

GENERAL PURPOSE STANDING COMMITTEE NO. 6

Monday, 1 August 2016

INQUIRY INTO CROWN LAND

The Committee met at Shoalhaven at 10:30 am

MEMBERS

The Hon. Paul Green (Chair)

The Hon. Lou Amato
The Hon. Scott Farlow
The Hon. Peter Primrose
Mr David Shoebridge
The Hon. Mick Veitch

The CHAIR: Welcome to the second hearing of General Purpose Standing Committee No. 6 in its inquiry into Crown lands. The inquiry was established to examine the adequacy of community input and consultation regarding the commercial use and disposal of Crown land. We will be looking at the benefits of active use and management of Crown land as well as the most appropriate and effective measures for protecting it. The inquiry will also consider the extent of Aboriginal land claims over Crown land and opportunities to increase Aboriginal involvement in its management. Before I commence I acknowledge the Yuin nation, who are the traditional custodians of this land. I also pay my respects to the elders past and present and extend that respect to any Aboriginals who may be present today.

Today is the second of seven hearings we plan to hold for this inquiry. This morning we will hear from representatives from the Illawarra Pilot Joint Organisation, the Canberra Region Joint Organisation and the Nowra Local Aboriginal Land Council. Later in the day we will hear from the following community groups: Save Collingwood Beach, Huskisson Woollamia Community Voice and the Lake Wollumboola Protection Association Inc. We will finish with representatives from the Collingwood Beach Preservation Group, Soilco and Stop Arms Fairs in Eurobodalla.

In accordance with the broadcasting guidelines, while members of the media may film or record Committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography. I remind media representatives that you must take responsibility for what you publish about the Committee's proceedings. It is important to remember that parliamentary privilege does not apply to witnesses who may say something outside of their evidence at the hearing. I urge witnesses to be careful about any comments you make to the media or to others after you complete your evidence as such comments would not be protected by parliamentary privilege if another person decided to take action for defamation. The guidelines for the broadcasting of proceedings are available from the secretariat.

There may be some questions that witnesses could only answer if they had more time or with certain documents to hand. In those circumstance witnesses are advised that they can take a question on notice and provide an answer within 21 days. I remind everybody that Committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of parliamentary privilege. I therefore request that witnesses focus on the issues raised by the inquiry's terms of reference and avoid naming individuals unnecessarily. Witnesses are advised that any messages should be delivered to the Committee members through the Committee staff. I note that we have an apology from the Hon. Catherine Cusack for this hearing.

LEE FURNESS, Director Corporate Policy, Shellharbour City Council,

RUSS PIGG, General Manager, Shoalhaven City Council, and

PETER COYTE, Manager Property and Recreation, Wollongong City Council, sworn and examined:

The CHAIR: Welcome. Does anyone have an opening statement that they would like to read through?

Mr PIGG: Yes, I could deliver a statement. Addressing the inquiry key points, the extent of Crown lands, it is of huge importance to our communities collectively across the Illawarra and the Shoalhaven. Seven per cent of the area of the Shoalhaven, for example, is Crown lands. We have over 200 reserves. Wollongong city has 49 trusts. I guess we are typical of most councils where we actually spend more funds on Crown reserves than the revenue that is generated from the different facilities. Shoalhaven is about a net cost of \$2 million to the ratepayers. Wollongong is around a \$7 million per annum net cost or expenditure on Crown reserves.

The Crown land is provided for a whole range of reasons, including public access and enjoyment, passive and active recreational issues and Crown roads. I can talk about Crown roads if it is the intent for transfer of Crown roads to councils as part of this revision. There are about 800 kilometres of "paper" Crown roads in the Shoalhaven alone. If they were to be transferred to council then obviously there is cost in noxious weed controls. Historically, a number of properties still gain access through these Crown road systems and council at this point in time does not necessarily have to maintain those roads. There are some circumstances where residents themselves do. That is an issue to be aware of.

As to reserves for the protection of the environment, there are natural areas, foreshore areas and beaches. Again, if all of that was coming to council plans of management become an issue and there is also issues—and I will address this at some stage—about the restoration of some of these foreshore areas after natural disaster events. That is another big issue for all councils certainly along the South Coast and Illawarra. There is Crown land used for public safety, lighthouse sites, breakwalls, surf life saving clubs, bushfire sheds and the like. All of what I have just mentioned are basically non-income producing Crown lands. There might be small leases on some of those. The Crown land estate also provides economic opportunities and operational purposes like tourist parks, cemeteries, race clubs and communication tower sites. They are income producing and from a local government perspective it is very important that they are retained by the local councils because at least some of the revenues gained out of those operations are then used for expenditure on the passive, non-income producing Crown lands.

We think there are opportunities to identify and release Crown land to drive economic development in some areas either through lease, licence or sale. In fact, the Illawarra Pilot Joint Organisation has considered the merits of proper precinct planning in some key locations where development could be encouraged potentially through a development corporation-type model where the Crown, councils and possibly other government agencies like Housing NSW and Aboriginal land councils could pool their land resource in a large precinct and go through a proper exercise of leveraging the best benefits in a holistic way and unlocking some potential. We could provide examples in every council area.

One of the issues with Crown land is that it has been tied up in areas—for example, Shoalhaven Heads. Historically Crown land was expected to allow for growth and expansion of villages and towns. This progressively occurred until about the mid-1970s. Residential subdivisions were released by the Crown. We have road patterns where roads come to a dead end because it was expected that the streets would continue on. That is particularly noticeable at a location at Shoalhaven Heads. Things obviously changed so it took away those opportunities.

Environmental legislation—the Environmental Planning and Assessment [EP&A] Act 1979, the threatened species Act and other environmental legislation later on in the 1990s—and the Aboriginal Lands Rights Act 1983 all changed the complexion of development of Crown lands and put certain constraints and restrictions on them. In many respects that is a good thing but it has stagnated some opportunities and what communities expected some time ago. We think that some of the potential could be released through, as I say, the development corporation type precinct modelling and, importantly, closer relationships with Aboriginal land councils whereby councils, Crown and the land councils can work together for mutual benefits. We certainly have a number of examples in Shoalhaven through which we could get some mutual benefits for the community at large if there was a mechanism to work more closely with land councils.

The second part of the inquiry is about the adequacy of community input and consultation. We think it is fairly adequate. Any acquisition of Crown land by council has to be an open process and subject to

advertising and the like. Planning instruments like the local environmental plan are subject to consultation—that is setting land zones and permissible uses over Crown land as well as private property. Development application [DA] processes for development over Crown lands, commercial use and the like, is all part of a very open public consultation. However, Wollongong's submission notes that in terms of direct disposal of Crown lands the consultation may not be as extensive as desired. They have cited an example of the transfer of the Lake Illawarra lands to Property NSW for development and sale. I am sure Mr Coyte will expand on that if required.

The third part of the inquiry is about effective and appropriate measures to protect Crown land. I think the issue of certainty needs to be resolved. I have just given an outline of the historic expectations of Crown land. There is still land zoned residential that for one reason or another does not look like it will be realised. The framework around what is preserved and enhanced for future generations needs to be identified and honoured going forward. Regarding the issue of protection, the requirements under the Local Government Act for management of operational and community land requires that community land is not sold. It needs a plan of management which sets out the land's use and is subject to extensive community consultation.

Similarly, if council wishes to convert operational land to community land, there is a major community engagement process through an amending local environmental plan [LEP] and a public inquiry. So if it is the intent that Crown reserves become vested in council either as community land or operational land, in respect of community land we think that councils would need to be compensated in some way in recognition of the administrative issues around plans of management and the like.

