would know better than I the number of incentives that would be available. That might facilitate relocation or redevelopment of industries from metropolitan areas back into the provincial cities that provide employment and to see the growth that they so desire to become sustainable in the future.

One of those things is the ability for communities to be able to negotiate some of the standards. For instance, it strikes me we have set criteria from the State Government. Odour is a classic one. It says, okay, this is an odour area. It has odour contours. We have indications and you have come up to a fixed number of odour units. It is no good. It is based on one size fits all, but it does not take any account of the fact that people have lived in an area. Always in a rural area you are subjected to odours above what you would get in the middle of Lane Cove, yet the same standard applies. And yet with the application of that criterion in that location it would run the risk of taking away the potential for development or would hamper the operation of development within that area.

The community would be happy to live in that environment, notwithstanding that it does not meet Lane Cove standards. But they have always endured that, and they would rather have the employment and the economic benefits that flow from it. That is just a model showing how there should be some flexibility in communities being able to negotiate beyond what the State Government sets.

The Hon. CHRISTINE ROBERTSON: So you have never been involved in a chook shed objection campaign?

Mr GRAHAM: Not a chook shed, but I have been involved in relation to pigs, cattle and feedlots.

The Hon. CHRISTINE ROBERTSON: Remembering my own chook shed!

Mr GRAHAM: Now you have thrown me.

The Hon. CHRISTINE ROBERTSON: Sorry.

Mr GRAHAM: I was on a roll. The other point is the terms of the council's power to be able to acquire land for industrial development, and to do it compulsorily if they can. My understanding and my past experience suggest that they cannot. You can negotiate and pick it up on the free market, but sometimes where you want it in the areas or the zones, it is not available by negotiation. Yet that very fact can frustrate the aspirations of the council to acquire land and make itself attractive to developers. I have advocated change in the legislation to enable councils to acquire land for economic development purposes under the Land Acquisition (Just Terms Compensation) Act.

CHAIR: But they changed that Act not long ago.

Mr GRAHAM: Not that I am aware.

CHAIR: I think there was a rule that they no longer can resume land.

Mr GRAHAM: No.

CHAIR: I thought that there was a change.

Mr GRAHAM: Mr Chairman, my understanding is that they have not got the ability to do that at the moment. What I am advocating is that they should have the ability with some checks and balances in it.

CHAIR: That is what I meant. Whereas once they were able to do that they stopped it.

Mr GRAHAM: Yes. I am sorry. You are right. I misunderstood what you said. That is basically the end of my statement, other than to thank you for the opportunity to address the committee. I hope my comments are both relevant and useful in your review of the planning legislation.

CHAIR: Thank you. The committee may have some questions.

The Hon. CHRISTINE ROBERTSON: I am asking you this because our evidence has been a bit confusing between process, strategy and objectives. What sort of issues do you define as strategic in the planning process? What sort of statement is a strategic statement in relation to planning?

Mr GRAHAM: My view of strategic planning is a council's big picture for the area. If you take land use planning, it is where you are going to nominate the zones and where the infrastructure is going to go on a broad scale, maybe looking at a framework of 20 years or more. It is a big picture and it is long-term. The LEP, when it comes on board, is only implementing part of that strategy for maybe a five-year period.

The Hon. MICHAEL VEITCH: Thanks, Mr Graham. In a way your comments have related predominantly if not in their entirety to industrial-type developments or industry development. I was listening to your comments about State significant development and the concepts you have there. What are the issues at the moment in getting State significant developments approved?

Mr GRAHAM: I cannot respond to that. I am not in a position where I have been involved in any State significant projects. I do not know what the issues are or the time that is taken or the difficulties. It is only the fact that once it crosses the line into that category and it qualifies for State significant development, it takes a different track from that of the local council.

The Hon. MICHAEL VEITCH: Can I ask what you were drawing on to make your comments?

Mr GRAHAM: If you create State significance areas, or if you create regional areas where a development is of regional significance, a State significant development could fit into that umbrella. In other words, it can be dealt with also in there as long as it is designated development. You have an area set aside that has the blessing of all concerned that a development, regardless of its size and structure, is suitable to go into.

The Hon. MICHAEL VEITCH: So it is preplanned?

Mr GRAHAM: Preplanned, yes.

The Hon. MICHAEL VEITCH: What is your definition of State significant?

Mr GRAHAM: I cannot remember the exact figures but it would have been probably over 100 people and over $2 million.

The Hon. MICHAEL VEITCH: You are using the current definition?

Mr GRAHAM: Yes.

The Hon. MICHAEL VEITCH: I know the Bomen development. I drive past it on a very regular basis. It is very well located on the rail line and it is a good spot. With councils approving or even declining or rejecting development and when things go to the Land and Environment Court, have you had any experience with those processes?

Mr GRAHAM: Yes.

The Hon. MICHAEL VEITCH: Have you been in the Land and Environment Court?

Mr GRAHAM: Yes. I think I mentioned that initially.

The Hon. MICHAEL VEITCH: Can you talk me through the process? I understand you are talking about the legal position that is detracting from the commonsense position. If you were to improve the Land and Environment Court process, what would you do? Solicitors will get involved wherever they can.

Mr GRAHAM: Yes, sure. I think at times you need to really push that mediation process up front, give it a little bit more teeth, and it needs a third party review. Take a case in which two planners might get to loggerheads on the merits of an issue: I think you need a third party to arbitrate. When it comes to the terms of a legal definition, the point there was that the whole issue hinges on a legal interpretation that has nothing to do with planning and development, but has everything to do with a dictionary definition and a legal term. That seems to me to frustrate and detract from planning in the eyes of the community.

What would you do overcome that? One of the suggestions I made was to tie it in to other definitions, but also perhaps for them to have the ability to move away and not be constrained by the law or some other process. For instance, in that case I think it is fair to say that the commissioner was constrained and had no room to move. He should have had some mechanism whereby if he thought it made sense he could proceed with it. He should have had the ability to override it or to have it checked or deferred until it was checked by someone and then say, "We will have it again," but not to perish.

CHAIR: Would your building or planning association be a mechanism for that sort of mediation?

Mr GRAHAM: A panel of certified planners could see whether it fitted in. You would then need someone to make a determination.

CHAIR: Rather than a legal person?

Mr GRAHAM: You need a technician rather than a legal eagle.

The Hon. MICHAEL VEITCH: Have you had much involvement in pre-lodgement meetings with council planning staff?

Mr GRAHAM: Yes.

The Hon. MICHAEL VEITCH: How effective do you think they are? Not all councils use them. Is there any one council model you would suggest we look at?

Mr GRAHAM: The bulk of my work is in Wagga Wagga and I am quite comfortable with the pre-lodgement meetings there. I find the officers at the moment very helpful. They check out my logic, understanding and interpretation against theirs. I can then have that confirmed in writing if I need it. It is usually a good mechanism. I have a yardstick and guide so that when I prepare the application in full and lodge it I know that when it goes to the officers I dealt with they will know it is consistent with that letter. By and large, it works fairly well and it cuts out a lot of the delay and confusion. I have experienced both sides of it in terms of meeting with council officers. Some have an attitude and it becomes a little personal and a bit biased towards control. There can be a mindset of "What are you trying to put over us", as opposed to "Gee, it doesn't fit. Can we make this work for both of us?" It depends on the attitude of the person you are dealing with at the time. At the moment it is fine.

The Hon. MICHAEL VEITCH: Would that pre-lodgement meeting process provide you with enough confidence to use electronic lodgement?

Mr GRAHAM: It would not make any difference in terms of the lodgement if it were electronic if you have provided the information that they require and have dealt with the issues that they have highlighted needed emphasis.

The Hon. MICHAEL VEITCH: Do you think it would be a positive step forward?

Mr GRAHAM: It would make it easier it some ways. The only difficulty from a practical point of view is that sometimes there are problems with file sizes with electronic transmission.

Reverend the Hon. FRED NILE: Do you feel that the reforms to the planning legislation have improved it? Do you have any comments? You do mainly industrial developments.

Mr GRAHAM: No, I do motels, hotels, everything. By and large, they are a step in the right direction. I have the advantage of having sat through the previous evidence. The Act is old and has become very complicated. I am not too sure that it is gifted enough now, on the one hand, to cater for the array of matters it

has to deal with. On the other hand, I wonder whether it has sufficient flexibility and capacity. Are the problems associated with the mindset of those who implement it? That is, do they have a fixation about how you respond? I know they have to standardise it. But they do not normally use regional plans for this sort of issue. There is that sort of mindset that does not allow innovation. It tends to drive people into a narrow bandwidth of planning format to standardise, give certainty and make it clear. I think it has real difficulties in enabling things to be customised. I am not sure it has not made it too complicated to navigate. There are so many elements to check now—social, environmental and economic.

It has some advantages, but it has a lot of problems in terms of downloading and implementation. As a consultant planner, my biggest fear is that when the table of uses is provided and the prohibitions are there, if they are not correctly attuned to the local environment they will cause heartburn for the community and the council. They will say, "We didn't realise that. We will have to do a formal amendment to the LEP." That is critical in ensuring that those prohibitions are in some ways minimised rather than optimised to give councils flexibility to consider things on their merits.

Reverend the Hon. FRED NILE: Some councils have said they would prefer to have a period in which to use these changes before the new changes are introduced that make it more complicated. Staff will have to learn all those processes over again. They say that they need stability for a couple of years before any major changes are made to the legislation. Do you think that it is so bad that it needs to be changed more urgently?

Mr GRAHAM: I have not seen one in operation yet. That is my fear. I applaud the technique used to introduce the housing code. The new code is operating and there is also the existing scheme. The developer can opt to run with the new code or the council's old scheme. That gives enough evidence and information to the creators of the housing code to modify it on the run and to finetune it before it becomes effective, rather than unleashing it on the community and finding out it has holes and there is nothing to do but fix the holes. It is a better arrangement.

Reverend the Hon. FRED NILE: Have you used the new housing code?

Mr GRAHAM: I have looked at it, but I have not had the opportunity to submit anything under it. I like the concept. Introducing LEPs on that basis might be a little confusing. It is a viable option to finetune what you are doing. It also gives councils the option to move around a little to accommodate developments that have a small oversight, error or omission.

CHAIR: Thank you very much for your contribution this morning.

(The witness withdrew)

(Short adjournment)

GEORGE CILLIERS, Planning and Environment Manager, Griffith City Council, PO Box 485, Griffith, sworn and examined:

CHAIR: If you should consider at any stage that certain evidence you wish to give or documents you wish to tender should be heard or seen only by the Committee, please indicate that fact and the Committee will consider your request. If you take any questions on notice the Committee would appreciate it if the responses to those questions were sent to the secretariat within 21 days of the date on which those questions were forwarded to you. Would you like to make a brief opening statement before we commence with questions?

Mr CILLIERS: I am happy to take questions. If one matter does not arise in questions I would like to have an opportunity to discuss two rezoning matters as well as the rural land State environmental planning policy [SEPP], if that is possible.

CHAIR: It is up to you. Do you want to make an opening statement?

Mr CILLIERS: No, not at this stage.

CHAIR: Do you want to go straight to questions?

Mr CILLIERS: Yes.

CHAIR: You state on page 2 of your submission that we need a planning framework and legislation that is responsive to continuous change. To that end you suggest moving much of the detail from the principal Act to the regulations or to other environmental planning instruments. You also suggest a single planning Act with three separate sets of regulation for metropolitan, coastal and regional areas. For the purpose of this hearing could you expand on these suggestions and tell us how they might work?

Mr CILLIERS: I think it is fairly clear in my submission what I mean by continuous change, although in our opinion the one-size-fits-all system does not work. We need an Act that is responsive to change. In that sense you could look at amending clauses or parts of regulations implemented by other bodies outside the State. We acknowledge that certain parts should remain within the ambit or the scope of the State Government, but from our point of view there are unique characteristics in every area. That is far more evident in a regional context. For example, different issues and matters apply in a metropolitan setup as opposed to a coastal environment. We argue for a system that is responsive to the specific needs of a regional community.

CHAIR: You are suggesting that we should have three separate sets of regulations for metropolitan, coastal and regional areas. You are not talking about environmental assessment plans, development plans, or overall plans. Do you believe that the plans for metropolitan, regional and coastal areas should be different?

Mr CILLIERS: In my submission the only issue I raised related to discerning between regional, coastal and metropolitan regions. It could be far more detailed than that. Most planning instruments and planning legislation are written in a metropolitan context, or from a Sydney perspective, if I can put it that way. It could extend to that level if you would like to see it that way, yes.

CHAIR: Regarding that suggestion that there should be three separate sets of regulations, do you envisage that various local government areas will be able to fit neatly within one of those three categories?

Mr CILLIERS: I do not think it is necessary to have three separate sets of regulations. One regulation could be applicable to rural issues or a schedule could be applicable to metropolitan and coastal issues.

CHAIR: You state on page 2 of your submission that some planning decisions show little understanding of the intricacies, impacts and workings of regional infrastructure. You cite some examples, including that of bulk water supply contributions in parts of the Riverina for which no appropriate mechanism exists in current planning legislation. What would be the effect on your council of the absence of those mechanisms?

Mr CILLIERS: With specific reference to the bulk water issue, it does not fit under either section 94 or section 64 of the Local Government Act. It is not a community facility or something that is owned by the

community. Griffith is in a unique position, as are Leeton and Narrandera, in that they buy water off a commercial entity. It is not a head works, so it does not fit under section 64. The way I see it, in the future we could potentially be exposed to litigation if you look at what is going on with the current water situation.

The Hon. MELINDA PAVEY: Would you expand on that?

The Hon. CHRISTINE ROBERTSON: Litigation from whom and what would it be about?

Mr CILLIERS: Litigation from developers that could be challenged. I do not want to raise that issue. We strongly believe that we have a defensible case. It is not protected under section 94 of the Environmental Planning and Assessment Act or by the Local Government Act; it is imposed solely as a council policy. We strongly believe, based on previous legal advice that we have received, that we still have a case. However, it would be good to have some additional protection. If the legislation was responsive to our needs in a regional context that could have been easily rectified.

The Hon. MELINDA PAVEY: I refer to the rationale and the value of SEPPs and whether matter contained in SEPPs could not be contained elsewhere in the legislation, thereby reducing the sheer volume of legislation and policy confronting developers and assessing planners alike. The committee asked the Department of Planning whether it was practically achievable to consolidate all SEPPs into one document. The department's response was that this was not a practical suggestion due to the number and range of topics covered by the different SEPPs. At the same time the department advised that it was trying to consolidate and reduce the overall number of SEPPs. Would you like to comment on the department's position?

Mr CILLIERS: I might tie it into a rural SEPP. Whether or not it is in one document is probably the department's call. By the same token, local councils are expected to have one development control plan [DCP] on a wide range of issues. If that is the expectation of local government I do not think that is a valid argument from the State side. Maybe this is the right opportunity to refer to the rural SEPP scenario. When the rural SEPP was drafted there was limited consultation with our council. I am not aware of any consultation in our region. When it was gazetted, from memory, it deleted clause 17 from our local environmental plan [LEP].

Basically, we had about one week's notice to that effect. At that stage word got out in the media that that was the case and we received a number of applications for excisions—for 17 years of excisions on rural lands. That was exactly what the rural SEPP tried to convey. In our opinion the wrong clause was deleted. The clause that was deleted related to the excision of existing dwellings in land zoned general expansion and investigation. The excisions on farmland still remained within our LEP. If you think about it, it is fairly logical that the land on which you would like excisions is the land closest to your infrastructure—on the fringes of your urban environment where your future expansion will be.

We are now confronted with the reverse scenario. According to the SEPP, we have to allow amendments contained within our LEP. We have to allow excisions on farmlands where we cannot service them. We would like to axe some of those amendments, for obvious environmental impacts—things such as sewerage and other things like that. Where we want to approve it in our general expansion and investigation zone we cannot do that. We communicated this to the department at a stage just after the SEPP was promulgated, but so far we have not had a response. I do not know how much time has lapsed—probably six months or more—since we communicated with the department.

In the meantime I have a couple of applications that I cannot determine based on this and I have had to refuse those applications. In all honesty I cannot give you any explanation for that. It is unfair to local planners to explain the rationale if we do not even understand why the amendments were drawn in. I can understand where the Government is going with the rural SEPP and what motivated it, but it changed things without discussing it with council.

The Hon. MELINDA PAVEY: What sort of development is that holding up? What is the monetary value of that development?

Mr CILLIERS: It is fairly small rural developments involving excisions. For example, a farmer on general expansion land close to or adjoining current residential land cannot excise now and cannot sell off the remainder of the land to a developer for subdivision. That means that a farmer has to think twice about releasing his land and that is stalling development. In one case that influenced a farmer's decision to sell off his land. He had an opportunity to sell 100 blocks on one of his farms but he cannot sell those blocks because of this.