Another part of that issue is that "protected and preserved" may also relate to the financial management of Crown lands. I will raise this issue: We have many fragile foreshore and coastal beach areas and they are protected. However, when damaged by severe weather events such as those we have had in recent months, it is a significant challenge for coastal councils. The current position is the State and Federal government guidelines for natural disaster relief funding deem these natural areas as ineligible for funding. The State Government Crown Lands also advise that they do not have any financial support programs for—

Mr DAVID SHOEBRIDGE: What is the reason? Is that because they are in what is called the "zone of reduced foundation capacity" or something like that? Why is it that they are ineligible? Is there mapping?

Mr PIGG: Under the natural disaster relief guidelines recreation areas and natural areas are deemed as non-essential infrastructure for the public.

Mr DAVID SHOEBRIDGE: Regardless of where they are located.

Mr PIGG: Regardless. So councils are left with—

Mr DAVID SHOEBRIDGE: High and dry.

Mr PIGG: —those costs, which are really quite substantial. Fourthly, there is the extent of the Aboriginal land claims issue, with something like 28,000 outstanding claims at the moment. It is a terrible situation from our point of view. It is leaving people in limbo. It means that all of those lands subject to the claim are sitting idle and nothing can happen with them.

The Hon. LOU AMATO: Of those 28,000 claims in New South Wales, do you know the number in Shoalhaven?

Mr PIGG: Not off the top of my head. It is quite substantial.

The Hon. LOU AMATO: Could you please answer that question on notice.

Mr PIGG: Yes. One of the core objectives of the Aboriginal Land Rights Act was to use the benefits accrued from land dealings to improve cultural, social and economic outcomes for Aboriginal communities. That obviously cannot happen when these claims are still outstanding. I think there are opportunities to increase Aboriginal involvement in the management of Crown lands. It needs the speedy resolution of these outstanding claims as a start. Only then can local councils work with land councils to explore opportunities. There may be opportunities for joint ventures.

There will be opportunities for land councils to protect culturally significant areas—one of the primary aims of the land claims. The land councils will have opportunities to also gain economic outcomes for their communities. In doing so councils and the State Government should be ready to assist or partner if requested or necessary. This requires building strong relationships and trust between local councils and Aboriginal land councils. To unlock that potential it might be helpful if the State could provide access to no- or low-interest loans to support joint ventures of that nature.

In summary, we are generally supportive of the direction the Government is taking. We have some concerns, and there need to be funding safeguards to avoid cost-shifting for local government. There are certainly opportunities to release economic potential at some key Crown land sites—we are proposing that that is through precinct planning—and the Aboriginal land claim issue must be resolved. I might leave it at that.

The CHAIR: Thank you. Are there any further opening comments? Are you happy to take questions?

Ms FURNESS: I would like to make some points, if that is okay.

The CHAIR: Yes.

Ms FURNESS: Shellharbour is in the very fortunate position of having a number of its own coastal lands that abut the Crown estate. I think that the State Government needs to be a good land manager—that is really, really important. It is subjecting local government to an increasing rigour around infrastructure renewal and maintenance. I think that the Crown needs to do the same, especially in those areas on the foreshore where it is high-visibility, there are high tourism numbers and there is a lot of potential there.

I would like to also make a couple of comments about opt in, opt out. We were happy to take the Lake Illawarra lands, we were managing them anyway, but often the State cherry-picks the things that it wants to give up. Local government is in the best position to actually assist the Crown in the management of that land and also to provide leverage. For instance, in Shellharbour there is a large tract of foreshore land which is Crown land, but the council is developing Shell Cove, which is the largest public private partnership in Australia with local government. That will be a huge bonus for Shellharbour. Our vision is a golden mile, so you would come from the marina down to the foreshore, but we need the State to enable to us do that linkage for that foreshore land.

I think too there is a real need in the Crown reserves. We generate money from the tourist park on Crown land, we can spend that money on Crown land, but I think there is a case for being able to spend that money on adjacent infrastructure such as the car parks that are on council land that facilitate access and amenity to Crown lands. I think that would provide a much better experience for local communities and the visiting public. I would also just like to talk a little bit about land claims. I am a New Zealander

Mr DAVID SHOEBRIDGE: We can tell.

Ms FURNESS: I had a little bit to do with the Maori in New Zealand. My general comment is that while you have outstanding grievances you cannot actually move forward and Aboriginal people will not be able to improve and develop economically and socially. All of that energy just goes into trying to right past grievances. Once you get past the grievance stage then they can actually move forward. I think that is a positive thing. I would encourage the Government to look at models of co-governance and co-management. I think that is really important.

Briefly and in conclusion I would like to say the Crown estate in New South Wales is among the most beautiful in the world. You will struggle to find things that are much more beautiful. It has incredible significance in terms of economic contribution and it has the capacity to enable local communities including the Aboriginal community to leverage off this economic contribution. Once it is sold and gone and has inappropriate development built it is hard or maybe impossible to get it back. From our council's perspective we would not want to see any of the Crown lands in the Shellharbour area sold. We believe that because of its linkage and contiguity with our own holdings it will be detrimental to the council area. I wish you well in your deliberations. Thank you.

Mr COYTE: Crown land itself only represents about 1 per cent of Wollongong in total, although more than half of Wollongong is in State government ownership and most of that is through the catchment authority and national parks. The Crown lands in Wollongong are extremely important to us. Most of those Crown lands are foreshore lands. Some of those are under our management as trustee. They contribute very strongly to Wollongong's attempt to shift itself from a steel and coal city to a service city. They are not only important to the residents of Wollongong, as I am sure is the Shellharbour and Shoalhaven experience. We have a very large visitation from Western Sydney and the Southern Highlands, particularly in the summer, so their beach is our beach. Those lands serve not just the city of Wollongong but also the broader Western Sydney environment.

Some of the issues for us are around the management of Crown lands and the differing management in terms of being under a Crown Lands Act or a Local Government Act. We have already heard Mr Pigg talk about the community lands legislation. We often find that we have a lessee who has managed his occupation of a site and he will be half on Crown land and half on community land. That poses some real issues in terms of leases and management. The devolution of local interest lands is something that we support but given that most of our

Crown lands again are coastal lands and those foreshore lands are being excluded from that, it seems that for us it is taking the best part out of those Crown lands and the most important part to the city itself.

We do not have a lot of Aboriginal land claims but we have a couple of key sites where we would like to see those issues resolved. One of them is a parcel of Crown land that sits beside the Helensburgh cemetery, just as one example. We cannot expand that cemetery because that cemetery is constrained with some other environmental issues, whereas the Crown land is clear and would provide opportunity to deliver cemetery lands particularly to south-western Sydney, which is struggling with supply. In general I guess we support what is proposed. Our earlier submission supported in principle what was proposed in the legislation. But likewise we say that it needs to consider that if we move along the lines of a devolution and council is required then to write the plans of management for its 49 Crown trusts there is about five years of work in that. Under our legislation there is a lot of community consultation involved, which is a good thing of course, but they do take some time.

The CHAIR: My first question is probably to Mr Pigg because it involves the NSW Crown Holiday Parks Trust. Does this system work with council managing the holiday park trust and, if so, how does it benefit the city?

Mr PIGG: The Crown Holiday Parks Trust was set up for a specific purpose. It was really to take over properties that were in private hands that were not operating or performing to industry standards. Councils such as ourselves would not wish to release our tourist parks at all. We would certainly wish to retain them. They are a very valuable resource in terms of tourism product and how the whole council markets tourism in the region. They are important from that perspective. They are also important from a financial perspective in having some surplus revenue to be able to spend on maintaining the natural areas and reserves of Crown land that adjoin them or are in the general vicinity.

Mr DAVID SHOEBRIDGE: How many tourist parks do you have, Mr Pigg, and where are they?