The Hon. MELINDA PAVEY: Residential land in Griffith is amongst the most expensive in regional New South Wales, is it not?

Mr CILLIERS: Yes, that is correct.

The Hon. MELINDA PAVEY: How much is a block of land in Griffith and what is land availability like? It is always a question of supply and demand. If you have less supply than demand the price for existing blocks goes up.

Mr CILLIERS: Currently there is a supply. Due to the market situation there is a reasonable supply. The bigger picture is that we have done a flood study since the previous LEP, or since the current LEP was gazetted. The current LEP was gazetted in 2002. We started a flood study in 2004. The flood study indicated to us that far more land is flood prone than we initially thought in the residential expansion areas. With that in mind, it has a serious impact. If we cannot release flood-free land it is difficult to quantify that.

The Hon. MELINDA PAVEY: But how much is a block of land at Griffith at the moment?

Mr CILLIERS: It is $120,000 at least, if you are talking about an 800 square metre block at Collina, and some can go higher.

The Hon. MELINDA PAVEY: I will just pick up on the flood issue. How was land identified as flood affected that had not already been identified as that?

Mr CILLIERS: If you are familiar with the local environment, it is fairly flat. It is used for irrigated farming. A lot of it is laser levelled. Between the 1994 and the 2004 LEP it was not really a flood study that existed; it was more anecdotal evidence of previous flooding.

The Hon. MELINDA PAVEY: It was the first study that the council had done?

Mr CILLIERS: After 2004, after the LEP and the laser level survey, we got new contours. We got a far better idea how water will act in a flood event. In that case we were surprised with the outcome. We have less land available than we previously thought. That is the message we got out of that.

Reverend the Hon. FRED NILE: So it is flood prone but it has not been flooded before.

Mr CILLIERS: Not necessarily, depending on what you use. We use a one in one hundred year flood event but because some of it is used for flood irrigation it is not all that obvious or clear. During a serious storm event the land may be flooded due to farming activities as well anyway.

Reverend the Hon. FRED NILE: Because it is so flat.

The Hon. MICHAEL VEITCH: My questions relate to some statements that have been made in submissions from your city. They are not numbered, but the first one I will go to relates to our terms of reference 1 (f), which is the current provision that regulates land use near airports. Your submission makes an interesting comment. It states:

> The current arrangements are considered appropriate with the exception of the determination of ANEF noise contours.

Can you explain why it is appropriate with the exception of the ANEF process? What are your issues with that?

Mr CILLIERS: I have obtained this information from the airport manager, actually. The ANEF contours are determined in relation to the contour plans. I am sure you understand what that means.

The Hon. MICHAEL VEITCH: I am gradually learning what it all means.

Mr CILLIERS: It affects the development potential of land adjoining the airport. We have a fair bit of agricultural planning activity. When they determined the ANEF contour it sterilised some adjoining land. We thought we should have been consulted on that. That is done by CASA and some other department. I am not exactly sure which other one is involved.

The Hon. MICHAEL VEITCH: Does the council own the airport? Do you manage to the airport?

Mr CILLIERS: Yes, we manage it.

The Hon. MICHAEL VEITCH: You were not involved in the ANEF studies?

Mr CILLIERS: Historically, it is going back to well before my time. It is five years ago plus.

The Hon. MICHAEL VEITCH: What sort of development is around the Griffith airport other than agricultural?

Mr CILLIERS: We have a residential development that is actually very close to the acceptable ANEF contour. Griffith airport is within the Wyangan catchment. The airport is actually enclosed by the McPherson Range.

The Hon. MICHAEL VEITCH: It is within what catchment?

Mr CILLIERS: Lake Wyangan. It is basically enclosed by the McPherson Range, which is a range of hills going around the airport. That affects your development potential because of the hills surrounding it and the approaches. That is something we would just have liked to have a little bit of communication on.

The Hon. MICHAEL VEITCH: What do you think would be the level of understanding of the ANEF process of the community around the airport?

Mr CILLIERS: I think they would have a pretty reasonable understanding because they are affected by daily aircraft movements.

The Hon. MICHAEL VEITCH: But they would understand how the contours were developed?

Mr CILLIERS: Yes. I do not think that is really difficult science to understand. It also affects things like double-glazing requirements we have for planes and houses that are closer to the airport, and things like that.

The Hon. MICHAEL VEITCH: And they are local council ordinances?

Mr CILLIERS: We have a local policy on double-glazing close to that.

The Hon. MICHAEL VEITCH: My final question relates to the section in your submission titled "What principles should guide any future development of planning legislation in NSW?" Again I will quote from your submission:

> There should however be an active attempt to more appropriately quantify the concept of ESD specifically in planning terms to avoid selective interpretation and 'lip service'.

"Lip service" by whom?

Mr CILLIERS: What we find with development applications being lodged, we often require consultants to address ESE as part of that, and sometimes we get statements that we can clearly see are copied and pasted from other submissions.

The Hon. MICHAEL VEITCH: From other applications?

Mr CILLIERS: Yes. We can see that they did not really apply their minds to it. What we are thinking of there—I am sorry, I should add to that—is that there should be something like a little matrix or a flow chart. There is a very good flowchart on contaminated sites. I know it is a different topic, but that gives clear guidance on how you assess contaminated sites. In the same way we think that with the ESE a little flow chart or a matrix would come in really handy to understand the expectations of the State Government.

The Hon. MICHAEL VEITCH: I must say that is really interesting. In the same section in the next paragraph you talk about actively encouraging or reviving decentralisation by means of the planning legislation.

Can you elaborate further on what you mean by that and how a legislative framework could revitalise decentralisation?

Mr CILLIERS: I will try to elaborate. I may need to take this on notice because this came to the fore after a discussion I had with my manager and the general manager. The way I understood it was that we see an opportunity for regional areas—not Griffith as such, maybe—but for regional areas in the broader context to actually contribute to dealing with congestion experienced in cities. We feel that it started happening a number of years ago and died off because maybe the time was not right for that. Now we have more advanced technology or transportation or there have been advances in consultation and in making it cheaper to travel. Things like the Internet make it easier to set up a business in a regional area, and more attractive. What we are suggesting is maybe that should be revisited by decentralisation policies or making it attractive.

The Hon. MICHAEL VEITCH: What I am interested in is that you are suggesting that that should somehow be planning legislation that in some way underpins revitalisation. I hope you take it on notice and get back to us on that. The last question picks up on something that the Chair raised earlier about environmental legislation. We have heard there is a raft, if not a plethora, of environmental legislation in the State. It is difficult to work out which takes precedence over which. It has been put to us that maybe there is a need for umbrella legislation or some other way of determining the priorities. Do you have a view on that?

Mr CILLIERS: I do not follow.

The Hon. MICHAEL VEITCH: I am referring to the need for umbrella legislation, environmental legislation, which actually articulates and puts in place a hierarchical order of the different environmental legislative provisions in New South Wales.

Mr CILLIERS: My personal view is, yes, I would support that. I think at this stage we are given far too many instruments and different Acts and regulations. It is just becoming impossible to assess a DA without keeping it in the back of your mind that you may end up in the Land and Environment Court on one of these issues because you missed some laws or regulations somewhere. We will support umbrella regulation—yes, most definitely.

The Hon. MICHAEL VEITCH: What would be the cost of a case for your council if you have to go to the Land and Environment Court, just on average?

Mr CILLIERS: It depends on what it is. By "cost", do you mean actual dollars, or my time involved?

The Hon. MICHAEL VEITCH: Just the dollars.

Mr CILLIERS: It may be $70,000 or $80,000, if it is a commercial case; if it is a smaller case, $40,000.

The Hon. CHRISTINE ROBERTSON: Plus your time?

Mr CILLIERS: Plus my time, yes. Often we miss out on lawyers' fees or legal fees and things like that that are not awarded.

Reverend the Hon. FRED NILE: I want to follow up another area you raised—problems related to the raw land price. Your submission refers to the need to impose control on the raw land price, which has been inflated out of context with the actual value of a proposed residential development. Could you give further information on that, and what type of controls could be imposed? Could you give us an example of the problem, or the controls?

Mr CILLIERS: The example mostly relates to Crown land in our case as well as where we had to buy land, for example, under section 94 contributions. That was another case that I am aware of where we had to deal with inflated raw land prices. I do not know if it is really possible to impose a control by legislation. It does say that in the submission, but I am not sure if we can really impose that. What we say is that that is what we experience, particularly under section 94 when we set out to buy a park and a private developer or owner is aware that we are going to buy a park or land for a retention basis, or something like that. We find that we go through a very lengthy and costly process of evaluation when trying to prove that the raw land price is inflated. If there is some way we can find around that, that is where legislation may help as well.

Reverend the Hon. FRED NILE: So the value changes? There is a raw land value, and as soon as the council indicates an interest—

Mr CILLIERS: As soon as a developer becomes aware that it is earmarked under section 94, or the landowner becomes aware of that, yes, we find that the price will sometimes double.

Reverend the Hon. FRED NILE: It doubles?

Mr CILLIERS: Yes. It becomes a very expensive exercise. You have to go back to your section 94 plan, amend that, or you have to negotiate with the landowner on that. It creates a situation that is difficult to deal with.

Reverend the Hon. FRED NILE: You almost need to have someone who buys the land for the council.

Mr CILLIERS: That is a possible solution. But if you do that then again it is—

Reverend the Hon. FRED NILE: Anticipated it is going to be used for development.

Mr CILLIERS: Yes.

Reverend the Hon. FRED NILE: We have had some councils indicate problems with the local environment plan and how, when parliamentary counsel modify it to suit the parliamentary language, it makes it more difficult to follow—it becomes more legalistic. Do you find that?

Mr CILLIERS: I have had only one experience of that. That related to the second amendment to the 2002 LEP. It was well before my time, but I have read on the files that when the 2002 LEP was commissioned there was an agreement with Chris Murray—I think—at that stage that we would not bring in ad hoc rezonings or small amendments. That made perfect sense. Instead, we would try to do one comprehensive amendment to the LEP a bit later. When we started to do that in 2004 I drafted a comprehensive amendment. That amendment went to and fro between parliamentary counsel and the department.

We had very good cooperation from the department in that case. But it seemed that parliamentary counsel or someone on the legal side of things kept on changing the instrument. It frustrated the process to such an extent that in the last year—after the section 65 was issued—I took it back to my council. It had been going to and fro between parliamentary counsel and the department for almost four years. We decided to repeal the proposed amendment in view of the gazetted standard template that would take up all those issues. It was quite a comprehensive amendment, but we did not want to have it separate for spot rezonings.

Reverend the Hon. FRED NILE: You are doing what they ask asked you to do by consolidating it.

Mr CILLIERS: Yes. It frustrated us and four years down the track we advised council that it was not going anywhere and that we would repeal it. We'd fix it up in the standard template. Probably the biggest loser in that case was the three or four parties affected by a zoning anomaly.

The Hon. CHRISTINE ROBERTSON: Who were waiting for the changes, but they were not through?

Mr CILLIERS: Yes. One was the Crown; a Crown land development was affected.

The Hon. CHRISTINE ROBERTSON: I want to extend this question of affordable housing. You have put together quite a few issues in relation to land release in your area, partly to do with the rural SEPP and partly to do with the interesting behaviour of persons ensuring that the price is high as soon as there is any interest. You compare quite well with Byron Bay. I know that sounds bizarre, but they have the same access to land issues. It was interesting to hear that they did not believe they had an issue. I am not sure how the people involved in the tourism industry in Byron Bay find housing. They did not perceive that it had any effect on them.

Griffith has a fairly large population who work in industry. Is there any plan to provide low-cost housing in Griffith and do you see problems with the SEPP and prices? Some local government bodies have opened up fairly large estates with low-cost housing. I am not looking for you to tell us exactly what is happening. In places like Griffith and Byron Bay that have huge demand, the prices keep flying up because there is a lot of money around.

Mr CILLIERS: It is general knowledge around Griffith that the council bought three lots in the Lake Wyangan area. The intention was to provide some housing. We do not like to refer to that as low-cost housing. It is mixed in character and provides some housing at the entry level. Along the lines of low-cost or entry level housing, there are some talks with one of the larger industrial players. That way, if they buy land—

The Hon. CHRISTINE ROBERTSON: They want their employees to have somewhere to live.

Mr CILLIERS: Obviously there will be some mutual benefits for council, for them and for the community. That is the way we are trying to approach that. It still does not address the inflated land price issue when the land is rezoned or identified in the section 94 plan. Suddenly it becomes totally unaffordable.

The Hon. CHRISTINE ROBERTSON: Plus you already have high agricultural land prices compared with other parts of the State.

Mr CILLIERS: Yes. There are also hidden costs that some councils may not experience. For example, when land was previously used for irrigation farming there may be drains that have to be ripped out and there are also contamination issues. There is a fair bit involved in that. You have to tidy up the site. That is reasonable and we expect those kinds of costs.

The Hon. CHRISTINE ROBERTSON: Because of the intensive farming area?

Mr CILLIERS: Yes.

The Hon. CHRISTINE ROBERTSON: I still have an issue understanding the rural land SEPP. I remember some consultation about individual landholders being able to siphon off land and the removal of that right. Families had a right to put aside a piece of land and say, "This is for the son." Some of those processes have been removed. Is that what you are talking about?

Mr CILLIERS: I will try to explain it in simple terms. The purpose of the rural lands SEPP was to stop uncontrolled excision. In Griffith that has two dimensions, because it is used for retirement housing as well. It plays a very important role. That was the first cause of our dissatisfaction with the way in which the SEPP was introduced. It forms a major part of our community's expectations in terms of retirement housing. We think we should have been consulted prior to the decision because of that. We have actually factored it into aged care provisions and things like that. Suddenly the SEPP is prohibiting people doing that. It is a blanket prohibition. It does not say that Griffith has an exemption or that under these circumstances it may be a consideration. That is one issue.

The second part relates to where excisions should be prohibited. In theory, excision should be prohibited on outlying farms. That is where there are problems. The closer they come to town, the easier they are to handle. The closer they are to a village, the easier it is to deal with services, access and so on. We have two clauses in the SEPP dealing with excisions. One deals with excisions on general expansion and close to town and the other one deals with general excisions on farmland—that is, outside of town. They have repealed the one close to town.

The Hon. CHRISTINE ROBERTSON: So if you are a long way from town you can still do it?

Mr CILLIERS: Yes. Now when I am dealing with a farmer doing an excision I have to specify biocycle septics. I have to tell a bloke who can link up to an existing sewer line, "Sorry, you can't do that."

The Hon. CHRISTINE ROBERTSON: That is interesting because the pressures were coming from the farming community. We will follow that up elsewhere. I would like to hear from you about the role of regional officers of the Department of Planning. We have quite a bit of information indicating that the regional officers' role is more about a bit of support and implementation of current policy processes rather than a

strategic role in its own right. There is also the issue of them taking strategic messages from the regions back to the State level. What ideas do you have about the role of regional officers?

Mr CILLIERS: I think regional officers should support us and provide us with broad policy direction where it affects cross-shire issues, especially relating to infrastructure, transport and things like that. I do not think the regional officers' role is determining the merit of a local rezoning, for example. That is my personal, honest opinion. I think that the local planner has a better knowledge of the land and a better understanding of the issues and deals with them on a day-to-day basis. I have a perfect example here that I wanted to raise. I do not know whether I should do that now.

The Hon. CHRISTINE ROBERTSON: Do it now.

Mr CILLIERS: This relates to amendment No. 5, which is a fairly recent amendment—about 18 months to two years old.

CHAIR: To the LEP?

Mr CILLIERS: It is a spot rezoning for a truck stop between Hanwood and Griffith. Hanwood is a village south of Griffith on the Kidman Highway linking up to Burley Griffin Way. It is a fairly important access. According to our traffic counts a B-double goes through there every six minutes on the way to Sydney or Melbourne or via Dubbo to Queensland. An applicant approached the council saying he wanted to put a regional truck stop on the land. The site is about one kilometre north of Hanwood village. Council deliberated and decided to issue a 54 notification. They were quite excited about the prospect at that stage and we submitted the application to the department.

Over 18 months we went through four different departmental officers—each one picking up the rezoning from scratch. We actually had very good cooperation from the first three or four officers. Then we received a delegation for section 62 and 65. I went on exhibition with it, but the department said I was not allowed to do that. I had to send it back to the department prior to exhibition. I do not know what is the purpose of the delegation if I have to run it past the department every time. I do not want to mention names or anything like that. We have had some good cooperation on this recently. We received various letters and after we received a delegation on section 62 and 65 for exhibition the officer sent a couple of emails and then a letter saying they had concerns about the justification and the potential impact of the rezoning. It related to the potential leakage of retail and commercial activities from Griffith. I do not want a truck stop on the main street of Griffith. The officer went so far as to say:

> Upon reconsideration of the supporting documentation they suggest you use an enabling clause instead of rezoning the entire site.