Mr PIGG: We have 11 tourist parks under lease and a twelfth one that is under a different tenure.

Mr DAVID SHOEBRIDGE: All on Crown land?

Mr PIGG: All on Crown land.

Ms FURNESS: We have one. We would like more.

Mr DAVID SHOEBRIDGE: There are none in Wollongong?

Mr COYTE: We have three.

Mr DAVID SHOEBRIDGE: For the strip of coast there are 15 or so?

Ms FURNESS: And private parks.

Mr DAVID SHOEBRIDGE: But on Crown land there are 15?

Mr PIGG: Kiama has three on Crown land.

The CHAIR: The revenue made from those is pretty restricted as to where it can go. Can you tell us some of the places it goes in terms of maintenance and assets?

Mr PIGG: One of the key issues about the tourist park site is that you return investment into the product itself to make sure it is maintained and improved and kept up to contemporary standards of what visitors and tourists are expecting. A big proportion of the revenue is obviously to maintain and improve the parks themselves. Then we have, as I say, lots of foreshore lands, Crown trusts, right across the city that do not have any revenue generation. So we will use any surplus funds from the holiday parks—

The Hon. MICK VEITCH: So you cross subsidise.

Ms FURNESS: Yes.

Mr PIGG: Yes.

Mr DAVID SHOEBRIDGE: Is it the situation that you are able to spend the funds that come from that parcel of Crown land on other Crown land but not on council land?

Ms FURNESS: That is right.

Mr PIGG: That is correct.

Mr DAVID SHOEBRIDGE: Do you find that frustrating?

Mr PIGG: It must be spent on Crown land.

Mr DAVID SHOEBRIDGE: Ms Furness said she found that frustrating because she could not improve adjoining community land to benefit the Crown land. Have you found that, Mr Pigg?

Mr PIGG: In some locations that is a fact. I guess the issue for us is that we are already having to find additional funds out of our normal rates to support expenditure on Crown land so we are not in the position of having excess funds to spend on council lands in any case.

Mr DAVID SHOEBRIDGE: So largely this is a submission to say, "Leave well alone. Council needs to retain and manage these in the interests of the local community and as an important financial resource." "Leave well alone" is your principal submission, Mr Pigg—is that right?

Mr PIGG: That is correct.

Mr DAVID SHOEBRIDGE: Mr Coyte?

Mr COYTE: Yes. I would agree with that.

Mr DAVID SHOEBRIDGE: Ms Furness?

Ms FURNESS: I would agree too, and I think it is in the Government's interest because they do not have the capacity to manage those lands as they should. Local government is ideally placed to manage those on an ongoing basis. We do all of Bass Point.

The Hon. LOU AMATO: As councils, have you identified which Crown lands would be beneficial to council and which would not? It would probably be a lot harder in Shoalhaven's case—perhaps you have not had the opportunity yet—but Wollongong and Shellharbour might have had that opportunity. If you have not, you are welcome to take the question on notice.

Ms FURNESS: All of the foreshore lands, and that is not a great lot. We do not have as much as the other councils. But we have been managing them for a long time. Because Bass Point is so significant for the local Aboriginal community there is a real opportunity there to have co-governance and co-management—

Mr DAVID SHOEBRIDGE: Is there a land claim over that?

Ms FURNESS: I think there is. Because of where our marina is going to be—and there are also plans for an Aboriginal interpretive centre—you then have some ability to say, "We are generating money from the tourist park. We are managing Bass Point. How about we give that to the local Aboriginal community? Then they can do training of their young people. They can do tourism there."

The Hon. LOU AMATO: So you can unlock a lot more economic benefit for everyone concerned.

Ms FURNESS: I think so. I think there are some real opportunities there. That can only be a good thing.

The CHAIR: That is one of my points: You already identified that if you have Crown land like that or a holiday tourist park you are fairly restricted as to where you can spend those funds. For instance, with the high tourist areas you might want to do some beach restoration for the good of the environment as well as for tourism. You cannot just put those funds across there to do that, can you?

Ms FURNESS: Not if it is our land.

The CHAIR: Or if it is the surf lifesaving club you cannot just give it to them to look after the tourists that are coming from the holiday tourist park who are swimming in that area. It is fairly restrictive. In regard to recreational areas, Crown lands are quite often on sporting fields. Are there any environmental offsets if you are trying to build a new recreational area? What is the process there?

Mr PIGG: Offsets are managed more through the environmental legislation—the Native Vegetation Act, which is under review. We have certainly had examples in the development of the Bernie Regan Sporting Complex whereby we had to provide offsets. It does create an issue for councils. It can actually create a situation in which it is cost prohibitive in providing sporting facilities in certain zoned lands. You are trying to find cleared lands, basically, for those sorts of activities.

Mr DAVID SHOEBRIDGE: Where you are not going to have the environmental impact that you have to pay for.

Mr PIGG: Exactly.

The CHAIR: Do you know what the offset ratio normally is for that?

Mr DAVID SHOEBRIDGE: They make it up on a case-by-case basis, Mr Chair.

Mr PIGG: Too much—no.

The CHAIR: It is not just recreational areas. I guess some of it could be industrial areas as well. I am aware of that in Ulladulla, obviously.

Mr PIGG: I guess the key point there is that, with the repealing of the Native Vegetation Act, it is a matter of watching this space and looking at the detail of what comes in as the regulation that replaces it.

Mr DAVID SHOEBRIDGE: Are you seeing that as an opportunity to clear environmentally sensitive land at a lower cost?

Mr PIGG: No. I think that would be irresponsible for councils, anyway, to be thinking like that. It is an issue of trying to get the right balance in locations.

The CHAIR: I will ask one more question. In terms of Aboriginal land claims, we are hearing that one of the frustrations about the Aboriginal land claims is that they are taking so long, 30-something years after land rights have been established. I take Ms Furness's comments about her experience with New Zealand. Do you have any thoughts as to how that process could be quicker for those 29,000 parcels of land that are under land claim? Do you have any wisdom as to how they can be processed?

Ms FURNESS: In the end in New Zealand what the Waitangi Tribunal did was say, "Ten years." They had five years to get their claims in and another five years for the claims to be looked at. They just went for it.

Mr DAVID SHOEBRIDGE: They had to resource it though.

Ms FURNESS: That is right. That is all you can really do. If you are serious about it, there has to be money on the table, there have to be people to actually do the work and there has to be a willingness to engage. If you do not have those three things, it will just drag on and on.

The CHAIR: The second part of that is that we are saying to the Aboriginal nations, "We will give it back to you," but when we give it back we padlock it with local environmental plans and planning instruments. Basically they cannot make a cent out of it and therefore they cannot go and do what we are hoping they will do, which is feed back into the opportunities for their people and train their young people. Do you have a view about something like an Aboriginal State environmental planning policy [SEPP] that can clear the way for them to operate within a different set of guidelines to help them realise the higher use of some of those returned lands?

Ms FURNESS: There has to be a way in which the Government can do that. It still needs to protect some of the sensitivities but also enable appropriate development and utilisation to occur. So, yes, that does need to be there. I look at Bass Point. You could do some really cool stuff there such as a camp out with the Aboriginal people telling about their Dreamtime, but you cannot do that at the moment. Those sorts of things would be fantastic.

Mr DAVID SHOEBRIDGE: But the problem lies in the development of claimable land, doesn't it? For the Aboriginal land council to make out it is claimable land under section 36 of the land rights Act they effectively have to prove that it cannot be used for residential or recreational purposes and therefore in making their land claim they are almost proving the case against themselves when they want to come in and put forward a development opportunity. Maybe we should be broadening the definition of "claimable land" and not be pigeon-holing it to only those parts of the State that nobody else wants to develop, if you like.

The CHAIR: It is worse than that. We are also locking them up because they will have to look after biosecurity and conservation even more as we keep saying, "You have to look after the land on top of that." They have no income to do even that.

Mr DAVID SHOEBRIDGE: I would be interested in any of your observations on that. The nature of claimable land effectively leads to the outcome the Chair is talking about.

Mr PIGG: I would agree with that summation but by default that is a generally what you end up with—whether it is a deserving of a special consideration. Nevertheless, land councils are a major, huge landowner in their own right already, even before these 28,000 claims are determined, so they are an important stakeholder in some of our thinking about precinct planning and incorporating land council lands. The current legislation framework requires you to still work through all of the environmental layers, which then would seriously restrict social and economic outcomes that you might be trying to improve for Aboriginal communities as well.

The CHAIR: Would that be the case for the university where there is some land owned by Aboriginal people and some owned by others? Would that be a good place where you could start modelling the precinct development plan that you are talking about?

Mr PIGG: The Mundamia precinct is identified for urban expansion. There are private landowners, there is council and there is the land council. We are trying to get all of those parties to move forward in a coordinated way to try to develop that land.

The CHAIR: But would that come under that development corporation model that you are talking about?

Mr PIGG: It could do, yes.

The Hon. PETER PRIMROSE: You may wish to take this on notice. When your council is considering the cost of maintenance of Crown land when preparing its budgets and forward estimates every year what elements do you take account of in terms of the cost to the council to maintain that land? I am interested in that because I am interested in trying to ascertain across the whole State ultimately the cost to local government for the maintenance of Crown lands. Even if you are not able to put a figure on it I would be interested in what elements the council takes account of when it is preparing its budget. Could you take that on notice and maybe briefly comment now?

Ms FURNESS: For Shellharbour, because the foreshore is so prominent, we go out of our way even when we have not got enough money in the Crown reserve. We take all that we can out of the Crown reserve, but it is really about making sure that the foreshore is clean and tidy and there is a generally high standard of amenity there because that is where our visitors go.

Mr DAVID SHOEBRIDGE: You are outcome focused. You budget backwards by asking what amenity you need on the Crown land and then you deliver that out of a very constrained budget. Is that how you work?

Ms FURNESS: Yes, and we do not have enough money to do that but we have taken the point of view that this is our premier real estate and ours abuts it as well. Our view is we want a golden mile from the marina, we want all of those linkages and we want consistency and so that is what we do.

The CHAIR: Would you be able to give a figure for the full cost recovery shortfall of managing Crown lands, for instance?

Mr DAVID SHOEBRIDGE: It is about \$7 million in Wollongong and \$2 million in Shoalhaven.

Ms FURNESS: Ours could be between \$1 million and \$2 million depending on what infrastructure we were doing at that point in time.

The CHAIR: That shortfall is without including noxious weeds management, which is not totalled up, is it?

Mr DAVID SHOEBRIDGE: It is part of it.

Mr PIGG: Can I add to that, that is a standard sort of figure per annum. As a result of the east coast low in June our early estimates are about \$1 million to immediately restore damage to natural areas and foreshore areas.

Mr DAVID SHOEBRIDGE: I saw some of that damage at Collingwood Beach. I could see hundreds of thousands of dollars that council was going to have to pay just there.

Mr PIGG: And about \$7 million for more permanent issues. They are funds that council just does not have.

Ms FURNESS: Ours will be in the vicinity of \$8 million. We have got major damage to a seawall.

Mr DAVID SHOEBRIDGE: Just from that one storm?

Ms FURNESS: Yes.

The CHAIR: But that is the stuff that you have been made aware of and been able to map. We are talking in the Shoalhaven about 109 beaches. Council has not been across 109 beaches to see all the damage. That is why I am saying it is not quantified in real terms.

Mr DAVID SHOEBRIDGE: Shellharbour has \$8 million worth of damage from one storm, and no contribution from the State or Federal governments because of where it is and the nature of it?

Ms FURNESS: At the moment no, but we are still in the process of gathering our information.

Mr COYTE: Our early estimates were about \$2 million across the 27 beaches but that was a suck-it-and-see type of estimation. We have not gone down to the fine detail yet. Just to answer the Hon. Peter Primrose's question, at Wollongong we prepare our budgets for all of our assets—and the process applies back to the Crown lands as well—through our asset management planning. We have two parts: the maintenance of green space and the maintenance of the built form on there.

Certainly buildings form a large part of our spend. We have 17 surf club buildings. Half of those are on Crown lands, half are on our own. We are in a process of rebuilding all of our infrastructure in terms of playgrounds and picnic shelters, given that we have this influx of population particularly in the warmer months, that we are looking to build. The \$7 million that we estimate is real dollar spend. It does not include depreciation, being replacement of those assets at some time in the future. A net \$7 million after income is quite a burden on our community.

The Hon. MICK VEITCH: It begs the question then if it is costing councils that sort of money to maintain the Crown estate within your boundaries at the moment why would you take on Crown land with the new Act? If it is costing your ratepayers that sort of money why would you want to take it on?

Mr COYTE: We will be spending it whether we have it or not, I guess. We manage Crown lands under two ways. Under care and control it is devolved to us through the Local Government Act so we have the opportunity to maintain that land but we have very little input into how we then manage that land, lease or licence it or what we might do to develop that land. Under trust we have a lot more say in how we are able to manage that land. Whilst we still have the spend, there are a lot of Crown lands where we do not have control or input into how that is managed and dealt with. If you take those lands on you then have that input and the community gets a much bigger say if we are then starting to develop community plans of management around those parcels of land.

The Hon. PETER PRIMROSE: Just to finish off that question, I was wondering if you could take it on notice. I am interested in not even necessarily the cost to your individual councils but the elements that you take account of. Following on from that, and the Hon. Mick Veitch referred to it, the Minister indicated on Friday that there would be an opt in, opt out provision. Basically in relation to local lands he is proposing that councils would have the option of deciding not to take on local lands under the new legislation. I was wondering what your response was to that. For instance, in terms of opting in and taking land on—and this relates to my earlier question—what additional elements would you require to make that decision? For example, you have already indicated having a greater say. I would imagine there would be issues to do with cost shifting. I am interested in the elements that would help you to make a decision in relation to whether you would take on local land.

Ms FURNESS: I think for us to opt in then it is all or nothing. We want to be able to control what happens, we want to be able to manage it. We are happy to engage with the Crown, but that actually becomes quite difficult because of the churn in the Department of Lands that has been shrunk down to a very small size. So that becomes difficult. I think too you are dealing with people who are not in your local area.

It is either in Nowra where it is a very small team or you are dealing with people in Sydney. I am not being disparaging but quite often there are very specific local issues and things that councils are aware of and councils want to do that somebody who does not live in the area may not be aware of. For us it is all or nothing. You do not want to say, "Opt in. However, we are going to tie two hands behind your back. You are going to pay for it all but you are not going to get anything out of it."

Mr PIGG: We would need to understand what the alternatives were if we did not opt in. If we were already responsible either through the care and control or through formally being the trustee, if it did not flow to local government, how would the Crown actually manage that? We would need to assess sites in terms of their real benefits and activation by the community in general. If they are active sites or active access sites to the beach et cetera the community expectations are that the council will just deal with it. One of the issues we are facing with the issues we have just spoken about is managing community expectations that the council will just go and fix these issues anyway.

Mr DAVID SHOEBRIDGE: And the State Government may say, "You can choose to have it or not, but if you do not take it we are going to flog it off to a developer or we are just going to ignore it." It is not just a pure dichotomy of "well-managed in the State" or "well-managed by local government". It is what the alternative to that land is if you choose not to take it on—is that what you are saying?

Mr COYTE: Indeed.

Ms FURNESS: Yes.