That occurred after a period of 18 months. I had to go back to the applicant and say, "Look, mate, you have to use an enabling clause." I refused to do that and I lodged an appeal.

The Hon. CHRISTINE ROBERTSON: Did that relate to enabling clauses?

Mr CILLIERS: I probably missed something in my planning training, but my understanding of enabling clauses is that your land use should reflect your land usage and vice versa. What is the point of an enabling clause? What will that enabling clause do? I gave that as an example. We had good cooperation from three or four officers and then suddenly we were dealing with the fourth officer—the fifth one in this case—in 18 months. They come back to you and say that they are not happy with it and you cannot use your delegation. How do I face an applicant? I am afraid in this case that we either lost development or they might look at some other site. We are still trying to push it through.

The Hon. MELINDA PAVEY: Where was that fifth officer? Was that fifth officer in a regional office or was he in Sydney?

Mr CILLIERS: In the region.

CHAIR: We have run out of time. Is there anything else that you want to add?

Mr CILLIERS: I have covered all my topics.

CHAIR: Thank you for attending this morning. Thank you for your comments and for your submission.

Mr CILLIERS: Thank you for the opportunity to appear before the Committee.

(The witness withdrew)

ELIZABETH CONSTANCE MARIE STONEMAN, Manager, Planning and Development Services, Leeton Shire Council, 23-25 Chelmsford Place, Leeton, sworn and examined:

CHAIR: In what capacity are you appearing before the Committee today?

Mrs STONEMAN: As Manager, Planning and Development Services.

CHAIR: Should you consider at any stage that certain evidence you wish to give or documents you wish to tender should be heard or seen only by the Committee, please indicate that fact and the Committee will consider your request. If you take any questions on notice the Committee would appreciate the response to those questions being sent to the secretariat within 21 days of the date on which they were forwarded to you. Would you like to make a brief opening statement before we go to questions?

Mrs STONEMAN: Yes, thank you. Thank you for providing a representative from Leeton Shire Council with an opportunity to give evidence to this inquiry. The 1979 Act, which is 30 years old, has been substantially amended over that time and has become cumbersome to use. Many of the amendments have increased the complexity of developments and the time that it takes to assess them. In particular, the 1998 reforms, which introduced exempt and complying development, did not speed up the planning system. Prior to 1 July 1998 council dealt with 101 development applications. Subsequent to the reforms we were dealing with 290 development applications with no increase in staff. All those applications had to be assessed against section 79C of the Act.

One of the things that could be done to improve the planning system would be to reintroduce building applications for simple structures, including single dwellings and two-storey dwellings, in particular, in residential areas. That would reduce processing times, it would reduce costs, and it would simplify the experience for mums and dads who want to build a new house or extend their existing house. It would have no significant environmental impacts because when you are looking at a residential area those impacts have already been looked at and ameliorated, and housing is what those zones are for.

The State Government is increasing its intervention in development assessment with the soon-to-be implemented joint regional planning panels. This is undermining the community's confidence in the planning system and it is also creating a two-tier planning system as the western region of New South Wales does not have a joint regional planning panel, with all matters being referred to the Planning and Assessment Commission, which will not have on it local representation. The State Government needs to give local government the independence and authority to determine those development applications that affect only the local area.

The planning framework needs to be designed not just for the high-growth areas but also for stagnant and declining areas. In particular, we need planning strategies for the Murray-Darling Basin. Unfortunately, the western region has not prospered under some of the planning reforms due to the lack of technical expertise in the region. For people wishing to use exempt and complying development the level of information that must be submitted to council is such that they may not have access to someone competent to provide that information, or the cost might also be too great.

Also, there is a lack of private certifiers in the western region of the State, first, because of the volume of work and, second, because of the travel distances to get to places where people are developing. Planning is not a luxury item but it is vital for the health and wellbeing of all communities throughout the State and it needs to be strongly supported. That is why Leeton Shire Council welcomes this inquiry into the planning framework.

CHAIR: You state on page 2 of your submission that governance in New South Wales planning would be substantially improved by a negotiated intergovernmental agreement between State and local governments. Could you outline what such an agreement should encompass?

Mrs STONEMAN: An intergovernmental agreement with local government and State Government would set out clear strategies for the issues that are deemed to be local issues and dealt with by local community representatives through elected councillors. It would set up those things that are really serious State and regional issues. Not having an agreement today makes it very difficult and the lines become blurred. It would not necessarily have an impact only on local issues because there are some cross-border issues relating to shires and infrastructure. I believe that the Regional Organisation of Councils can deal adequately with those issues.

It becomes a regional issue. Things like water buybacks, irrigation areas, major transport networks and major funding of regional infrastructure, such as the upgrading of Wagga Wagga airport, would all be things that would sit comfortably with State strategies. Local issues and local developments—even if they are valued at over $10 million—such as local supermarkets and tourist developments are really local issues. The State Government probably has more important things to be dealing with rather than considering them. We need to define those issues of State significance that should be dealt with at a state level. The community can define local community issues. If that were clearly stated in an intergovernmental agreement, I think there would be fewer conflicts between the two levels of government.

CHAIR: Your state in your submission that draft LEPs should be assessed on a regional basis and in accordance with regional strategy and State policies. What would be the benefit of such an approach?

Mrs STONEMAN: As it stands at the moment, each council works out its local strategies and it develops its planning scheme from that. However, you do get variations. For example, between Griffith City and Leeton Shire Council we have a difference in the minimum area for the erection of a dwelling on rural land. Leeton Shire is 150 hectares and I think Griffith is 200 hectares. If you are a farmer on the boundary and part of your property is in Leeton shire and part of your property is in Griffith shire, you are working under two separate controls. There needs to be some standardisation of things such as minimum areas for the erection of dwellings. We also need some standardisation in the provision of infrastructure.

That is more of an issue in metropolitan areas where you have high-density development and you can have different standards and infrastructure between one area and another. Roads are another issue when you have minor roads. If one council has a strategy that some of its minor roads will be sealed but the immediately adjoining council wants to leave it as dry weather only, a farmer in the middle who is travelling one way or the other will be faced with disadvantages. Where we have development on the boundaries there is no formal mechanism for us to consult with an adjoining council and to involve it in the decision-making process.

For example, a gravel quarry in Leeton shire has just reopened. That quarry is right on the boundary with Griffith shire. The road network that the quarry will use is in Griffith. Leeton shire has no way of imposing developer contributions on that developer so that he can contribute to the roads in Griffith shire. Although we have a good working relationship with Griffith shire, that is an informal relationship. Leeton council talked to Griffith shire about the standard of the roads that it wanted constructed and it imposed that as a condition. That could have gone to the Land and Environment Court because the developer appealed the road conditions.

Because there is a difference between how the two councils look at their road network it might have been a hard condition to defend. We were fortunate because the developer thought it was a fair thing and he went with those conditions. We asked Griffith council to inspect those roads and to let us know whether the work had been done satisfactorily so that we could issue a final certificate on the development. If we had a formal process there would be more certainty about what was required and we would have more legal certainty when we impose conditions. We are trying to ensure that the developer complies with the adjoining council's requirements as well as ours.

The Hon. MELINDA PAVEY: This is a little off the track, but I refer to the point you made earlier about the standard LEP. When the Government announced it, one of the controversies related to the issue of rural residential and the minimum acreage of 100 acres. Did you say that your minimum acreage was 150 acres?

Mrs STONEMAN: That is right.

The Hon. MELINDA PAVEY: What is Griffith's minimum acreage?

Mrs STONEMAN: Griffith's is 200.

The Hon. MELINDA PAVEY: What are your thoughts on that policy? What would be a more relevant regional policy for the type of land that you have and the types of industries that you have?

Mrs STONEMAN: With rural land you have to look at agricultural activity and determine from that a minimum area for the erection of dwellings. When we talk about minimum areas for rural land generally we are referring to the erection of a dwelling. That seems to be the hot topic. We have a number of minimum areas in Leeton shire because we have a mix of irrigation, having the Yanco No. 1 Irrigation Area as part of the

Murrumbidgee Irrigation, as part of the Mirrool Irrigation Area, and some land in non-irrigation areas. Our minimum areas vary from 20 hectares to 150 hectares and that is because we have looked at what the land is actually capable of being used for, and set that. We have done that in conjunction with the Department of Primary Industries. However, we do not agree with some of the findings of the Department of Primary Industries and I think the mid-western planning report looked at circumstances in the Bathurst-Orange district.

CHAIR: The West review?

Mrs STONEMAN: That is right. Gabrielle Kibble was chair of that review and argued that the Department of Primary Industries did not look at secondary income and did not look at various other factors in terms of determining the viability of farms. So what we have done is look at our horticultural areas and set a 20-hectare minimum as being an affordable-to-purchase unit, plus one that, while it may not be totally viable by itself—and we are talking about a plan gazetted 11 years ago—we looked at 40 hectares for our basically dry area river country on the southern side of the Murrumbidgee, and we looked at 150 hectares for broad acre farming which, in Leeton when it rains, predominantly is rice growing. And 150 hectares, when you can put it under rice, is actually quite a profitable venture. That is why we have a number of minimum areas.

The Hon. MELINDA PAVEY: Are you unique in that, Elisabeth?

Mrs STONEMAN: Most councils set a standard for broad acre and a standard for agriculture. Leeton is a bit of an accident of history because the southern area, which is south of the Murrumbidgee, was acquired from the Narrandera shire in one of the boundary adjustments. The council picked that up in the late sixties, early seventies. That does not necessarily fit very well with the majority of the central activity, but when I say that, there are a large number of river pumpers along the southern side of the Murrumbidgee who grow annual crops, such as potatoes, and there are some permanent plantings there as well. It is a developing thing, depending on the availability of water.

Getting back to my point, most councils set a different standard between horticulture and broad acre by the nature of the activity. One of the issues I have with the standard instrument, which is still to be resolved, is that the standard instrument presupposes that we will zone land horticulture and you will zone land broad acre. In the irrigation area, because of the quality of the soils and the availability of water, that does not happen if you have the right soils. The CSIRO did a lot of studies on the soils in the MIA. You can grow horticulture anywhere in the MIA where you can get the water to it, and you can also broad acre anywhere in the MIA. So council has taken the view that they will not pick winners and losers. They will zone areas for horticulture and areas for broad acre. They will look at the activity that is actually on the land and, from that, determine the minimum area for that particular parcel.

The Hon. MELINDA PAVEY: That leads us to the standard LEP and the progress of your council. Could you give us a rundown on where it is at?

Mrs STONEMAN: The Leeton Shire Council is a five-year council, which means that we are supposed to have a standard instrument by 2011. Council to date has been knocked back twice for planning reform funding—in reality, three times, because we put in an individual submission and a regional submission one year, and we got knocked back. We are not seen as a priority council. The council has taken the viewpoint that it will not start the procedure until we have planning reform money because there a couple of studies that we need to undertake that will cost the council a large amount of money. Really, we have better things to spend that on, such as water, sewer and roads.

You would be aware that the department is looking at re-prioritising LEPs. I understand that we may be looking at a date of 2013 or 2015 for Leeton. I do not necessarily have an issue with that, although our principal instrument is 1983. We had a major urban release instrument in 2000, which created for us residential, commercial and industrial land to take us forward to 2030. In terms of our town itself, we are quite comfortable with waiting another five years to a standard instrument.

The Hon. MELINDA PAVEY: I also note that there are some delays in relation to referrals by your council to the Rural Fire Service. Would you expand on that and give us some ideas on how that could be improved in your area?

Mrs STONEMAN: One of the issues for the Rural Fire Service is that the regional office is based in Griffith. They have a very large area to cover and really only one officer who manages development

applications. We are quite fortunate that we do not have a lot of land affected by category 1 and category 2 vegetation, so it is a matter of the officer being available to go out and do the inspection and then providing us with a response. The Rural Fire Service has produced a checklist for councils to fill in where we do probably 90 per cent of the work in relation to the application. Then we refer it off to them. But, as I said, they have one officer covering a substantial proportion of the region. That does make it very difficult and it does create delays.

The Hon. CHRISTINE ROBERTSON: Has this improved recently?

Mrs STONEMAN: No. The thing is that we do know what standard conditions will come back with category 1 and category 2 bush fire land. If the Rural Fire Service could standardise the process a little bit more, they could delegate to the appropriate officers in the council the ability to assess the fire hazard and the works that are needed.

The Hon. MELINDA PAVEY: And sign off on it.

Mrs STONEMAN: Basically, the council signs off, sends them a copy so that they know what is going on—which we do for a number of other organisations and agencies when we have delegated concurrence—and they would have a record of it. They would know what was supposed to be done; we would have done it in-house. Generally I can tell you that they require leafless guttering, non-plastic flyscreens and a 10,000 litre water tank with a fitting that fits the local fire service truck. They are the three standard things that they require.

The Hon. MICHAEL VEITCH: And the setbacks.

Mrs STONEMAN: The setbacks are in the legislation, so that is fairly standard as well. For the Leeton council area, it is very straightforward. I am sure if they had confidence in the local officers, we can get delegations of that.

The Hon. CHRISTINE ROBERTSON: Where does Leeton perceive itself to fit from a regional perspective? What sort of region do you perceive Leeton is in for planning purposes?

Mrs STONEMAN: For planning purposes, we actually are part of the Riverina and we currently work with the seven councils which are at the western end of the Riverina, plus we also work with some of the Murray regional councils as well. Generally they are broadacre irrigated councils. We work together.

The Hon. CHRISTINE ROBERTSON: So it is industry based?

Mrs STONEMAN: It is industry based, yes, and it is predominantly the agricultural, food production industry.

The Hon. CHRISTINE ROBERTSON: Okay.

Mrs STONEMAN: I count wine in with the food.

The Hon. CHRISTINE ROBERTSON: Yes. I am not saying which agricultural industry. I was just trying to get a handle on wheat. We have had submissions from some areas that see that CMAs would be a good descriptor for regional planning. We have had some to say it should be service provision planning.

The Hon. MICHAEL VEITCH: And advisory planning. We have had some of the ROCs that want a regional planning instrument.

Mrs STONEMAN: If we are talking about the Department of Planning—

The Hon. CHRISTINE ROBERTSON: We are not actually talking about the department. The reason we come out to do these hearings in the country is to get concepts from the country people themselves about where they perceive themselves, not what the department has drawn.

Mrs STONEMAN: We see ourselves as probably being middle Murrumbidgee-Riverina. We have an upper, middle and lower Murrumbidgee because it extends so far, and there is quite a lot of variation in the CMA from upper to the lower areas. We probably sit in that irrigated agriculture, based around the Murrumbidgee. We could also take in areas that are irrigated on the Lachlan, such as Carrathool, and perhaps

some of that middle region of the Murray, which is broadacre rice growing, because we all have a lot of things in common and a lot of common interests as well.

The Hon. CHRISTINE ROBERTSON: On a totally different issue, your comments about climate change are interesting. But I am interested to come to this part of the State and not see very much discussion about future water access when those who are telling us what is happening in climate change are saying that one of the ramifications—and I will pretend I actually agree with this—is that the lower part of New South Wales and Victoria will have far lower rainfalls and less access to water in the future. I am interested to know why none of the submissions from this part of the State have addressed that.

Mrs STONEMAN: It is interesting you say lower rainfall because recently there was a climate change workshop held at the Murrumbidgee Rural Centre, which is based out at Yanco. One of the issues that came through is that the drought that we are currently going through is actually worse than what the worst predictions of climate change would be. Probably because we are now in about the tenth year of this drought, we see climate change as actually being wetter than what we have now. It is comparatively less of an issue. Obviously in 200 years time, if the sea levels rise as predicted, Leeton will be able to develop a bit like Surfers Paradise because the inland sea will be just about into our shire. There are some staff members who would like to start strategically planning for beachfront development! But to take a serious view—

The Hon. CHRISTINE ROBERTSON: I understand about seas rising and people being forced to address those things, but I am just interested in inland and particularly southern New South Wales—and I know that probably you will give an answer by saying that you have been in such an appalling drought anyway, nothing is comparable. I am just interested that it is not addressed as an issue.

Mrs STONEMAN: I think that is because we are actually doing that addressing now. We are actually physically on the ground doing the work. We are talking about a water saving scheme. Murrumbidgee Irrigation is working towards pressurising all its horticultural areas and upgrading the technology. The council, with its water and sewer services, is looking at recycling and saving water. I guess when coastal areas are looking at sea rises over time, they have time to actually get in and plan that. Because of the severity of this drought, which I think is now worse than the drought at Federation in this region, we are having to do the things that we may have had 15 years lead time to do, but we have to do them today.