Mr PIGG: Yes. We would need to understand what that was. I come back to the Chair's point about the 109 beaches. Obviously with most of those beaches we would rely on natural process to rebuild the sand, the beach and the dunes. The figures that I quoted were only on very few locations across the whole city which has 165 kilometres of coastline. I am only referring to the real hotspots that it is impacting on—either infrastructure or active recreation areas.

The CHAIR: That was exactly my point. It is not true full cost recovery for the issues you are dealing with on the coastline. Thank you.

The Hon. MICK VEITCH: I am struggling with the concept that you are losing money on the operation of your Crown land but councils seem to be keen to take it on in the new environment. If the Government was to go down this path of opt in-opt out and you decide to opt in, what standard of arrangements would you require to be in place for you to opt in—for instance, every piece of Crown land have some sort of plan of management that has been through a rigorous process or the dollars required so it comes to you cost neutral? What would be the bare minimum requirements for you to opt in for all the Crown land within your council boundaries? I am a former councillor. If this is costing your council and your ratepayers money and you are effectively doing the State a big favour, why would you want to?

Ms FURNESS: Yes, but it is so contiguous with our land holding. We have got a you-beaut, schmick marina and foreshore that is our coastal land and then we have the Crown—and it is dreadful. Not all of it is. It is just not managed in the way that we would like it in its level of amenity. Then we have more of our land and a little bit of Crown again. Because we want consistency and because tourism is our thing, we want it all to look neat.

The Hon. MICK VEITCH: What would you need it to be? Would you take it in its current state?

Ms FURNESS: What choice have we got?

The Hon. SCOTT FARLOW: To assist on this point, Shellharbour is probably a little different to Shoalhaven. Shoalhaven already manages a lot of that Crown land as it is. You would still be likely, even if you were not to opt in to this system, to be in the position of managing that land—is that correct?

The CHAIR: The status quo.

Mr PIGG: The dilemma you would have is around the community use of those lands and the expectation that councils would provide and maintain them. If you opted out, the worrying part would be how the Government through Crown Lands would actually manage those lands—or would it not be managed at all?—and in terms of funding support.

Ms FURNESS: All of us manage the estate, but we are very careful about what infrastructure we put on it because we do not want to spend lots and then have it taken away.

The Hon. MICK VEITCH: But you can see what I am getting at.

Ms FURNESS: Yes. We are a little more circumspect about what we have there. We would like to actually develop our golden mile—that whole foreshore—with a precinct plan with expenditure.

The Hon. MICK VEITCH: Mr Coyte?

Mr COYTE: I might draw a few threads together from some of the comments that have come from around the table with an example, which was the Lake Illawarra lands. When the Lake Illawarra Authority folded, council was offered all those lands and at that time for its own reasons it chose not to take them. A lot of those lands were then transferred to Property NSW who quite rightly looked at them and said, "Here is a beautiful piece of land sitting on the lake," and they came to council with a range of development scenarios for these lands. The reason we would take them nowadays is because those lands are probably some of the only parcels of open space in a fairly densely populated area with a very low Socio-Economic Indexes for Areas [SEIFA] number.

To put high population densities back into that space by using up the only green space that was available—the only open space for that community—would have been a travesty. So council would take those lands knowing that they are still going to have to spend money on them to maintain the open space for the community in that space. It is not just a case of "Why would you take them, because you are already spending money on them?" When you look at each individual parcel on a case-by-case basis, they all have different inputs into the community and benefits to the community. There might be some about which we would say, "We do not really want that parcel of land. If you take it and develop it, well, fine. But we certainly want that one."

The CHAIR: So local government should really get to cherrypick what you want rather than the State Government.

Ms FURNESS: Yes.

Mr COYTE: I do not think it is cherrypicking. I think it is actually serving a real—

The CHAIR: I did not bring up the cherrypicking. I think Ms Furness did.

Ms FURNESS: I did.

Mr DAVID SHOEBRIDGE: I think Mr Coyte is saying that local councils are aware. It is the same as Ms Furness was saying. You are on the ground. You have strong local knowledge about how best to protect or enhance Crown land. Do you feel as though your knowledge is respected by the State Government? Is there a process to allow it to be respected?

Ms FURNESS: It depends on personal relationships really. I was involved in the negotiations with the State over the Lake Illawarra lands. The Berkeley lands with the King Street Wharf were never, ever offered to Wollongong council. It was off the table prior to the council being offered everything else. That had already gone because it was the most valuable land. Some of it was reclaimed land.

Mr COYTE: Most of it.

Ms FURNESS: So, no, there is no real process. It is very much dependent on your personal relationships, who you know in the department and, you know—

Mr DAVID SHOEBRIDGE: Is that your experience, Mr Coyte? Is there not only no actual process but in fact all the goodies are taken away first of all and you are only offered the leftovers when they are willing to come and talk to you at the table?

Mr COYTE: On occasions—that is correct.

Mr PIGG: A key issue in this whole exercise is that we are in the position of trying to get the best outcomes for the community at large. That is why we raise these issues about the cost-shifting potential with Crown roads and other facilities and particularly the foreshore and coastal processes that it is impacting. It does not matter where you sit in terms of climate change and severe weather events, predictions say that we will get hit more often and more intensely, so that is going to impact more public assets and public interface between land and ocean. At the moment, subject to further discussions, it really looks like local government is just being told, "Well, you're trustee of these lands; it's your problem."

Mr DAVID SHOEBRIDGE: "Suck it up"?

Mr PIGG: Yes.

Mr DAVID SHOEBRIDGE: Just on that, we will be hearing from residents around Collingwood Beach, a number of whom are deeply concerned about the environmental approach being taken to the pruning—some would say clearing—of the banksia and the potential destabilising of the dunes, prejudicing both private and public infrastructure. Have you read those submissions?

Mr PIGG: I am quite aware of the issues.

Mr DAVID SHOEBRIDGE: What do you have to say to those who are deeply critical of the proposal by council and who say that in fact the management of those dunes will prejudice the public and private infrastructure there in the same way that happened four decades ago during those extreme storm events?

Mr PIGG: That is a pretty sensitive issue.

Mr DAVID SHOEBRIDGE: Which is why I am giving you the opportunity now. People will be saying things on it later today and you should have your chance now.

The CHAIR: You can give us council's position, Mr Pigg.

Mr PIGG: There are very clearly two different points of view where people sit here. One is in terms of wanting to manage the dune system and vegetation to retain people's views and outlook over Jervis Bay. Their point of view is that to do that requires a management regime over vegetation, the removal of some and only planting certain species and the like. The other school of thought is that the vegetation is required on the dune system to stabilise it and protect property and public assets from events in the longer term. Both sides have science and evidence to try to support their case. One side says it is not necessary to have large trees to retain stability of sand dunes; you can have smaller species, shrubs or grasses or whatever. Others say that is not the case; you do need a mixture of small and larger vegetation. There is no doubt since the 1970s when the major

damage to that area happened the beach has actually accreted and whether that is a longer-term cycle who actually knows.

Mr DAVID SHOEBRIDGE: Or it just means you have not had a big storm front coming from the south-east ripping up through that part of the bay?

Mr PIGG: That may be the case.

Mr DAVID SHOEBRIDGE: So what is your view?

The CHAIR: We need to conclude. I think Mr Pigg has given a very fair political understanding of the matter. We will have evidence this afternoon from both sides where the Committee can undertake further investigation and work out where we sit on this. Unless Mr Pigg particularly wants to go any further on that matter?

Mr PIGG: I think I have successfully sat on the fence on that one.

The CHAIR: We need to finish but I invite members to put a final question for the witnesses to take on notice.

The Hon. MICK VEITCH: I have several, so I will wait.