The Hon. CHRISTINE ROBERTSON: Maybe it is inherent in your planning process. It is just a thought. It has been given to us as an important term of reference.

Mrs STONEMAN: I think that climate change shows how much this State differs from one side to the other and from north to south.

The Hon. CHRISTINE ROBERTSON: That is right.

Mrs STONEMAN: If we were not in the drought, if we were having rainfall like we had in the beginning of the nineties, yes, we would be starting to talk about strategically planning for climate change, declining water uses, and talking about upgrading irrigation systems to reduce evaporation and improve on-farm efficiency. However, because we are in that circumstance now of the drought, we have had to do it. We have not had the luxury to sit around and plan into the future for it. It has been like we have to find the money now. We have to do the works now. Everybody has got on board with doing that, whether it is somebody in town who has put in a low flush toilet and is recycling their grey water or irrigation farmers who are investing in high-tech to reduce their water usage.

The Hon. MICHAEL VEITCH: I have a number of tidying up questions. If they do not relate to anything, please do not be deterred. You spoke about the age of the Leeton LEP and said that in 2000 there was an update of the urban area. What do you see as the lifetime of an LEP, even with reviews built in?

Mrs STONEMAN: It depends on the amount of growth occurring in the area. Leeton has had a little bit of growth. I will put my hand up and be honest and say that the 1983 plan was based on the part 12A legislation because it was written, as far as I can work out, between 1975 and 1977. It is flexible enough to manage into the future. However, we have not had a lot of the growth pressures. We have done amendments—I think more than 25 amendments have been made. Some have been single lots and some have been like the 2000 amendment, which was a huge area. It was a fairly flexible plan to start with, so it has had longevity.

If you lock yourself into a very strict regime you will have to review your plan very frequently. Again, it is horses for courses. If you are subject to a large amount of growth, you will need to review your plans. Between 2000 and 2005, Leeton had a great deal of growth. We realised that we had to look at the strategies that we had gazetted only in 2000. We have already used almost a third of the land that we were planning to take us out to 2030. Growth has died down since then. It was probably more pent-up demand. We believe that we are probably still on track to 2025. The standard instrument will come in before that, but it varies. If I were in Parramatta, I would say that it is a constant process; it never stops. We would be getting one through and immediately start reviewing it because of the level of growth. Out here it is not so quick. Griffith and Wagga Wagga are growing faster than Leeton. When the standard instrument was proposed council made a submission saying that reviews should not be mandated every five years or whatever, because they may not be necessary.

The Hon. MICHAEL VEITCH: Rather than mandating it, perhaps there should be some triggers that kick off a review. For example, Young's population has grown by 1 per cent for the past seven years. That might tick the box for a review of the LEP.

Mrs STONEMAN: That would be terrific. A flexible review system with triggers is an excellent idea.

The Hon. CHRISTINE ROBERTSON: That is a good idea.

Mrs STONEMAN: I hope someone wrote it down.

The Hon. MICHAEL VEITCH: I occasionally have a good idea. Ms Robertson spoke about the definition of a region. You have referred to the difficulties of working within regions, such as council border conflicts, different zoning and so on. Only one of the regional organisations of councils has said that it would like to have all the planning controls.

The Hon. CHRISTINE ROBERTSON: Not all the councils have said that either.

The Hon. MICHAEL VEITCH: No. I want a feel for your view about regionalised strategic planning.

Mrs STONEMAN: It would depend on the size of the region. The Riverina and Murray Regional Organisation of Councils (RAMROC) was established last year. Prior to that we ran a planners group. I am the secretary, chair and organiser of the Riverina Regional Organisation of Councils side of that. Because only three councils out of seven had professional planning staff solely dedicated to planning, we acted as a very informal support network for all the councils. Four councils, including Leeton and Jerilderie, had planners, and Narrandera, Murrumbidgee and Carrathool had a planner health and building person. They could all work together with the Griffith council, which has a number of planners.

We had that network to help each area when we had difficult applications or issues, or if we needed advice or someone to talk to. The network works on a very informal basis and it has been expanded to incorporate the Murray council sector to form part of RAMROC. Although it has been very valuable and it has worked very well in the Riverina, it has not worked in other regional organisations of councils. Having it as a regional structure and strategy would depend on the diversity of the region. If you had a very homogenous region it could work very successfully. However, if you had a very diverse region there could be some issues.

The Hon. MICHAEL VEITCH: Being inflexible?

Mrs STONEMAN: Just not having the knowledge in the regional office to cope with the local idiosyncrasies.

The Hon. MICHAEL VEITCH: There has been some discussion at these hearings—and you made mention of it in your submission—about developments of State significance and how they are handled. How many developments would Leeton shire have that would trigger the current definition of State significance? If you were given an opportunity to rewrite part 3A with regard to State significance, what would it look like?

Mrs STONEMAN: We would have only one or two amendments, and they would relate to agricultural industries such as a feedlot.

The Hon. MICHAEL VEITCH: And that is each year.

Mrs STONEMAN: No, probably one or two in a five-year period. The other one is a large composting proposal dealing with chicken manure. We would not have very many things that would trigger part 3A. To bring back transparency and trust in the system, when something is designated as being of State significance it really needs to be of State significance. If we are talking about a new inland railway line, it should be dealt with by the State Government.

The Hon. MICHAEL VEITCH: Wind farms?

Mrs STONEMAN: I do not see them as necessarily being of State significance. I do not think Leeton council has an issue with wind farms.

The Hon. CHRISTINE ROBERTSON: Do you mean that they do not want them or they do not mind them?

Mrs STONEMAN: We do not mind them. I mention this with some trepidation, but we have frost fans, which are similar to the wind turbines. They are used to keep up the temperature of orchards in winter to stop the fruit freezing. I do not see any problem with wind farms, unless you are talking about a massive number of turbines. If it were a huge farm, it would probably become State significant.

The Hon. MICHAEL VEITCH: What about 100?

Mrs STONEMAN: That would probably be State significant because of the power it would generate back to the grid. Part 3A has been used a lot for coastal development. A case I know of involved a three-lot subdivision that was called in as part 3A. If the council had dealt it, the development application would have cost the applicant about $600. However, because it was called in as part 3A, the development application fee was $10,000. Leaving aside the cost issue, you have to ask how significant it is if there are very clear guidelines. It is the clear guidelines that are missing. I agree that if someone is investing $100 million in a development that that is of State significance, because there will be a flow-on for transport, raw products in and finished products out. That could be State significant. Something as simple as a quarry or a 20,000-head feedlot is definitely not of State significance. You need to look at the big picture and the things that will have a big impact on the State economy and State infrastructure.

The Hon. MICHAEL VEITCH: The EPA Act is 30 years old. Some people are saying it has lived its life and run its course. It was put to us very early on that perhaps the legislative framework needs to be rewritten and that there should be an Act covering strategic planning, an Act covering assessment and an umbrella Act for all of the environmental legislation to provide clarity about the hierarchy in the environmental framework.

Mrs STONEMAN: I am not a legal drafter, but I do not see the need for three Acts. That would make it very hard to administer. The poor old council planning and assessment officer would have to go through three pieces of legislation. The benefit of the EPA Act originally was that it was all there in one document. Native vegetation, threatened species and contaminated land stand outside and add to the time and complexity. There is no reason for them not to be in the planning Act. The other thing that needs to be reviewed with regard to the planning Act is its objectives. They need to be updated because of climate change and the changing emphasis on the environment and environmental protection. We need to bring the objectives up to date and think about what the future objectives should be. We should then put all environmental legislation together. At the end of the day, it is people like me who have to administer it. The clearer and simpler it is and the clearer the guidelines are, the easier and faster we can process applications and formulate our strategies.

Reverend the Hon. FRED NILE: The 2007-08 Local Development Performance Monitoring Report noted that Leeton did not issue any complying development certificates. Is that accurate?

Mrs STONEMAN: Yes.

Reverend the Hon. FRED NILE: Can you explain that result? Will the new housing code assist that process?

Mrs STONEMAN: No. The main reason we do not have complying development certificates is that we do not have any plan drawers who are able to prepare development plans at a cost which ordinary people can afford and which meet the requirements of the SEPP for housing and exempt developments. You will hear it everywhere that the standard of plans that come in to councils for planning assessment are fairly ordinary. The

standard of the plans that have to be submitted for a complying development is onerous. We have used SEPP 60 very successfully with exempt developments. We were very disappointed to see that the new housing code SEPP wound back the exempt development, particularly in relation to rural sheds and rural buildings. We felt that was a retrograde step. We are still using the old SEPP 60 requirement because it is valid until 26 February and because it allows bigger sheds, silos and water tanks to be erected without consent. We do not have the professionals in Leeton who can draw plans to the standard required by the SEPP.

Someone might submit their plans for a house and they might not have their footing details or the timber framing code right. We attach the relevant sections of the Building Code of Australia to their consent. That will make their plans BCA compliant when they submit their construction certificate. We cannot do that under complying development; they have to be right when they hit our counter. Unfortunately, generally they are not. We see it as a community service that we are not sending people away to get their plans redrawn. We will work with the applicant and their builder to get it right and built right. We see that as our community service obligation. That is why we are not hard on the complying development.

Reverend the Hon. FRED NILE: From what you have just said, you would be supportive of amending the Act to restore that consent exemption for those large sheds, silos and so on.

Mrs STONEMAN: We have been lobbying the Department of Planning very strenuously. It is looking at an amendment of the exempt and complying development provisions in August this year. We are hopeful about that or getting the local variations changed so that we can put things in exempt development. I understand why they are reluctant to enlarge the sheds. If it is a rural property in Dural in Sydney, a 300 square metre shed 10.5 metres high is a shock to the system. If it is on 1,000 hectares out the back of Whitton on the old Kooba Station, only the sheep and cows will see it. It does not matter and it will not affect the area environmentally. That is where the one-size-fits-all arrangement falls down. Western New South Wales is a different kettle of fish from metropolitan Sydney or the rural fringe of Sydney.

The Hon. MELINDA PAVEY: Or the North Coast.

Mrs STONEMAN: Or even Tamworth, where there is different agriculture.

Reverend the Hon. FRED NILE: Can you think of any positive aspects of the planning reforms? We are getting some negative responses.

Mrs STONEMAN: Council is very disappointed that western New South Wales does not have a planning panel, but we do understand the financial imperative. They do have a role to play when you have cross-council issues, or where you would like an independent umpire. If the PAC had local representation on it and the limits for the developments referred to it were lifted to a more realistic level I think that could be a positive step, especially for cross-border issues between local government areas. I think there is potential there. There are some positive outcomes in the part 3 reforms with the LEP gateway and the changes there. I am a bit concerned that the Office of Parliamentary Counsel thinks it can write every LEP that is required in the State.

I do not think it has the manpower to do that. Why not tap into the expertise that is already out there in the councils? I have not seen a lot of part 4 reforms, but some positive things will come out of that. I should declare at this point that I am a member of the local government planning directors panel that meets monthly with the Department of Planning to try to assist the reform process so that is more practical and more workable for local government.

The Hon. MELINDA PAVEY: They need to employ you.

Mrs STONEMAN: I do not want to work in Sydney, sorry.

CHAIR: Thank you for your contribution today and thank you for giving evidence before this Committee.

Mrs STONEMAN: Thank you for inviting me.

Reverend the Hon. FRED NILE: We hope to get some good growth in Leeton.

Mrs STONEMAN: Just rain. If we have rain things will automatically pick up.

(The witness withdrew)

(Luncheon adjournment)

LOUISE BURGE, Chairman, Conservation and Resource Management Committee, New South Wales Farmers Association, affirmed and examined:

CHAIR: If you should consider at any stage that certain evidence you wish to give or documents you may wish to tender should be heard or seen only by the Committee, please indicate that fact and the Committee will consider your request. If you take any questions on notice the Committee would appreciate responses to those questions being sent to the secretariat within 21 days of the date on which they were forwarded to you.

Mrs BURGE: Thank you.

CHAIR: Would you like to make a brief opening statement before we proceed with questions?

Mrs BURGE: Yes. In regard to the details of the New South Wales Farmers submission there is no need for me today to go through aspects of that. I would like to concentrate on a couple of issues. One is land-use conflict and the other is mining. I refer also to the environmental overlays that are becoming more frequent in land planning issues. Let us look at the direct consequences of environmental overlays on those private property holders who are impacted by environmental overlays. Let us look also at the impact of those overlays on broader partnership-based programs that are jointly funded by the State Government and the Federal Government.

In particular, let us look at the top-down approach to environmental outcomes. Often they are very much on paper and we may tick the boxes on a range of issues expecting environmental outcomes but we fail to acknowledge human behaviour and we fail to engage people in a genuine consultative approach. If we develop proper partnership-based models and outcomes to deliver environmental objectives on private land we will then get long-term commitment, it will be cheaper for the Government, and the outcomes, data and monitoring from those opportunities will be far greater than potentially could be achieved simply by a planning overlay on a particular area of land. I ask this inquiry to consider carefully human behaviour in developing and achieving environmental objectives in a planning framework. If it is not well designed it can often become a huge disincentive in other programs.

CHAIR: You are the chair of the association's Conservation and Resource Management Committee. What key issues is that committee examining?

Mrs BURGE: We cover a range of issues including water, mining and land-use conflict. I am not chair of the Land Planning Task Force—we have a separate land planning task force in the association. However, our Conservation and Resource Management Committee deals with a range of issues that are a consequence of land planning issues. Mining is a huge issue in relation to coalmining and also in relation to what is happening with planning for smaller scale mining—something that is not on the horizon or on the radar, and it is certainly not in the media. There are huge consequences.

The Hon. CHRISTINE ROBERTSON: Give us some examples.

Mrs BURGE: Lightning Ridge opal fields, where mineral claims are regarded as small scale and therefore not required to meet environmental objectives. But the cumulative effect of thousands of small claims is grossly misunderstood.

The Hon. CHRISTINE ROBERTSON: Do you know whether that affects the Inverell area of New South Wales?

Mrs BURGE: I have not done enough work in that area so I would be reluctant to comment on the specifics. I am aware of the Inverell sapphire as I have been there, but I have not been directly involved in issues that have not been brought to my attention.

CHAIR: Are there any particular suggestions or recommendations arising from the work of your committee that you would like this Committee to take up with the Department of Planning?

Mrs BURGE: The first one would be appropriately designed subdivision—subdivisions designed in such a way as to reduce land-use conflict and a movement away from this ad hoc approach that we have with lot

one, lot two, lot three and lot four and the range of consequences that flow from that type of planning approach. We have issues relating to weeds and to land-use conflict. Ultimately that process introduces further impacts on water resources, in particular, for basic landholder rights. For example, a 100-acre property or a 1,000-acre property might be broken up.

At the moment a farmer might have one basic landholder right, for example, a riparian right so that his stock can drink and he can draw water for domestic purposes. In the case of subdivisions, the land on the original farm may be bought and cut up in to 10-acre blocks. That unplanned process might mean that the basic landholder right is divided by however many acres that property is subdivided into. You would have a huge impact on water resources with no planning.

CHAIR: From the association's perspective what would be the principal land-use issues for this region?

Mrs BURGE: For this region I think we are already seeing land-use conflict. I am aware of cases in which a number of issues have been put to us. One of the common issues relates to noise complaints where you have a subdivision moving into a farming area. The buffer zones, say, in the design of that development do not have any innovation or inclusions built into them. It is simply a parcel of land that is subdivided, houses go on that land, and there is no inclusion, or very little inclusion in general terms, for buffer zones to be included within those subdivision areas on a scale that prevents and minimises land-use conflict.

For example, you might have new people coming into some areas. Farmers have to sow and harvest at various times of the night and day. It is not always compatible with the 9.00 to 5.00 framework and, consequently, you get people complaining about tractors starting up, dogs barking, or noisy pumps. A subdivision might be allowed and the inhabitants of that subdivision might well put in a noise complaint about a pump that might have been in existence since 1930 or 1940. At the same time, further subdivision is allowed and encouraged and the problems confronting the original farmer who wishes to continue farming are not addressed and the problems get bigger and bigger. Unfortunately, the burden of most of these land-use subdivisions relating to noise complaints falls solely on the farmer and a solution is not encouraged through the design of the development.

The Hon. MELINDA PAVEY: What are the inclusions for that? Is it what has been proposed, the right to farm legislative procedure, or is it the buyer beware principle in which a subdivision adjoins a farming enterprise as part of a negotiation or a land sale contract? The right to farm is included in that contract and the buyer has to be aware that there could be pump or tractor noise.

Mrs BURGE: There is a notification process as part of the subdivision, but that is not enforceable under law. For example, it might be listed in a farming-based area that is likely to result in noise activity, but that is not enforceable so the farmer is still disadvantaged. Unfortunately, as you know, most development in Australia has occurred around our best farming land, for example, in main urban areas such as Albury and Orange. A number of areas were first built and developed on the best agricultural land.

The Hon. MELINDA PAVEY: It is a chicken and egg situation. People came to work on the farm and that is where the town started. They no longer require as many people to work on the farms, so the relationship between the urban community and the farming community is not as strong as it once was.

Mrs BURGE: I suppose where I was going with that was that as these areas expand the subdivision areas are increasing into those farming areas. I would see the solution as being better designed developments that simply move away from lot one, lot two and lot three and encourage a more innovative approach to development.

The Hon. MELINDA PAVEY: Have more density around rocky areas or low soil areas—not a one-size-fits-all solution?

Mrs BURGE: And more cleverly designed developments—ones that incorporate the buffers and water aspects. We are already seeing that in a number of areas but I do not think it is uniform. Some councils might choose that pathway and other councils might not. If we are not smart about it and in the long term establish what we want our landscapes to look like in relation to subdivision, increasingly we will encroach on good arable land and the conflicts that go with that will arise.

The Hon. MELINDA PAVEY: Could we talk about the main issue? As you know we had quite a bit of evidence in Tamworth from Fiona Simpson, who I think is also a member of your committee?

Mrs BURGE: That is correct.

The Hon. MELINDA PAVEY: I refer to the strong theme in your submission and to where you state that mining seems to get away with everything and that farmers do not. I refer to page 12 of your submission where you state that the association documented a case in 2006 in which hundreds of acres of threatened vegetation were cleared and felled for an open cut mine, while a neighbouring farmer could not gain approval to clear a single species from his paddock. If there were more equality, or more perceived equality, in these processes this mining and agricultural conflict might not be as strong.

Mrs BURGE: I think it goes back to a planning layer that is needed for recognising areas that are suitable for agricultural pursuits and areas that are suitable for mining pursuits. We do not necessarily; we have a number of defined areas. There is definitely a strong view in rural communities that there is no consistency in their approaches to, say for example, agriculture. If you look at the issue of rezoning rural zones, mining for example, each mineral claim might only be 50 by 450 metres. Therefore it is not required to have an environmental impact assessment or even regard to environmental issues. We have uncovered mines. We have mines left not rehabilitated, which does have any regard for OH and S. If you get a landholder with multiple claims, they could have 1,000 claims on their property.

The Hon. MELINDA PAVEY: Are there any examples of that?

Mrs BURGE: It is well documented. There are opal fields. There is OP 1, 2, 3 and I think that OP 4 is about to come on board. I have been out there myself and travelled through. It really is Third World conditions. It is quite extraordinary, but unfortunately it does not hit the horizon. But equally, going back to your question, say with Lightning Ridge and other areas like that, there would be expected to be community-based standards applying to that area, but there are not. Equally, if we go back for example to the Henty region: I think it was in the last couple of years that there was an example of inconsistence in rules. There was a development of a retirement village. One section was zoned rural 1 (a), but the other section was zoned urban. That Henty retirement village could not proceed because there was a problem with vegetation laws that applied only to rural 1 (a). The resolution of that issue supposedly was that it could simply be rezoned, and the problem would be resolved.

This inconsistency in expectations is becoming more common because, as we become a more urbanised society, we simply say it is alright for us to develop here or there, and we just apply environmental overlays onto somebody else, but not us. We are comfortable with profiteering from subdivision and with a whole lot of things, perhaps on the coast or in other areas, but we apply an environmental overlay onto somebody else far away that bears little consequences on ourselves. I find that quite unjust in Australian society. The other aspect is part 3A of the EP and A Act. I think there is also a growing concern that the simple solution for governments is to class things as "State significant development" so that the normal and necessary protocols are overruled. Again, the perception is an increasing inequity in the application of the legislation.

The Hon. MELINDA PAVEY: Would you prefer a system where there is local community input to actually see mines approved, but as long as there is a period of community understanding of the process and there is not a feeling that one is being favoured over the other?

Mrs BURGE: I think it comes back to cleverly designed solutions. We need mining and we need agriculture. It is about allowing communities who are going to live there for a long time to be involved in the development and approval process. Obviously, the Government is there to apply the approval process; but we need to move to a level of consultation that I think has been lacking in a whole range of areas. Our society seems to have moved to a consultation process that is really about ticking the boxes. We are alienating the very people who either are living in the community, say for example with mining, or in the case of environmental overlays, are being excluded from having consultation on a meaningful basis.

We can all have consultation. Every time the consultation process is regarded by a community or an individual as poor, and they feel very unjustly treated by the process, the next time the Government wants to go to that community or to that person the reaction will be negative. For example, I refer back to the environmental issues. We have a tendency in conflicts between threatened species, vegetation, the local council, and a whole

lot of planning processes where they do not mesh together. They do not involve local communities. They are often decisions that are decided remotely in Sydney.

While this is not directly applied to land planning, I will just give you this as an example. There is a threatened species recovery plan in the Riverina that is now in its seventh or eighth year. It is a prime example of top-down process that is not working. It is costly to the landholder, it is costly to the Government, and it is certainly costly to obtaining data on the bird itself, the plains wanderer. The whole process could have been delivered much more on a partnership-based outcome and with programs by which, instead of having eight years of wasted resources, time and effort, we could have had a system where the farmers themselves were engaged in monitoring and evaluating what was there on their property. Instead we had a planning system, although it is not actually a planning system but a threatened species planning system, where you had two-kilometre buffer zones around perceived habitat areas and each property would have multiple two-kilometre buffer zones.

When I bring that example back to land planning issues, surely it is the same when we come to environmental overlays. If we go down the pathway of a centralised process of just lines on maps and corridor systems from A to B, that will disengage people from taking up voluntary programs because they will be angry. Their opportunities will be limited and they will begin to view environmental attributes in that overlay as a liability, not an asset. Surely if we are going to get good environmental outcomes, we cannot keep looking at the environment as a liability. It should be flexible, negotiated, and done in consultation with the community.

The Hon. MICHAEL VEITCH: I just want to follow on with questions relating to the environment. In your submission from the New South Wales Farmers Association, there is talk about having master legislation to provide some clarity of the environmental legislation. We have heard different views from a range of people who thought it would work, or in some places who though it would not work. Would you like to elaborate further on that particular statement in the submission?

Mrs BURGE: At the moment, we have to move away from the conflicting processes that we have. For example, under the Native Vegetation Act we may have exemptions for clearing for fences, et cetera, but in a local environment plan there might be a tree preservation order, or the requirement, as occurred in the Eurobodalla shire, where farmers had to get permission that was required to remove even one-year-old wattles from the fence line, just to renew a fence. I am not sure whether this has been corrected to date. On one hand you have laws saying it is an exemption to put up a fence and remove regrowth or new growth, and on the other hand you have other planning processes that are in conflict. People are confused, and the whole thing is just quite unworkable.

The Hon. MICHAEL VEITCH: Thanks for that. I just want to go back to your comments about development and the interface between subdivision and rural land—the perceived clash of activity between houses and farming. I preface my comments by saying that I spent 13 years on Young Shire Council and there were two subdivisions just outside Young, just outside the 80 kilometres an hour zone. I have been trying to think of their names, but for the life of me I cannot remember their names. Young is a growing town. There was one on the eastern and one on the western side of the town at pretty much the same time. The developer bought the whole property, which was a shame in a way. But anyway, the developer got the whole property and put up a proposal to subdivide. That was then circulated to the neighbours. There were then on-site meetings with the council staff, the neighbours and a range of other stakeholders, such as the police and the ambulance. Essentially these were going to be very large developments—almost satellite towns and villages outside town. As a result of those negotiations, there is actually 100-hectare allotments backing onto the neighbouring farms to allow for them still to have the right to farm and spray drifts and machinery at night and things like that. That actually came out of the existing planning process. If Young shire can do that or if one council can do it, why can others not do it? I am just trying to work through what you are saying.

Mrs BURGE: I cannot explain that, but I am aware that this conflict can occur. You can have farmers who are subject to land planning decisions where conflict arises. Obviously in that case, sensible planning or sensible decision making has overcome that problem. Another aspect of conflict can be the provision of tourist development where you can have farmers and tourism development that is on a scale that is quite significant and would normally potentially be regarded as residential development, but there is a proviso perhaps that as long as it is not occupied for 12 months of the year.

I am just not sure of the rules on that, so I cannot go too far into that. But conflict is arising as a result of tourism development where the development is on a scale that in some ways mimics residential development

but does not necessarily have to comply with all the residential development requirements. I am aware of some issues with that.

The Hon. MELINDA PAVEY: What region is that?

Mrs BURGE: That is the Murray shire.

The Hon. MICHAEL VEITCH: It is years ago now, so I do not know how the two examples I have cited have progressed or whether there are still issues, or whatever. I am interested in your comments about mining. The rest of the Committee know that I am going to ask a question about wind farms. I have been asking these questions all the way along.

Mrs BURGE: Land sales?

The Hon. MICHAEL VEITCH: Yes. It is an issue though when we talk about matters of State significance because there are now a number of large wind farms that you are probably aware of that have been constructed in New South Wales. But we are now getting the same opposition to those that would exist for coalmining. It would be hard to argue against them if we are moving towards greener energy for the greater good of the State and the nation. But I guess one of the arguments is that we have to have some sort of capacity structure in the legislation that accommodates those sorts of developments. Would you not agree?

Mrs BURGE: Yes. I appreciate what you are saying. Yes, if we are going to move to a renewable emphasis on our energy needs, we have to be very conscious of the "not in my backyard" syndrome. I do understand that the Government needs a mechanism to deal with the needs of broader scale development, but it is a question of balance between avoiding all aspects of normal requirements and a local community's wishes and perhaps the need for the development. It is about finding an appropriate balance, and I am not sure that we have that appropriate balance. Yes, I definitely support renewable energies. I think there are a whole lot of issues in that which we are not factoring into our public policy.

The Hon. MICHAEL VEITCH: How do we go about accommodating that?

Mrs BURGE: Again, it is about placement, design and looking at what is strategically the best decision and trying to minimise impacts on people, but also acknowledging the need for renewable energy.

Reverend the Hon. FRED NILE: Just following up some of the points that you have made, Mrs Burge, you mentioned Lightning Ridge. I can understand your concern at the large number of opal mines. But is there any effect on agriculture or farming at Lightning Ridge?

Mrs BURGE: It is a huge impact because you are getting sites that look like a Mars landscape, and it is big.

Reverend the Hon. FRED NILE: I have been up there and I have seen it.

Mrs BURGE: Yes.

Reverend the Hon. FRED NILE: But I did not see any farms.

Mrs BURGE: They are grazing. The issue is not so much the impact on the actual agricultural productivity so much, but the risk factor—public liability and ongoing risks to the farmers. Once a mineral claim is finished, and it might be there for only two years, the consequences of a non-rehabilitated site are that it might have 12-metre shafts that are uncovered. I have photographs of them with bedsprings over them. That is not unusual. Also you have the issue of mullock dumps that are located out of the mineshaft. The mullock is dumped to one side. They can be over quite a large area.

You then have people called "noodlers"—I think that is the term. They come in and there is public liability to consider if they fall over. Even if you have somebody who falls down a mineshaft who is employed by you, where is the liability? At the moment the liability, once the mineral claim expires, and the liability for the shaft supposedly lies with the miner until the end of the claim. Where does the liability go after that? Back to the farmer. Where does the liability lie with the mullock heap that is to one side? At the moment, it lies with the

farmer. He did not ask for it to come there. It was imposed on his property, and everybody walks away from the liability side of it.

Reverend the Hon. FRED NILE: Is there any regeneration requirement as there is for coalmines, open-cut mines and so on?

Mrs BURGE: I think there is an intent but it is not enforced. There is a huge outcry about this, and it is only just beginning. It has been in the pipeline to government for over 20 years and the issue still has not been addressed.

Reverend the Hon. FRED NILE: One of the practical problems the Government faces is that I do not think anyone wants a coalmine near them. When you do all the consultation, you probably still end up with community opposition. How do you deal with that? You talk about the need for consultation. However, the Government finally has to ignore it if it wants to go ahead with the coalmine.

Mrs BURGE: I appreciate the value of coal royalties to the New South Wales Government, regardless of which side of politics is in power. That is completely irrelevant. We are aware of what the carbon trading scheme means and the impact on our own energy needs. It is a question of getting the balance right. At the moment we have a balance heavily in favour of coalmines, not in favour of renewable energies. We have a carbon trading policy, federally and statewide, but we do not have a holistic approach to the issues. We are saying allow as many coalmines as we can, but we are going to have a carbon trading system that may or may not address the issue. One of the big sites to be developed in this region is the Oakland site. The number of farmers there—

The Hon. CHRISTINE ROBERTSON: Where is that?

Mrs BURGE: Near Berrigan. That has been in the preliminary stage for a number of years. At this stage many farmers, while they are aware of it, are not really informed about whether or not it is happening. It is still in the exploration phase.

Reverend the Hon. FRED NILE: That is coalmining.

Mrs BURGE: Yes, in very good agricultural land. It remains to be seen how the community will react when it moves past the exploration phase and into the actual mining stage. I think land use conflict will arise there. If we look at infrastructure and the way we approach infrastructure planning, we are encouraging infrastructure development to specific industries, for example—and I am sorry to highlight coal again—in the north of the State we have massive government investment in a coal rail system. However, we cannot transport food on that same rail system.

The Hon. CHRISTINE ROBERTSON: Who said that?

Mrs BURGE: That is what we understand. Can I take that question on notice?

The Hon. CHRISTINE ROBERTSON: Food has to compete with the coal.

CHAIR: We would appreciate some further information on that.

Reverend the Hon. FRED NILE: Your submission calls for a single master natural resources planning Act to somehow embody all this detail, and single-issue Acts covering water, mining, biodiversity, threatened species et cetera. Do you think it is possible to have a planning Act—one Act—with parts that deal with each of those issues so that there is not a number of Acts? Many people are complaining that there are too many Acts and that they are inconsistent. If they were all part of one Act, we could hopefully get rid of the inconsistencies.

Mrs BURGE: Members would have heard of the PVP development, which is a native vegetation management tool and computer program. If there is a development on irrigation efficiencies, within that tool there might be components that are impacted by the threatened species. A red light would come on saying, "No more development." That irrigation efficiency might have delivered a broader environmental benefit, but it is stopped by one piece of legislation. We do not look at things holistically to determine what was the best environment outcome for that piece of land.

We could have had a range of new plantings, irrigation efficiencies and threatened species protection measures all built into that one approval process. At the moment we often do not get anything because of one piece of legislation. The situation might involve a parrot, which is a hot topic at the moment. If the farmer is not able to meet the requirements of the criteria—for example, he may not have enough offsets—again that is denied. That is an example of conflicting regulation and legislation that does not produce—

Reverend the Hon. FRED NILE: Do you support one Act covering those different aspects?

Mrs BURGE: We need a holistic approach. Obviously the details of such an Act would require genuine consultation, not token consultation.

The Hon. CHRISTINE ROBERTSON: With all parties being satisfied with the outcome?

Mrs BURGE: To achieve outcomes cost-effectively and to deliver the best—

The Hon. CHRISTINE ROBERTSON: No, I am talking about the definition of "consultation".

Mrs BURGE: Something that is not top down.

The Hon. CHRISTINE ROBERTSON: So, all parties must be satisfied with the outcome?

Mrs BURGE: That is a probably a questionable objective. I would say it is where parties can generally be satisfied with the outcomes and they feel that they have been treated fairly and equitability and everybody has got something out of the process.

Reverend the Hon. FRED NILE: What sort of timetable would you envisage to produce a new Act—one year, two years, five years or 10 years?

Mrs BURGE: Something needs to be done if we are going to get good environmental planning in this State. I cannot see it being done within 12 months. I do not think that would be an appropriate timeframe. Many issues need to be addressed. But we do need to look at how cost-effectively we have done things in the past. Has it worked or not worked and do we want to keep doing that in the future?

The Hon. CHRISTINE ROBERTSON: My question relates to the perception of urban creep into farmland. In many areas across New South Wales changes to farming practices have meant that it has crept closer to urban land. I am not talking about groups of houses extending into farmland but different farming practices being brought to the edge of urban areas. I am referring to intensive farming of crops such as cotton or cherries which have some overflow into the urban area and which have quietly crept closer to towns and villages. I am not saying this in a confrontational way.

Mrs BURGE: No.

The Hon. CHRISTINE ROBERTSON: The same issues and problems arise, but they are not necessarily being brought to us as the same sort of question. It is okay for farmers to a change their practices and to want to make more by growing cotton instead of wheat or whatever. However, it is not okay for the town to recognise that it needs more workers for its industry base and to provide more housing developments near farms. It is a contradictory issue. It cannot be answered by saying that farmers and towns should be able to do what they want to. What is the answer?