The CHAIR: I have one in regards to Crown lands. As we travel further out into regional and rural areas I would be very interested in how you think "paper" roads should be managed. Secondly, in the Shoalhaven City Council submission you have written about specific issues to further inform the upper House inquiry into Crown lands. I would like for you to say what you think is the way through those issues and challenges.

Mr DAVID SHOEBRIDGE: Those six points, which were all good.

The CHAIR: They are very good. I would have liked two hours with you to answer those six points but we do not have time.

The Hon. LOU AMATO: Mr Coyte, you have a park or an oval at Wollongong where they do skydiving.

Mr COYTE: Yes.

The Hon. LOU AMATO: Are you aware of residents' concern with that property at the moment?

Mr COYTE: Yes.

The Hon. LOU AMATO: One thing they are saying is that they do not believe the amount council is charging that enterprise is sufficient to cover the cost of the use of that facility. You can take it on notice and come back to us.

Mr COYTE: Very quickly though, it is based on a commercial valuation.

The Hon. LOU AMATO: I think it works out to \$4 a jump. Correct me if I am wrong.

Mr COYTE: It is not based on per jump. There were several commercial valuations undertaken to set that, but I am happy to provide that data for you.

The Hon. LOU AMATO: I think council bases that on what they call market value.

Mr COYTE: Correct.

The Hon. SCOTT FARLOW: Mr Pigg, in your submission you made some comments about areas of Crown land for economic activation or of significant economic importance. I am wondering whether Shoalhaven has done the assessment of your current Crown land areas of management and what areas you might have identified as potential areas of economic importance.

Mr PIGG: We can come back to you on that.

Mr DAVID SHOEBRIDGE: Again I want to say that I am impressed by the intellectual rigour that council takes to these issues. I appreciate all the work you do.

Ms FURNESS: Thank you.

The CHAIR: You have 21 days to answer any questions you have taken on notice. The secretariat will be glad to help you and will assist you in achieving that. If there is anything further that you think we should know please feel free to include that information as part of your answers. I know you are busy people and so I

thank you for your commitment to your cities and in particular your commitment to the governance of grassroots communities. Thank you for your time.

(Witnesses withdrew)

PETER SMITH, Director Environment Services, Snowy Monaro Regional Council,

ROB ADDISON, Property Manager, Eurobodalla Shire Council,

TIM GEYER, Manager Parks and Garden, Queanbeyan-Palerang Regional Council, and

GABRIELLE CUSACK, Executive Officer, Canberra Region Joint Organisation, sworn and examined:

The CHAIR: Were there any opening statements?

Ms CUSACK: Yes. I will provide some opening comments and then I will hand it over to my colleagues. As I said, I am the executive officer of the Canberra Region Joint Organisation, known as the CBRJO. We have seven members of New South Wales councils as part of the joint organisation [JO], as well as the Australian Capital Territory [ACT]. Those councils include the Eurobodalla Shire Council, Goulburn Mulwaree Council, the Hilltops Council, Queanbeyan-Palerang Regional Council, Snowy Monaro Regional Council, Upper Lachlan Shire Council and Yass Valley Council. As I indicated, the ACT Government is also a member of our JO—an important member at that. The collective area of the Canberra Region Joint Organisation is about 48,000 square kilometres and together we represent about 560,000 people.

Generally the New South Wales member councils of the JO support in principle the transfer of certain Crown land where there is a strong community interest and also where councils are managing the asset, subject to ongoing discussions. We appreciate the opportunity to come and give a presentation at this hearing today. Some of the things raised will probably be reflected in what was previously noted by the Illawarra Joint Organisation. I might just hand over to my colleagues who can continue the conversation.

Mr GEYER: To start with I will address the fourth term of reference which is the Aboriginal land claims and land management. Councils are collectively concerned about the high number of outstanding land claims throughout New South Wales. The uncertainty of these claims leaves doubt and so forth in both the Aboriginal community and the wider community as to the future of these reserves. Having said that, any transfer of lands to councils under the proposals would need these to be addressed and not left to the councils to be resolved afterwards. As for Aboriginal involvement in public lands, there is already a very large number of examples where there is joint management giving benefits to the community at large, whether through training of young people or improvement of natural areas. Joining the land councils or corporations with councils' resources and community groups such as Landcare and so forth can return a benefit that none of those groups are able to achieve in their own right.

On the point of management and accessibility of Crown reserves, I represent parks and recreation and have done for about 38 years. To the general community a park, a sports field or a showground is their community facility. They do not know that it is Crown land, community land or whatever. They give significantly of their own time and councils give significantly of their resources and rate revenue in the management and improvement of those facilities. I know of one sports field in Queanbeyan where the dividing line between Crown and community land is straight down the middle of the sports field. This relates to a comment made by the Illawarra group—were council to opt in or opt out, I do not know how we could not opt in in that circumstance.

Having said that, in relation to Crown roads it is a very different story. Councils would gladly take all of their public parks and all of the sports fields, showgrounds et cetera and continue to manage them without the duplication of the Crown Lands Act as opposed to the Local Government Act. But when it comes to Crown roads, many of the Crown roads in rural and regional areas are unformed. They may have been built by a local farmer or whatever to get access to their property and councils do not even grade them. To have them transferred to council would be a massive impost. Councils across the region and the State would probably balk at that unless there was some significant investment to bring them up to standard beforehand. Environmentally, Crown lands play an important role for preserving native vegetation and rare and endangered species. That can even be within a cemetery or a public reserve that you would not recognise as natural. Equally there is the major problem of weeds. Councils have largely borne the burden of weeds without any contribution or with very minimal contribution from the Crown.

On the topic of commercial development or commercial involvement in Crown lands again I speak from a public recreation point of view. Councils have a very robust process of community engagement and getting the community involved in their sports facility, park or showground. There is merit in commercial development within those sites as long as that is done with full consultation with the community and the commercial enterprise is in keeping with the dedication of that reserve. I use the example of a sports facility. There is nothing wrong with having a gymnasium, a physiotherapist or any of those ancillary sporting

businesses operating out of that reserve under a commercial arrangement as long as it is not detrimental to the values of that reserve and what it contributes to the community.

Mr DAVID SHOEBRIDGE: Is the test "not detrimental" or "supports"? When we are talking about public land surely it should be that it supports the purpose.

Mr GEYER: It should absolutely support—

Mr DAVID SHOEBRIDGE: It is quite different though, you understand?

Mr GEYER: Yes, they are quite different. But to some extent you would certainly prefer something that supports the dedication, whether that be sports or something else. It could be as simple as a café in a park where it contributes an income back to that park and makes that park more sustainable rather than relying 100 per cent on rate revenue, as long as it is not detrimental in that we have to destroy half that park in order to achieve that income and the true value of the park is lost as a result. That is how I would see it.

Again on the disposal of Crown lands, if council wishes to dispose of any community land it needs to go through a very rigorous planning process of having it converted to operational. There are public inquiries and there is a great deal of community engagement to do so. I would suggest that disposal of any Crown land should follow a similar pattern. From what I have seen in the past, if it is handed to council we certainly have to go through that but the State does not have to do that. That is where you will get a negative response from the community.

The CHAIR: Are there any further comments?

Mr SMITH: I suggest that the Committee is going to hear far and wide, particularly in rural areas, issues regarding noxious weeds and Crown roads. Although I might be going over some of what has already been said, I think it is important to note.

The CHAIR: I would like you to speak about Crown roads in particular—that would be helpful.

Mr SMITH: A lot of Crown roads were drawn on maps back when lots and portions were set up. It appears that the topographical aspects of those maps were not known at the time so there are Crown roads reserved on parcels of land that will never, ever be constructed or traversed by vehicles for that purpose. The total length of roads under the control of the former Cooma-Monaro Shire Council which I was employed at until we were recently merged was about 1,000 kilometres, 700 kilometres of which were unsealed roads. That is before we start looking at the number of Crown roads that could eventually be transferred across to council ownership.

Our rate base would tell you that we were not and probably still are not looking after the road infrastructure that we have got to the level that is expected, without taking on more Crown roads. Development along Crown roads, particularly unformed Crown roads, has been problematic. Some land is effectively landlocked unless the Crown road is developed or a right of carriageway or something is provided through. The way Crown Lands handle that is if there is a major development or major construction on a Crown road they are okay with that as long as that road is transferred over to council. Again that is an extension of the road network that a council would have to look after.

With regard to noxious weeds, I think the easiest way to say it is that ineffective weed control is actually detrimental to the land. There is no point about that. The difficulty that we have experienced over time with the management of noxious weeds on Crown land is that the agencies just do not have the resources to manage that as we as a local weed control authority are expecting our private landowners to manage their own weed control issues. There have been issues where our council has had to apply to a State agency for grant funding to undertake weed control work on Crown land. So it was quite a bizarre circumstance where the ability of council to effect weed control work on Crown land was governed by the ability of the Crown to provide funding for it to do so.

Having said that, good management of any land is good for the whole community. When I talk about the community I am referring to both a State-based taxpayer and a local government-based ratepayer as being the same entity. They are still putting their hand in their pocket regardless of whether they are paying their rates to council or their taxes to the State or the Federal governments. Some travelling stock reserves, for example, in rural areas have been identified as having areas of high ecological value, which is quite unusual when you know the nature of the land and what they have been used for in the past, particularly in times of drought. Weed control on those lands has not always been adequate and it can be that the ecological aspects of those lands can be lost if there is not effective weed control carried out.

Mr DAVID SHOEBRIDGE: But you are quite clear there is not effective weed control carried out on Crown lands. You are not ambiguous about that, are you? It is not effective.

Mr SMITH: It is not effective, no. It has been under resourced for decades.

Mr DAVID SHOEBRIDGE: Sometimes people are very nice in their submissions but let us be clear about it: They are not controlling weeds on Crown land.

Mr SMITH: Absolutely, but the same can be said for councils who manage some of their own assets and their ability to fund those sorts of controls as well. I am not just pointing the finger at the State.

The CHAIR: I am sure that is on record in the upper House because I remember we dealt with noxious weeds and said that if the farmer has to do it then so does the Government and so do local governments. Anyway, that is an argument for another time.

Mr SMITH: The funny thing is the current New South Wales Noxious Weeds Act does have requirements for the Crown to undertake its responsibilities. It is my understanding that those responsibilities will be carried over into the Biosecurity Act when it comes into play shortly. I would also touch on the Independent Pricing and Regulatory Tribunal Local Government Regulatory Burden Review from last year, I believe. There were four recommendations, recommendations 38 through 41, which made recommendations in regard to the transfer of certain Crown lands to councils, management of Crown reserves and streamlining the process for closing down roads and indeed the reducing the backlog of applications for Crown road closures. Support for those recommendations was provided by our council but on the basis that council was not left with the financial burden of ongoing maintenance and that the transfer of administrative processes and requirements was funded so that it was not seen to be and was not actually another example of cost shifting from State to local.

There are administrative quirks with how councils operate their infrastructure on Crown lands. One example is the landfill depot in the Cooma-Monaro area, which is partially on Crown land and partially on council-owned land. To lodge a development application for an expansion of a piece of infrastructure on that landfill site requires the say so of the department of lands. We have got to get their approval to lodge an application to expand on what is already an existing piece of infrastructure

The Hon. LOU AMATO: Obviously the transfer of that particular part of Crown land would be beneficial to the council?

Mr SMITH: Absolutely. It has been said before that where the council is already running it the community would not probably have an idea that it was not council-owned land anyway.

The Hon. LOU AMATO: Overall have your councils identified what is beneficial to council and the community and those economic benefits? Have you looked at what would be beneficial in regards to Crown land?

Mr SMITH: Being a newly merged council we are actually going through the process of detailing our land portfolio.

The Hon. LOU AMATO: All of you are welcome to take it on notice.

Mr SMITH: But it certainly is that we are looking at our land portfolios to work out exactly what is needed for community benefit or what could be divested. It has been said before, the lands that we are trustee of often contain Rural Fire Service sheds, swimming pools, water pumping stations and treatment facilities and those sorts of things. Again, the public would have possibly no idea that that piece of public infrastructure is sitting on Crown land. For all purposes the council is already operating that and owning it for its ongoing maintenance purposes. Council actually sets their current and proposed maintenance schedules for those lands in consultation with its community through its community strategic plans.

The CHAIR: We might leave it there and you can table the rest of your opening statement. We are aware of the time and I want to give the Committee members some time to ask questions.

Mr DAVID SHOEBRIDGE: If anyone else has a written opening statement we would appreciate it if you tabled it.

The CHAIR: Mr Addison, I note we will be hearing evidence later on from Stop Arms Fairs in Eurobodalla [SAFE]. Are you aware of that particular community group?

Mr ADDISON: Yes, I am.

The CHAIR: I handed you their submission a little earlier because I know you have not had a chance to look at it. They are pretty scathing that the right things were not done in the right way and the right order to achieve the permission that particular group has over that Crown land. Will you give a snapshot of the council's view on that or the process in that submission?

Mr DAVID SHOEBRIDGE: I think the South Coast Hunting Club got the licence and SAFE complained about it.

The CHAIR: I just wanted you to reply to that particular submission so that this afternoon we will have both sides of the story.

Mr ADDISON: The HuntFest event has been held since, I believe, 2012. It might have been 2013. They made an application for a licence to hold the event. Council considered the application and granted a five-year licence subject to consent from the Minister for Crown lands because it was over a Crown reserve of which council is trust manager.

Mr DAVID SHOEBRIDGE: That was for a photographic competition, the original approval?

Mr ADDISON: That was part of the event, yes.

Mr DAVID SHOEBRIDGE: That is all it was. It was a photographic and camping event.

Mr ADDISON: Photographic and camping, yes. There were exhibitors and stalls.

Mr DAVID SHOEBRIDGE: It was not an arms fair.

Mr ADDISON: No, it was not an arms fair. That is correct. Subsequent to that applications were made to change the content of the event. That was put to council and again council resolved to grant variations to the five-year licence subject again to the Minister's consent. That went through that process.

The Hon. MICK VEITCH: When were the variations made?

Mr DAVID SHOEBRIDGE: The application was in September 2014 and the decision was made in 2015. Is that right?

Mr ADDISON: That is correct, yes.

Mr DAVID SHOEBRIDGE: In their submissions 81 per cent of local residents opposed the variation, but nevertheless council determined to do it.

Mr ADDISON: There was no referendum in the shire to determine that 81 per cent of the—

Mr DAVID SHOEBRIDGE: The submission we have says that of the 204 submissions received from local residents 81 per cent opposed it. Do you have a reason to suggest that that submission is wrong?

The Hon. SCOTT FARLOW: I think what Mr Addison is saying is it was not a referendum. It was the amount of submissions that came forward. Is that correct, from what you are saying?

Mr ADDISON: That is correct. There were 204 submissions—

Mr DAVID SHOEBRIDGE: From residents, and 81 per cent opposed it.

Mr ADDISON: That may have been the case—yes.

The CHAIR: In light of time so we can get to the next questions, I am merely asking whether, in your view, being aware of the use of that land, were the right things done the right way in the right order or does the submission which suggests that that may not be the case hold?

Mr ADDISON: I believe that everything was done in accordance with procedures and the correct processes.