Mrs BURGE: The answer is sensible planning. I appreciate what you are saying in regard to changing farming practices. Often when it is farmer to farmer those impacts are not adversarial.

The Hon. CHRISTINE ROBERTSON: But often we have two government departments trying to sort through the impacts on farmer to farmer. That is a generalisation, but these conflicts between different industries operating beside each other are not exclusive to the farming world; they happen in the cities on industrial sites. Where do you believe we should put issues and problems like that? It is not just about the urban sprawl creeping towards farms; it is it other way around as well.

Mrs BURGE: In reality, it is not a problem when it is farmer to farmer. There are some issues; for example, organic and non-organic—

The Hon. CHRISTINE ROBERTSON: Cotton and beef.

Mrs BURGE: That is a covered by aspects of law and under the EPA Act, for example, and requirements about chemical application et cetera. That is dealt with by a range of measures. I was hoping that the issue of prevention of conflict primarily between urban and rural interface would be considered. I believe that rural conflict has mechanisms for resolution now.

The Hon. CHRISTINE ROBERTSON: I am talking about the urban areas and farming. It is not always the urban sprawl going out to farmland; often it is changed farming practices coming into the urban areas. It is both ways.

Mrs BURGE: Are you saying going from grazing to cropping, for example?

The Hon. CHRISTINE ROBERTSON: From wheat to cotton or whatever was on the cherry farm before it went. They have to spray regularly. An intensive farming practice could be introduced fairly close to a village or a town. That is common.

Mrs BURGE: If there is an identified problem between two parties, you can negotiate a solution. That is a community and individually negotiated solution, possibly with another party who can assist. In that case, the farmer may be encouraged to plant some trees to provide a buffer zone. It is about designing solutions, but locally.

CHAIR: Thank you very much for appearing this afternoon and also for your contribution.

Mrs BURGE: Probably one of the biggest risks to farming viability is environmental overlays. The outcome of a top-down overlay approach in terms of environmental outcomes on the ground is often perceived, not real. There are aspects of corridor systems where you may have an area of vegetation here and an area of vegetation here and single trees here. On a map-based system, a mapper might put an overlay system between the two areas. But that is not going to make people plant understorey species in the middle. If you disengage the people in the middle by providing a top-down overlay process, you have lost the ability to build on a partnership-based model that will deliver environmental outcomes for the long term.

(The witness withdrew)

KERRY DAVID PASCOE, Mayor, Wagga Wagga City Council, Civic Centre, Cnr Baylis and Morrow Streets, Wagga Wagga, and

BOHDAN NICHOLAS KARASZKEWYCH, Director, Planning, Wagga Wagga City Council, Civic Centre, Cnr Baylis and Morrow Streets, Wagga Wagga, sworn and examined:

CHAIR: Mr Karaszkewych, in what capacity are you appearing before the Committee today?

Mr KARASZKEWYCH: In my capacity as Director, Planning.

CHAIR: If you should consider at any stage that certain evidence you wish to give or documents you may wish to tender should be heard or seen only by the Committee, please indicate that fact and the Committee will consider your request. If you take any questions on notice today the Committee would appreciate it if the responses to those questions were sent to the secretariat within 21 days of the date on which they were forwarded to you. Before we commence with questions would either or both of you like to make an opening statement?

Mr KARASZKEWYCH: Thank you, Mr Chairman. I state at the outset that I was given notification of my attendance yesterday, so I have prepared no notes. However, I would like to speak to some notes that I have. I would like to address a number of issues that have been referred to us by you and by previous speakers, based on my experience and observations over the past 35 years as an urban and a regional maintenance planner. Our primary reason for being here is to address the Committee in relation to the recent initiative of the New South Wales Government to establish joint regional planning panels. In this current economic climate Wagga Wagga City Council is experiencing unprecedented growth and development. It is imperative that the New South Wales planning reforms do not impede the efficiency of development assessment, the quick release of urban areas and significant commercial developments, and community infrastructure facilities and services. We do have concerns but I will speak to the matters that I have raised.

CHAIR: Kerry, did you want to add anything?

Mr PASCOE: No, I am here in regard to the planning panel that the State Government is to introduce in July. Bob will speak about that and I will make comments as required.

CHAIR: You might want to elaborate on the joint regional planning panels that you were talking about earlier.

Mr KARASZKEWYCH: Thank you, Mr Chairman. The council has considered the discussion paper and it has concerns about the efficiency of the joint regional planning panels as they relate to Wagga Wagga City Council, its economic cycle, and its social development and growth in many respects. You might be aware that council recently went through a section 430 report. It has taken on notice those issues and it has been proactive in addressing a number of issues pointed out in that report. As a result of that section 430 report the Government appointed the Wagga Wagga City Council Planning Panel to deal with particular development applications.

The Hon. CHRISTINE ROBERTSON: Who was on that?

Mr KARASZKEWYCH: The Hon. Pam Allan, Stephen Driscoll and Terri O'Brien. That team of panel members is exceptionally proactive and productive and the councillors, staff and community respect their contributions. Given the current situation that we are in relating to the preparation of a new draft local environmental plan and a development control plan, which we are aiming to launch in about March next year, we are tracking beautifully in that regard. Even though we have gone on exhibition on the draft LEP for three months rather than the required statutory period of 28 days, that will gauge a lot of community input and response to the proposals in the LEP so that at the end of the day it is a better document.

We are concerned that our collegiate relationship with the panel may be lost in the three ministerial appointments to the regional planning panel. We are concerned that we may not have the relevant expertise on that panel to deal with the high priority land-use issues and activities that we have before us today. We would like to see a continuity of that planning panel well beyond the 1 July start date of the joint regional planning

panels. The original concept was that the existing planning panel would be in operation for a period at the Minister's discretion once the LEP had been introduced—probably at about this time next year. We are concerned about the loss of expertise at the ministerial appointee level.

We would like the two council nominees plus the alternative nominee to be part of that permanent southern region joint planning panel as it relates to Wagga Wagga, or even as a temporary measure. However, we still want a significant input into the function of that planning panel. The reason for that is that we have local knowledge and local passion, and that community passion is reflected in the work that we do. We are different from other regions. With respect, other regions have their own peculiarities and importance. We would like to think that we complement that but we are unique in that regard. We would like to be considered as having a strong local flavour in our planning decisions.

Our greatest concern relates to the establishment of a joint regional planning panel, as we would have to fund that panel. We are concerned for ourselves and we are concerned for smaller councils in the region throughout New South Wales that might not have the capacity, as we do, to fund a joint regional planning panel. We are more concerned about another issue. If there is a transition period we might have to fund the existing planning panel and the southern region joint planning panel.

The Hon. CHRISTINE ROBERTSON: The ministerially appointed one?

Mr KARASZKEWYCH: That is correct. There is a meeting with the Minister on 2 June at Parliament House between us, Pam Allan, chair of the planning panel, the mayor, and our general manager to discuss an alternative model. Pam Allan and her members have already put forward suggestions to the Minister in writing to discuss an alternative model that they might put forward—a model to which I am not privy at this point in time.

CHAIR: Without going into the details, which you will be discussing with the Minister in any case, that is outside our terms of reference. Are you looking to keep that particular committee for the sake of continuity so that you do not have to go through the whole exercise again if another panel is appointed? Is the Minister talking about appointing another panel? What is the Government trying to do?

Mr KARASZKEWYCH: Current thinking is that we will retain the existing panel and supplement it with council nominees. There is another thought that we might appoint two nominees from the southern region joint planning panel. There is an issue relating to the availability of Pam Allan and the other two members continuing in their current practice of serving the council's needs.

CHAIR: You might make some reference to that in your submission, which you will give us later.

Mr KARASZKEWYCH: Yes. Just to address that issue, the council has until 22 June to make a submission. The Minister is aware of that. Council has an extraordinary meeting in about mid June to formalise its submission.

The Hon. CHRISTINE ROBERTSON: When you have time we would like a paper from you.

CHAIR: Yes, we would also like a submission from you.

Mr KARASZKEWYCH: It is noted.

The Hon. CHRISTINE ROBERTSON: On our terms of reference.

Mr KARASZKEWYCH: Relating to council's view or to the panel's view?

CHAIR: No, council's view and the issues affecting your council. Did you want to comment on any other issues before we ask questions? We can go to questions and you can elaborate on that later.

Mr KARASZKEWYCH: Mr Mayor, have I missed anything on the joint regional planning panels?

Mr PASCOE: Only the two locally elected members to that panel; that is all.

The Hon. MICHAEL VEITCH: Why do you think the planning panel works so well? The Minister appointed that panel as a result of the review. Why is it working so well, Mr Mayor?

Mr PASCOE: It has been in place since November 2007. At that stage elected members were taken out of the LEP, so basically we have the community representatives. The representatives have had very little to do with the LEP, and I do not think that is proper. In saying that, I get on very well with the panel. I think it is doing a very good job. It has been through the LEP process and it needs to continue with that process until it is finalised. We do not want two panels down there. That panel should continue and finish six months after the gazettal of the LEP. The panel knows our local government area well and it knows what has been going on there over the past 18 months. In this initial phase we do not know how these new regional panels will work.

The Hon. CHRISTINE ROBERTSON: How many projects would qualify for the regional panel process? It is a lot of money, is it not?

Mr PASCOE: It is, especially with our Bomen Business Park. Probably when it is rezoned it will be the larges industrial park outside metropolitan areas. We have big plans for that, and not only in the construction phase of what we are trying to do out there. It will be around about 700 jobs looking at the bigger picture, and 600 ongoing jobs after the construction phase and everything is finished.

The Hon. CHRISTINE ROBERTSON: Would that be on an individual industry basis?

Mr PASCOE: Yes. Our major one is to try to get a rail hub in there or rail spurs and all that type of thing. There is a major contract out of Visy to take freight off the road—the Gocup Road, Mick—and down to a rail hub there so that everything goes on a container. The reason for that is not only to get it off the road but also to get it into the ports more easily because the trucks apparently have trouble getting into the ports, and so forth. That is the whole process that we are working through at the moment with this new LEP up and going.

Mr KARASZKEWYCH: I would like to add that the Wagga Wagga City Council is not alone in its concerns about the joint regional planning panels being established. The Local Government and Shires Associations have separately written in to express concern. You may wish to follow up with them.

CHAIR: I have a couple of questions for you to do with the airport. Do you own the airport?

Mr PASCOE: No, we do not. The Federal Government owns the airport. We leave the airport. We have around about 17 years to go on the airport. We are trying to renegotiate the lease on that at the moment up to 30 years. In our next financial year we will spend $6.5 million on refurbishment of the tarmac out at the airport. We have let a tender at the airport for a new master plan for the whole of the airport so that that can look at various issues that we have out there because it is not our own airport. We have just completed a new airport terminal and baggage area there costing in excess of $1 million. We are getting a $10 million project there that is before the council now and hopefully we will possibly get it approved for Rex Airlines to put its pilot training academy there. We are also looking at a project with the Federal Government worth $750 million in regard to 5428, which is the pilot training from Tamworth. I think Sale might be a little bit in the front running there, but we will be fighting hard for that project.

The Hon. MICHAEL VEITCH: Did you say $750 million?

Mr PASCOE: That is the figure. There are two projects in that, maybe. The two projects total $750 million.

The Hon. CHRISTINE ROBERTSON: So you are taking it out of Tamworth and putting it down in Wagga Wagga are you?

Mr PASCOE: No. We are not taking it out of anywhere. We are just trying to be in the race. Our airport is extremely important to us. It is a central hub there and that is why we are going through all these processes of spending $6.5 million and spending something like $160,000 on master planning and so forth.

CHAIR: From the planning point of view, are there any adverse issues that will confront you now or in the future with the airport?

Mr PASCOE: I do not think we have any great issues with the airport. The processes at the airport are very slow with the Federal Government owning it and have been very slow and contentious over the years. I have been to numerous meetings and so forth and we go two years or three years sometimes without a resolution about something.

CHAIR: I was talking more about what your plans might be for around that area.

Reverend the Hon. FRED NILE: Noise problems.

Mr KARASZKEWYCH: In relation to the airport master plan, we are considering an airport city link as part of our broader city master plan exercise. We are very conscious of the ANEF contours and the noise impacts on development with rural living or more compact residential living. We have had a number of approaches from developers wanting to expand the urban area in the vicinity of Forest Hill, which my esteemed colleague is not yet privy to but which we will be discussing shortly. They are essentially, as an option, a large residential development area to the north, to the riverside of Forest Hill.

Mr PASCOE: I know about it.

Mr KARASZKEWYCH: We are very conscious about the very considered plan for the airport's future growth and the noise impacts that it may generate. In relation to the Rex Airline development that the mayor mentioned earlier, yes, there is lots of noise there, but the Rex proposal has addressed a lot of those noise-related issues through the building's design. It actually has double-glazing insulation, orientation and such like. In terms of the ANEFs that are not necessarily specifically related to Wagga Wagga, but in the Northern Territory where I did a lot of work on the master plan on new urban areas, yes they have controls around the airport, both the major runway out to the ocean and to the hinterland. The controls there were such that they would not allow any development at all in that corridor unless you were quite a distance out—probably 10 kilometres out. If you know the Robertson Army or military base, that is about 15 kilometres distant and that is the closest point that we were allowed to have urban development.

Reverend the Hon. FRED NILE: We have heard reports from some other airports about development. I think Canberra has a freight hub. Do you have any plans to develop that in addition to passengers?

Mr PASCOE: There has been no mention of any freight hubs, but that possibly could come out of the master plan situation. We are looking for ancillary business to the airport. We did try hard to get a spray painter to move there with a view to bringing planes in and painting them all. It would have been a huge business but that went to Townsville.

Reverend the Hon. FRED NILE: If that does develop, that raises the issue about the noise. Would you like to have no curfew and the ability to fly at night?

The Hon. CHRISTINE ROBERTSON: This is when the ANEF corridors are not necessarily zoned to where buildings could not be. When the sound corridors are not designated for the community to really understand, that is about when people ask for curfews and things to come in.

Reverend the Hon. FRED NILE: A freight hub could require no curfew so that planes could fly at night.

Mr PASCOE: Yes. To my knowledge we do not have any curfew on our airport. That is not to say that someone would not turn around and complain if we started. I would presume that we would go through a process. It would only be an emergency landing that would be very late. Some of our planes do not get out of Sydney until fairly late sometimes because of weather or hold-ups. They do land at 10 or half past 10. That is about all.

CHAIR: Just moving away from that topic, the obvious question would be: With the planning issues that this Committee is examining at the moment, what adverse effects will it have on your council, do you think?

Mr KARASZKEWYCH: Could you elaborate on "planning issues"?

CHAIR: With our inquiry and the terms of reference that we have to work with, what sort of issues are there for the council that may have adverse effects?

Reverend the Hon. FRED NILE: From the new planning reforms that are coming in.

Mr KARASZKEWYCH: The only issue that I have that is of great concern, on which I did not elaborate a moment ago when I was talking about the joint regional planning panels, is the fact that, in our opinion at this time the likelihood of unnecessary delays in having major projects going to the joint regional planning panel and the time frame that it takes for them to make a decision. That would be our greatest concern in relation to the reforms.

Reverend the Hon. FRED NILE: Are you frightened or fearful that this panel may hinder or slow down the development in Wagga Wagga that is occurring?

Mr KARASZKEWYCH: The short answer is yes. It is attracting another level of governance, if you like, over the development assessment process, which I find unnecessary. If you have a well thought out and well communicated play on which you have consulted the community very well on development of the plan and they understand fully all the implications associated with land use planning and development, when you adopt the plan, it reflects the understanding and the vision in the whole community for the foreseeable future—five, 10 or 15 years.

Because it reflects the community's aspirations, needs and understanding of what is planned for the future, it ought to be the province of the local council to manage that. That is my personal view as a professional. I have seen it successfully work in other jurisdictions, and I believe it can work here. What I am concerned about is a heavily tiered structure that will make it more complex to get approvals. What I am reading and what I am experiencing to some extent with the existing panel is that there is a concern that the planning panel meets so infrequently, albeit that it is on a monthly basis or on a needs basis, depending on the nature of the applications. It is of concern to local developers. Councils can be more responsive.

There may be some things that are taken out of a council's jurisdiction, as in very significant projects—I am talking about in excess of $100 million—that need perhaps a more considered approach at the very high level of State or level of consideration. But to address that, I think it goes back to the planning system and framework that you have got. I draw your attention to the framework that the Northern Territory Government has. It had reviewed the planning Act on a very regular basis—about every five or six years—and in 2001 it commenced a program of reviewing the NT planning scheme. That planning scheme reflected what appeared in the Act in terms of high level State government policy in relation to airports, road infrastructure, environmental consideration and economic considerations.

The essence of that appeared in the NT planning scheme at a very top level and then drilled down to the regional and local levels. There was a seamless connection between high level policy and the way you considered developments at the ground level or the coalface. When you do consider development applications, your consideration must not be inconsistent with the regional and the high level or State level policy. I believe that if you have a very comprehensive system like that, you do have quality outcomes. It is a clear and consistent process; there is less ambiguity and you get far better outcomes more cost effectively.

The Hon. MICHAEL VEITCH: How long were you in the Northern Territory?

Mr KARASZKEWYCH: Thirteen years.

The Hon. MICHAEL VEITCH: And before that?

Mr KARASZKEWYCH: In Mildura for eight years.

The Hon. MICHAEL VEITCH: So you have worked under a number of different jurisdictions?

Mr KARASZKEWYCH: State government or, if you like, Territory government. Yes, State government, local government and the private sector.

The Hon. MICHAEL VEITCH: If we were to ask you under one of our terms of reference to look at national planning systems, you would be pretty well placed to point us in the right direction.

Mr KARASZKEWYCH: I will answer that question by giving you a lead into what had occurred back in the late nineties. I was a director of the Planning Institute of Australia. One of our roles was to examine the planning systems through Australia. Soon after that there was a group called the Planning Officials Group, which were essentially the directors of the departments of planning, if you like, in each of the State jurisdictions. They met on a regular basis. Their role was to examine the Planning Institute of Australia's findings in relation to their survey of all planners in Australia. It benchmarked the national performance against the performance of the planning systems in America, Canada, New Zealand and the United Kingdom. We found that the New South Wales planning system was quite complex, very layered in structure and not easy to administer. At about that same time I was a member of the A-team reviewing the planning system in the Northern Territory. That resulted in a review of the planning Act. We realised in the Northern Territory that we had planning controls and about 200 Aboriginal community local planning schemes to provide some structure for community layout.

We had in excess of 200 provisions that were inconsistent across all those controls. We literally had a wheelbarrow load of documents that pertained to all manner of planning controls in urban and rural villages throughout the territory. Today we have a document which is about two centimetres thick and which addresses the State Government priorities at a very high level. It deals with transport, airport, environmental, social and economic policies et cetera. It drills down to the regional and local levels. There is scope for local differentiation between places like Katherine, Tennant Creek, Palmerston and Darwin because they are discretely different in their historical makeup and the economic basis of their establishment. I do have a lot of experience. A great source of information is the planning history of Australia as well as the Northern Territory planning system. The contact person in the Northern Territory is Jim O'Neill, the Director of Planning. He has made a great contribution.

The Hon. MICHAEL VEITCH: I am interested in the change process. You spoke about where the Northern Territory was, bringing in the new Act and the new arrangements. What was the consultation process?

Mr KARASZKEWYCH: The consultation process involved a great deal of breaking down the silo mentality of each department and getting people to understand that we are a jurisdiction of 250,000 people on a vast area of land.

The Hon. MICHAEL VEITCH: It is a big local government area.

Mr KARASZKEWYCH: The Government owned the land and controlled the planning system. The selling point was that each government department would understand that it was part of the overall big picture of the development of the territory. As it is today, it is a very proactive and go-ahead organisation. Part of the process was breaking down the barriers and gaining trust across government departments and getting them to realise that they were part of the solution.

If you have a contribution to make to the grander vision of strategic planning across the territory you then participate in the process of planning for major infrastructure—gas, power, rail and transport corridors—how do you grow your communities, both at the Darwin level or the Tennant Creek level? The beauty was that they each contributed to that process, which took about three years. At the end of the day, each government department was in tune with delivering on the strategic plan. In the early days there was a strategic plan that looked ahead 100 years. We then worked on plans that were about 25 or 30 years out.

The Hon. MICHAEL VEITCH: So that you do not have to squint as far.

Mr KARASZKEWYCH: It was more within the realms of reality. You could feel five, 10 or 15 years hence where you would like to be. However, it went a step further. There was a vision to go that extra distance. Each government department had in its business program a plan to move forward to the five, 10 or 15-year horizon in sync with every other department involving economic, health, social and public transport initiatives. It was all coordinated.

That is how I left the territory in 1996. Today we see great growth. The stimulus means that the Darwin of today has 24/7 activity. I did a lot of master planning for the City of Palmerston and its future urban release areas looking 30 years hence. The plans were for communities of 10,000 dwellings and 30,000 people with all the relevant infrastructure—universities, health services, public transport, city centre revitalisation and so on. It is all part of the master plan process. It is essential, but many jurisdictions in this country do not work from them. It is about being part of the bigger vision.

CHAIR: Thank you both for coming in this afternoon and for giving us that good information.

Mr KARASZKEWYCH: Thank you very much for listening.

(The witnesses withdrew)

(Short adjournment)

RODNEY WILLIAM JONES, Senior Development Manager, Alatalo Brothers, PO Box 225, Wodonga, New South Wales, and

HEATHER McCALLUM, Planning Consultant, Esler and Associates, PO Box 3055, Albury, New South Wales, sworn and examined:

ADAM DOUGLAS DYDE, Director, Envolutions Pty Ltd, 166 Flagstaff Road, Bethanga, Victoria, affirmed and examined:

ACTING-CHAIR (The Hon. MELINDA PAVEY): If you should consider at any stage that certain evidence you wish to give or documents you wish to tender should be heard or seen only by the Committee, please indicate that fact and we will consider your request. If you do take any questions on notice today, the Committee would appreciate it if the response to those questions could be sent to the committee secretariat within 21 days of the date of those questions being forwarded to you. Would you like to make an opening statement or some introductory comments before questions?

Mr JONES: In the past 30 years I have been involved in land sales in Albury-Wodonga. I have had 27 years with a development corporation and for the last three years I have been with Alatalo Brothers. During that time I have presided over 40 per cent of the land sold in Albury-Wodonga. That would be roughly 6,000 blocks of land. I have never experienced any problems with the planning process. It has never been an issue. However, delays with referral authorities and utilities have resulted in high development costs. That has had an adverse effect on affordable land. That is most evident when there is a shortage of land. We can be sitting on $9 million worth of land and the plans might be with council for two years getting the approvals and so on. That cost has to be passed on. Some people believe that all those costs are worn by the developer and that they are not passed on. I have even had councillors say to me, "You will wear that." They do not understand; there is nothing further from the truth. The costs have to be passed on. Some councils try to achieve objectives that they are not entitled to. That again results in higher building costs. There seem to be rules that are not discussed with people at the coalface. They are told that these are the rules and they must be adhered to. I am happy to answer questions. My issue is sales and getting land onto the market. The planning system adds costs to everything we do.

Ms McCALLUM: I work for Esler with probably 10 or 12 councils on both sides of the border. I have the opportunity to see what is happening in Victoria and New South Wales. I am more experienced in New South Wales, but I have found that I can pick up the Victorian system and run quite well with it. It has a much easier system to follow. For example, the plans that they have attached to their planning schemes are all online. All their information is online. It is very easy to access and work with. They are even starting to allow planning permits to be submitted electronically. New South Wales seems to be a long way from that. The plans that are usually associated with LEPs are not readily accessible. You can get an LEP online in New South Wales, but the plans are not readily accessible.

The Hon. CHRISTINE ROBERTSON: Can you define the word "plans"?

Ms McCALLUM: I mean the maps and the written documents that are available, but not the others. It makes it harder to track information in New South Wales. Having said that, I think it also relates to processes within councils. Because I deal with a few councils I have an opportunity to see how some councils operate as opposed to others. The processes in some of the councils seem to be good, but the processes in other councils stifle us. There is quite a difference.

Mr DYDE: I echo Heather's sentiment about the differences that I see between New South Wales and Victoria. I am not a planner; I am an environmental engineer. However, I do a fair bit in the planning area. I tend to become involved in the management of the planning side of things where approvals are required and you need specialists to assist you to make determinations. Heather commented on the differences and the accessibility of information between New South Wales and Victoria, which are vast. Coming into it as a non-planner, it is far more available and easy to pick up in the Victorian system than it is in the New South Wales system.

I do not know what the reasons for that are, but that is just an observation that I make. The second thing—a positive for the New South Wales side—is the integrated development. Rod mentioned the potential for delays in developments relating to referral authorities. I know that the integrated development process has been implemented in New South Wales but, to be honest, I have had no direct experience of that. I believe that

is the way to go. It needs to be brought back to a central authority rather than decisions being made by 10 or 12 different authorities. It needs to be coordinated by one, otherwise developments will be held up for lengthy periods.

ACTING-CHAIR: Mr Jones, you said that you had been involved in the development of land for 30 to 40 years. Is that right?

Mr JONES: I have been involved in land sales. Development has been part of that. I have been in development all the time. The companies for which I have worked have been developers and I have handled the land sale side of it.

ACTING-CHAIR: My questions relate to New South Wales. Do you see the current system and the changes working as they were announced to work—that is, streamlining the system and making it easier? Is that happening on the ground?

Mr JONES: No. The system is right but it takes too long for referral authorities and utilities to come up with answers. When you go to an authority it says, "This is okay and everything is fine, but move that boundary down a bit." You move the boundary and all the other referral authorities say, "We have to have another look at this."

ACTING-CHAIR: Are you talking about the Rural Fire Service?

Mr JONES: Yes. All these issues keep coming back. Some authorities say, "This is fine. We want to have another look at it later", but it delays the process. You do not seem to be able to get quick answers.

ACTING-CHAIR: Compare that with the system in Victoria.

Mr JONES: I cannot say that it is any better. You still run into the same problems. You have the same built environment and the same problems. People within the organisations—and I am not being critical—seem to be very narrow-minded. They have one-track minds and they will not move away from it. Commonsense seems to be something that people do not seem to have much of these days.

ACTING-CHAIR: How much would these processes add to the cost of a block of land in today's market?

Mr JONES: If you are sitting on, say, a block of land worth $9 million—which it could easily be when you are talking about 300 blocks of land—your interest bill on that for a year would probably be $800,000. You would then have all your other charges. You would certainly be looking at over $1 million. The costs will keep increasing every year. If you have 300 blocks of land the costs would keep escalating.

The Hon. CHRISTINE ROBERTSON: The infrastructure costs or the costs of getting things through?

Mr JONES: The costs of getting through. Infrastructure costs cannot be started until you get all your approvals.

ACTING-CHAIR: You might be able to help us. I refer to the situation in Victoria where there are no utility, water and sewerage charges on a block of land, as compared with New South Wales. According to the evidence that we heard today it is capped in Victoria.

Mr JONES: Electricity charges in Victoria differ enormously from the charges in New South Wales. There is an enormous difference—thousands of dollars worth of difference.

ACTING-CHAIR: Ms McCallum, are you aware of the water and sewerage differences?

Ms McCALLUM: No. I could not quantify the difference. I know that the charges are not as high, but I could not give you an exact figure. That would be a question for our engineering department.

ACTING-CHAIR: Has the standard LEP instrument process that local government is currently going through and the development of those instruments in New South Wales held you up in any way? Has that affected you and your operations?

Mr JONES: It is certainly slower in Wagga Wagga to get those things through. It seems to be a long process. It seems to take about a year longer than it should to get some of those things through.

The Hon. MICHAEL VEITCH: Is that since the planning panel has been put in place?

Mr JONES: Yes.

Ms McCALLUM: I think it was worse before the planning panel was introduced. I think that has probably helped somewhat.

The Hon. MICHAEL VEITCH: I am keen to tease out the environmental legislative framework in Victoria as opposed to the framework in New South Wales. We have had reams of evidence to the effect that there is no clear hierarchy in New South Wales concerning our environmental legislation, and that there may well be a need for umbrella or master legislation to provide some clarity. Maybe Mr Dyde could help us. How do Victorians do it?

Mr DYDE: I would say that it is similar, in that you still have to deal with Commonwealth and State legislation. Victoria gets it more right than does New South Wales because it seems to have the support of the legislation. By that I mean what Heather was talking about earlier. Information seems to be available online and it is easily accessible. The DSE has put a lot of time into things such as rehabilitation plans. You do not have to be a botanist to come along and determine what is required at a specific location. A whole heap of work is being done that complements the legislation. I think there is less in legislation and more support for the legislation. That has been my direct experience.

The Hon. MICHAEL VEITCH: Do you have a view about comments relating to the requirement for umbrella or master legislation? Do you have a view about whether that is right or wrong?

Mr DYDE: In my view it is always good to have umbrella legislation. Rod was alluding to the fact that when you get separate legislation that is all over the shop you tend to get different people making decisions, which results in things grinding to a halt. Any time you can bring that up into a pyramid effect—whether that is under one piece of legislation or under a body—I think it would be beneficial. It does not necessarily come at an environmental cost; it just means that there is accountability. From my point of view I would support it.

The Hon. MICHAEL VEITCH: I am keen to explore the electronic arrangement in Victoria. Are you able to lodge applications online in Victoria?

Ms McCALLUM: In some areas you can. It has not been taken up fully in this area, but it is council by council. Apparently, most of the councils have an electronic system and an electronic system is gradually being introduced for outsiders such as us to submit applications. Apparently, in certain areas some councils are taking it up better than others. I am not an expert on it, but my understanding is that the councils run their own system and they have to marry up that system with the one that they are trying to introduce so they can all be lodged electronically. In other words, I think they are running parallel electronic systems within some councils to make this happen.

The Hon. MICHAEL VEITCH: It is grass roots up as opposed to State Government down.

Ms McCALLUM: Recently I went to a meeting of our planning people in the north-east. I think the State Government has put a lot of money into it. What tends to happen with most of these things is that it is done in the city first because it shows fabulous overlays of this mapping. I knew it would be doing certain things but when I came back to the office I found that we could not do it locally. You can do it in Melbourne, for example, so some of it is very much citycentric.

The Hon. MICHAEL VEITCH: What is the detail of the overlays that you are talking about?

Ms McCALLUM: For example, if you are in Melbourne and you wanted to look up a block of land, you could see the zoning, you could see the history of the zoning and you could see the past zoning. I am talking about overlays.

The Hon. MICHAEL VEITCH: Yes.

Ms McCALLUM: You could see the past history of the zoning and you could see the current zoning. You can have a photograph.

The Hon. MICHAEL VEITCH: A Google map?

Ms McCALLUM: A Google map that sits over the top. There is a whole range of information, including flooding or any of the overlays that they have in Victoria. They have different overlays for flooding and fire and all those overlays go over. You can actually point your computer to a block of land and immediately you will get all those—the zoning and the overlays—all that information on that block of land. That is not available in New South Wales. It would make it a lot easier. As I have said, for most of my working years I have training in New South Wales. When I took up this job, we worked on both sides of the border. I have been able to very quickly run with that Victorian system because in a lot of ways it is a lot easier because it is all there.

The Hon. MICHAEL VEITCH: Have you had much experience with pre-development application meetings with councils? Before you lodge a development application, do you sit down with the council staff and talk through the proposed development?

Ms McCALLUM: Yes.

The Hon. MICHAEL VEITCH: You do?

Ms McCALLUM: Yes.

The Hon. MICHAEL VEITCH: What is the value of that?

Mr JONES: You get a quick feeling about how the council feels about that. You know whether you are going to get support for what you want to do straightaway, or you might find, if there is a problem there, that you can get to it up front, early. If there are issues, and there may be environmental issues or archaeological issues; there could be lots of things there that you are unaware of at the time, so that meeting is important. But it is also important, if you can, to get all the others there—the gas, the electricity and all those other people at the same meeting, if you can. Get them all around the table. Get the lot there.

The Hon. MICHAEL VEITCH: Do all the councils in New South Wales do that? The ones that you have worked with, do they all do that?

Ms McCALLUM: If you ask them to, yes they do.

Mr JONES: You have to say you want it for sure. They would not volunteer anything, but if you say, "We want a meeting there and these are the people I want here", they will do it. They are receptive to it. They are not anti it, or anything like that. It is important to get all those people together. You can get rid of a lot of problems altogether.

The Hon. CHRISTINE ROBERTSON: Are you being the coordinator of the process or is the council? The issue of overlays of legislation of the government departments having a particular interest—

The Hon. MICHAEL VEITCH: Silos.

The Hon. CHRISTINE ROBERTSON: Silos. At the moment it would appear that nobody is responsible for pulling things together. That is one of the reasons that issues can wander around for a year or two without resolution. If you are asking for a meeting and everyone is being pulled in, who is the coordinator of all those issues? Is it the local government body?

Mr JONES: You would expect the local government body to do it, yes, but you would still ring around yourself.

The Hon. CHRISTINE ROBERTSON: They do not expect that they should have to do it because they often end up in the same conflict.

Mr JONES: You would ring around them all and try to get them to the table though.

The Hon. CHRISTINE ROBERTSON: Do you think it would be resolvable through one of the government departments taking on a coordination role?

Mr JONES: It would be a good idea, definitely.

The Hon. CHRISTINE ROBERTSON: I personally have a concern, and I do not know how you feel about it, about sticking the entire planning legislation under one Act. Often the emphasis can be put on by the fire department—what are some others?

Ms McCALLUM: Fisheries or water.

The Hon. CHRISTINE ROBERTSON: Yes. Then you water down that specific issue in relation either to the legislation or the outcome. So it concerns me to think that people would think that one piece of legislation about everything would be a solution and stick it all in one department. I wonder what you would feel about a department having the responsibility of trying to coordinate the process. It would only be for big or large development proposals, would it not? What do you think?

Ms McCALLUM: I think sometimes it is beyond the—capability is not the right word; but you have got people at councils who are managing these applications as they come in. It is so complex now, particularly if you have a vegetation Act and all those sorts of things that come in. It is complex for those people to deal with it, when they do not have the knowledge of it. I think it is a big ask sometime expecting the people in council—not all of them, but some of them—to manage all those different areas that they need to look at. I think that is why it has become more complex. They no longer have the capability to assess applications unless they have information from consultants or professionals in areas of expertise.

The Hon. CHRISTINE ROBERTSON: I was not actually thinking of them taking over the consultancy role, but just the coordination of the different legislation in relation to planning.

Mr DYDE: I think it would assist to make that central authority accountable. But Heather is right: you cannot get away from the fact that sometimes it would need to be referred out to certain experts. I guess what you are saying is you are wondering whether it will be the council or someone else. Sometimes the resources are there and you have to coordinate that and make people accountable in terms of time frames, assessment, et cetera. At the end of the day, no-one owns it like the developer, so it ends up being the manager.

Ms McCALLUM: It is still hard.

The Hon. CHRISTINE ROBERTSON: They are the ones who are squawking and so are the councils.

Ms McCALLUM: The one that we are finding we have a lot of now are bush fire authorities with the RFS. They have 40 days to respond, and they take the 40 days, and they are just one. They always take the full 40 days. They always come back, and that is fine, but we always know that if there is one of those involved, we know straightaway regardless of anything else, it will be 40 days.

The Hon. MICHAEL VEITCH: Do they ever go over the 40 days?

Ms McCALLUM: No, but they take the 40 days.

Mr DYDE: Because they are given 40 days.

Ms McCALLUM: I think the councils have hardly got that long, but that is just one.

Mr JONES: And that could mean that there is not a tree on the block, too, but it would still take 40 days to get an answer.

Mr DYDE: They take 40 days to answer.

Mr JONES: And there is not a tree to be seen.

The Hon. MICHAEL VEITCH: Does the RFS actually go out and have a look , do you think?

Mr JONES: I think they have to. They would be negligent if they did not.

The Hon. MICHAEL VEITCH: The reason I ask is that we heard evidence today that there is a footprint—that from one person there comes a whole large geographic footprint. It would appear to be difficult to get to have a look at these developments.

ACTING-CHAIR: The evidence was: Should there not be a system whereby the council could do the work on behalf of the RFS?

The Hon. MICHAEL VEITCH: That is it. That is right.

Ms McCALLUM: Yes. You have a lot available to you now. With Google Earth and the new information that you can see there, I cannot speak for RFS but I would think that a lot or some of the information that is available in that area could be desktop assessments, particularly with the information that we have to supply with them. They are quite comprehensive.

The Hon. CHRISTINE ROBERTSON: Some of our country Google is a bit old though.

Ms McCALLUM: True.

The Hon. CHRISTINE ROBERTSON: You said some of the processes are good and some are not within local government bodies. I do not want to pick out any different local government bodies, but can you give me some examples of the difficulties some of them have?

Mr JONES: In local government?

The Hon. CHRISTINE ROBERTSON: Yes.

Mr JONES: I think it gets back probably to the CEO or the councillors. Some councillors seem to have a "Let's get things done" attitude, and others seem to have a protracted system to go through to get the same way. It does not seem to concern them that it takes six months or six years, I do not think. In fairness to all the councils, I think they try to get things done for you.

ACTING-CHAIR: They gave evidence today that it was an 18-day turnaround for their DAs.

Ms McCALLUM: And they do. They are a good team to work with. One of the issues in terms of turnaround is, for example, that sometimes if you are working on a job and you have some difficulty, it is very good that sometimes it can be resolved very quickly by an email or over the phone. You can just have a quick chat, "Yes, we can do that", or, "No, we can't." What some of the councils do is switch off their staff. They have a central answering system. I know that Wagga Wagga does that.

The Hon. CHRISTINE ROBERTSON: A lot of them have that.

Ms McCALLUM: When you ring up, you just get a central body. You do not get the officer who is actually dealing with it. When you are working on a lot of projects, Albury is good at doing that. You can usually get the officer. They actually send out a letter to tell you who the officer is. They do not seem to ever not be available, or if they are not available, they will come back to you very quickly. You can get it resolved, whereas at Wagga Wagga you cannot even get the people on the phone.

Mr JONES: You see, what happens in Wodonga is that we have had similar problems there. If you have a complaint with an engineer, you have to take to the engineer; if you have a planning problem, you have

to talk to the planner. You cannot resolve the issues with them because it is quite clear you are on different wave lengths. The Wodonga council appointed, as a result of our meetings there, one person to whom I can go, and that is Ross Gitting at the council. I can say, "Ross, I've got problems with a planning issue here. Find out what is wrong for me." He will go and find out and ring back and tell me what it is.

I might be right or the planner might be right. I am not suggesting that we are right all the time, but at least we have someone independent to go to. I think in any organisation you really need that ombudsman sort of person so that you can then go to this person and find out what is wrong. But if you are told that if you have a planning problem you should go and see the planner, you might as well go and bash your head on the wall. If he has made up his mind, he will say, "You're not putting a road 10 metres above the house", or he may change his mind. So you need someone else to talk to them.

The Hon. CHRISTINE ROBERTSON: An adjudicator.

Mr JONES: Yes, an adjudicator. It certainly worked in Wodonga for us, anyway. I just ring up this bloke now and say, "I've got a bit of a problem." He says, "Okay." Within an hour he will be back to me.

ACTING-CHAIR: What is the title of that person at Wodonga?

Mr DYDE: He is in economic development. I would say he is either the manager or he is in charge of economic development.

ACTING-CHAIR: He is the go-to man.

Mr JONES: Yes. He will find out and tell me what is wrong. It certainly helps to have someone who is independent.

The Hon. CHRISTINE ROBERTSON: Part of our terms of reference states:

> … the need, if any, for further development of the New South Wales planning legislation over the next five years, and the principles that should guide such development …

I would be very interested to hear from you as a group where you perceive that should go in New South Wales. It is very interesting to have you here. You are a very good set of witnesses for us to hear.

Ms McCALLUM: I think they are making progress in terms of a template to at least make it all look the same. I probably do not have anything that I would say specifically other than generally saying that they need to streamline the processes. As I said, they are trying to make it all the more homogeneous by introducing the template. But some of the things that I have suggested they are doing in Victoria would go a long way to streamlining the New South Wales processes.

The Hon. CHRISTINE ROBERTSON: You do not think we are ready for a total re-write? You could answer this question better than I. It has had things tacked onto it for a long time.

Ms McCALLUM: It has. My opinion is that you have fisheries, you have got vegetation, you have probably got water now and you have planning. I think they should all be under the same legislation. I worked with a government department and you see, for example, that when you have to do something with native vegetation and you find that fisheries has to have an input, it is exactly the same. They might be working under different legislation but the processes and the information they have to put through and the way they present it is almost identical. They are not much different now—planning, vegetation, fisheries and water. You have the Water Management Act. A lot of those processes now are all sitting individually under those Acts. My opinion is that they could all be brought under the one Act in a lot of ways. I do not think it is that dissimilar. That is a big ask though, is it not?

The Hon. CHRISTINE ROBERTSON: I am an ex public servant too.

Ms McCALLUM: But do you agree though to a point that some of what they have to do—

The Hon. CHRISTINE ROBERTSON: I agree about the process because what concerns me is that if you are not fisheries or native vegetation and they pop it into some planning, you lose the priorities that those organisations are struggling to deliver.

Ms McCALLUM: Yes.

The Hon. CHRISTINE ROBERTSON: You pop a couple of staffers inside a department to deliver on that, and they will be easily sat on. So it just worries me. I do not know how you do it.

Mr DYDE: You are right. The key is integration. We are never going to get away from the fact that we have to deal with these issues. I heard the word "silo" mentioned a couple of times. That is spot on. At least in New South Wales it seems to mean that they have to start down the path of integrated development. That has to be the way to go. That is making the council accountable and responsible for coordinating the process. You still get input from the other referral authorities. But the reality is that they get one bite of the cherry, and that is appropriate within whatever the timeframe is. That is the way to go.

The Hon. MICHAEL VEITCH: People are saying that the EPA Act 1979 should be done away with, it has lived its life and run its course, and a new legislative framework should be put in place. There should be one Act for planning, one Act for assessment and umbrella legislation for all the environmental legislative arrangements. You are saying that you would rather have it all in one because it is integrated.

Mr DYDE: You risk making gargantuan legislation. I do not see that it would make much difference if it was in one piece of legislation or another as long as it is coordinated and integrated. That is the critical thing.

Reverend the Hon. FRED NILE: One of the major changes that came in with the new planning reforms was the joint planning panels. I understand that was to help split up the process where councils were ineffective. It was a transfer of the power to these panels. Will that help developers?

Ms McCALLUM: Are you talking about what has happened in Wagga Wagga?

Reverend the Hon. FRED NILE: Not Wagga Wagga; Wagga Wagga is an exception. A special panel was set up there. They are going to set up joint planning panels going right up to a State planning panel. That will take the power away from the Minister and it will be handled by professionals dealing with various sized projects. It is still unfolding. What is your reaction to that plan? It is designed to help you.

Ms McCALLUM: It is.

Reverend the Hon. FRED NILE: That is what we have been told.

Ms McCALLUM: One of the issues is ensuring local input.

Reverend the Hon. FRED NILE: It has to have local council representatives and architects and planners.

Ms McCALLUM: But having a local component is important.

The Hon. CHRISTINE ROBERTSON: It is a bit of a problem defining western New South Wales as a region.

Reverend the Hon. FRED NILE: We have heard some criticism about the work of the private certifiers. Are you involved in building as well?

Ms McCALLUM: We mainly use council certifiers.

Mr JONES: With the building sites we use certifiers for housing. We do not have any problem on the housing side.

The Hon. CHRISTINE ROBERTSON: Do you do council development applications and then use private certifiers?

Mr JONES: You do not always need a development application.

Reverend the Hon. FRED NILE: But you use private certifiers. Have you had any problems?

Mr JONES: No.

Reverend the Hon. FRED NILE: Is there any contradiction between their work and the council's assessment?

Mr JONES: No. Initially when the private certifiers started the councils were fairly slack in getting things done. The certifier makes it happen quickly. We find that the certifiers are excellent. We send in the paperwork and they are in the door straight away. Everything is done and they deliver it by hand. That is excellent. The councils could not operate that way. I think if we went to Wodonga council now and did not use a certifier they would probably be just as good. Certifiers have proved themselves to be excellent.

Reverend the Hon. FRED NILE: And you have no problem with the quality of the work of the private certifiers?

Mr JONES: Definitely not.

The Hon. MICHAEL VEITCH: One of the terms of reference relates to housing affordability or the impact of the New South Wales planning system on affordable housing. You come at this from a different angle from the councils. A lot of them have given us their views. There are 155 councils in New South Wales and 155 views. What is your view about the planning system in New South Wales and its impacts, positive or negative, on the affordability of housing and how can it be improved?

Mr JONES: It is difficult to say what affordability is. It is a strange word. It is difficult for those people trying to get their first home. Someone could probably afford $100,000 or $110,000. The entry level is very difficult. Once you get above the entry level it does not matter quite as much. But helping that first one is difficult. That is the one that seems to cop all the costs. All the delays are costed to that land in the same way they are to all the other land. First home buyers pay a greater proportion because you cannot sell the land cheaply.

There is also a problem with the market. They set the price to some extent too. That can then come back to a shortage of land. You might have a block for $100,000 aimed at the first home buyers and you put it up for auction and it might sell for $130,000. It is very difficult. I am certain that if we could get the land on the market more quickly it would be cheaper. It would be more competitive. When there are long delays there is no competition left.

The Hon. MICHAEL VEITCH: Do any of the councils you work with require you to set aside one or two or a percentage of blocks to meet an affordable housing quota?

Mr JONES: No.

The Hon. MICHAEL VEITCH: There are no obligations to do that?

Mr JONES: We certainly still make that sort of land available. There is affordable defence housing. They get land. The rural housing network in Victoria needs land and the Aboriginal corporations want land. That is not very high in this area. Land is made available to those authorities. If they want it we sell the land to them. We cannot say we do not want them because they are not good neighbours. Anyone can buy the land they want. There are no restrictions. If those bodies come to us and want to buy four, five or six blocks, we will certainly give them discounts to help. Usually they are isolated lots around the place.

The Hon. MICHAEL VEITCH: They are not together.

Mr JONES: They would not say they want 10 there together. They might take five and spread them over three or four suburbs. We have about 12 subdivisions. So it does not concern us where they go. That still gives them a lot of housing in those areas. Different builders build for them. Land is made available in those areas, but it is not designated by the council. Those bodies come in and say they want some houses or land.

The Hon. MICHAEL VEITCH: Ms McCallum, do you have a view about entry level housing?

Ms McCALLUM: I am probably not the one to answer that question. I do not have the experience.

Mr JONES: What is happening at the moment with housing is that they are giving rebates on stamp duty and things like that for first home buyers. The First Home Owners Scheme has brought an enormous amount into the market. We are selling about 10 ten blocks of land a week when normally we would sell about three. There has been an enormous number brought forward. There is no doubt that the Government's incentive has done that. Stamp duty is not quite as bad in New South Wales, but it is horrendous in Victoria. They are the things that make hard for the first home buyer. There has to be some relaxation in government charges.

Reverend the Hon. FRED NILE: Can you explain the council development levy? We heard that in Victoria it is $500 to $1,000 a block and in New South Wales it is $14,500 a block. Is that what you experience?

Mr JONES: It is not that high. I think the council is talking about bringing it up to that level.

Reverend the Hon. FRED NILE: In New South Wales?

Mr JONES: I think it varies between councils in New South Wales. The council here was talking about $14,500. I think it is $6,000 or $7,000. I do not know the figure. It is certainly a lot higher than Victoria. It costs us $6,000 more to build a house in New South Wales than it does in Victoria.

Reverend the Hon. FRED NILE: We are trying to work out why there is such a difference. We thought there might be another charge levied by the corporation that handles the water and sewerage in Victoria in addition to the council.

Mr JONES: One of the issues is the long service leave charges imposed in New South Wales that are not imposed in Victoria. I do not have all the details but I can provide some information.

Reverend the Hon. FRED NILE: Thank you. There is at least $6,000 difference.

Mr JONES: I am talking about the building costs not the block.

Reverend the Hon. FRED NILE: Just the block.

Mr JONES: I will not guess figures. You want to know the charge in New South Wales versus Victoria?

The Hon. MICHAEL VEITCH: From your experience.

Mr JONES: I will get those figures.

Reverend the Hon. FRED NILE: We are not sure whether as a developer there was another way in which you are paying certain levies in Victoria, not through the council but through the corporation that handles the water and sewerage.

Mr JONES: They all get money.

Reverend the Hon. FRED NILE: Would that increase the figure in Victoria?

Mr JONES: It would.

Reverend the Hon. FRED NILE: The levy may be hidden.

Mr JONES: I will get the figures.

ACTING-CHAIR: Is there anything else you would like to add before we wrap up today?

Mr DYDE: In relation to the query about affordable housing, it seems to me that the major cost is in the delays. There are issues of certainty. One thing both councils have attempted—and Wodonga has probably succeeded in doing it—is to do some of the upfront work in the planning scheme to introduce things like environmental corridors. Developers know before they buy land that those areas cannot be developed. Within developable areas they know that they can clear native vegetation. That creates certainty. It is not a direct

answer, but when I say "support", I mean up-front planning and thinking about how things are laid out so that developers have certainty. That is one way I have seen it work locally through the threatened species corridors.

ACTING-CHAIR: Along with any questions that you took on notice today, would you agree to receive additional questions from the Committee that we may not have had the opportunity to ask?

Mr JONES: Yes.

ACTING-CHAIR: Thank you for your time today.

(The witnesses withdrew)

(The Committee adjourned at 4.45 p.m.)