Mr DAVID SHOEBRIDGE: Mr Addison, rather than just with a coverall, paint-over answer, you are probably better off taking the question on notice and dealing with the intricate elements in the submission. That would seem a fairer way of doing it, do you not think?

The Hon. SCOTT FARLOW: I think Mr Addison has answered the question. I do not think you have to force him to take it on notice.

The CHAIR: Order! That is right. I put the question and I know what expectation I had. I want to hear that the right things were done the right way and in the right order of the process.

Mr DAVID SHOEBRIDGE: Without any detail.

The CHAIR: Mr Addison had actually mentioned that that is his view of the matter. I will prosecute the case this afternoon with the other witnesses as to why they feel differently about that. Are there any further questions?

The Hon. MICK VEITCH: This is a question you could take on notice. Some of you were here for the previous evidence and you heard the questions about the cost to your respective councils of administering, managing, looking after and caring for Crown land in your council areas. I am not sure if you have those numbers available, but you could take the question on notice and get back to us as to what it actually costs. I want to ask about plans of management and whether or not your councils have been involved in processes for plans of management. I admit I spent 12 years at Young Shire Council which is now Hilltops so I was part of your organisation for a while. The reason I am asking this question is some councils have them on some lands that they are trustees for but not all. I would like to know the process you follow to get a plan of management where you have done it.

Mr GEYER: Certainly in councils that I have worked in—Queanbeyan-Palerang Regional Council and other councils also—we have the generic plans of management as dictated under the Act for community lands and to some extent small parcels of Crown land which might be just a pocket park or whatever will be captured within those but then we would have specific plans of management that are developed for larger reserves. So in Queanbeyan we are developing a plan of management for Queanbeyan Park, which is a Crown reserve. We certainly have a plan of management for Seaford Oval, which is a Crown reserve. We are working our way through them. Most councils have a similar approach. As far as I am aware, unless the Crown instructs us to prepare a plan of management they do not provide funding. It is borne by the council.

The Hon. SCOTT FARLOW: How often do you prepare these plans of management?

Mr GEYER: A plan of management generally has about a five-year life before review. In the case of the Queanbeyan Showground plan of management it is probably 20 years old but it has been reviewed regularly over that time.

The Hon. MICK VEITCH: And signed off by the Minister?

Mr GEYER: Yes, it is signed off by the Minister if it is Crown land.

Mr DAVID SHOEBRIDGE: Are all of your plans of management signed off by the Minister?

Mr GEYER: On Crown land they need to be.

Mr DAVID SHOEBRIDGE: I know they need to be to give legal effect, but are they all signed off by the Minister?

Mr GEYER: I would suggest that Crown lands captured by the community lands plans of management are not. It would only be those that are specifically prepared over large Crown reserves.

The Hon. SCOTT FARLOW: So are you saying, for instance, with that park you talked about where half of it was on Crown land and half of it was on local government land that it would not be signed off by the Minister and it would be encapsulated in a broader plan?

Mr GEYER: That is absolutely correct. That would be captured by the council's community lands sports facilities plan of management which would be multiple reserves.

The Hon. MICK VEITCH: That is sort of what I am getting at. What is the difference in the rigour that is applied to a plan of management developed under the Crown Lands Act as opposed to one developed under the Local Government Act for your community land? Which is the better system? Can they be improved?

Mr ADDISON: I do not believe there is a great deal of difference between the two. The biggest issue with the plans of management is the public consultation. Obviously they both involve public consultation and that is the biggest time-consuming process. But the actual process for the two different sorts of plans of management is basically the same.

The Hon. MICK VEITCH: So then why would you not just submit the ones that you have not had signed off by the Minister for lands and have them signed off by the Minister for lands as well?

Mr GEYER: From experience, a lot of Crown land that is managed by a council under section 48 of the Act is managed in the same way as community land. That is why I do not believe any council would balk at having that land transferred to them—because that is how they are managing it. But where they have a specific trust or something like that there is a little bit more red tape associated with that and therefore the council puts a great deal more energy into making sure all of the boxes are ticked and the Minister signs off.

The Hon. MICK VEITCH: Is there a legal obligation to have them signed off by the Minister?

Mr GEYER: Yes, there is an obligation to have a plan of management signed off by the Minister. I think the difference with the ones that are captured under the community lands is they are developed under the Local Government Act and probably oversight is why they have not gone to the Minister.

The Hon. MICK VEITCH: As we are moving to a new environment—there is a new bill being proposed—is there a better way of going about that community consultation and engagement in developing plans of management or other instruments of management? Or would you prefer to keep the model you follow under the Local Government Act?

Mr GEYER: If I may, from my experience I believe that the community is the people that have the greatest say and probably should have the most ownership, whether the Minister agrees or not. I believe that the plan of management should be developed similarly to what we do under the Local Government Act. It is adopted, it is advertised for 28 days and it is adopted by the council after that with full involvement of the community. Sending it off for a Minister's tick afterwards is bureaucracy.

Mr DAVID SHOEBRIDGE: This question is to any of you. The New South Wales Aboriginal Land Council and a number of other submissions have pointed out that it is simply unacceptable that there are 29,000 unresolved Aboriginal land claims—unacceptable for the Aboriginal community and for other local communities where the existence of an Aboriginal land claim means that that land cannot otherwise be dealt with. What is your position on that?

Mr ADDISON: That is correct. The land claims certainly need to be resolved before local government can progress in so many areas.

Mr DAVID SHOEBRIDGE: Is there a process under which the State Government is sitting down with local councils and Aboriginal land councils and prioritising the ones that need to be dealt with first in the interests of the local Aboriginal community and the wider local community? Is there any process like that?

Mr GEYER: Not that I am aware of.

Mr DAVID SHOEBRIDGE: I see heads shaking all the way across the panel. Ms Cusack, are you aware of any process?

Ms CUSACK: No.

Mr DAVID SHOEBRIDGE: Do you think it would be beneficial if they had a process like that?

Ms CUSACK: Absolutely.

The Hon. LOU AMATO: Are you aware of how many claims there are in each of your councils?

Mr ADDISON: I do not know offhand.

The Hon. LOU AMATO: You are welcome to take the question on notice.

Mr ADDISON: Yes.

Mr DAVID SHOEBRIDGE: We are talking about Crown lands being 42 per cent of the State. Given the reality and the simple historical fact that all of that land was Aboriginal land before it was claimed by the Crown, do you think in any future Crown lands bill that there should be a clear statement of priority that Aboriginal claims and Aboriginal title should be dealt with first and foremost and should be prioritised in any transfer of Crown land—given that they owned every square metre of it before?

Mr GEYER: I would say, "Absolutely." The councils need some certainty. If you are going to transfer a parcel of land to a local government entity, it needs to know that it has that and has the ability to operate. Leaving the uncertainty of a land claim in place is not good for any community—not for the Aboriginal community or the wider community.

Mr DAVID SHOEBRIDGE: Do any other witnesses have a response to that?

Mr SMITH: Could I just add that it is an area that is obviously filled with sensitivities. At the opening of this session the Chair gave acknowledgement of the traditional ownership of the lands upon which we are meeting. One issue that I think needs to be looked at in the longer term is the success or otherwise of the outstanding log of claims, of which there are many, many thousands. Are the land councils in a position to effectively manage those lands once they do become the "owners" of them?

The CHAIR: That is right, particularly if we padlock that with the current instruments and zonings. If we are going to give it back in the spirit of returning what was historically theirs, do we taint that with all of our zoning rules so they are padlocked and cannot make anything out of it economically?

Mr DAVID SHOEBRIDGE: The more fundamental issue is what land do we give back. Do we only give back the land that has so many environmental constraints it cannot be developed? We are talking 42 per cent of the State. Should we be looking at prioritising returns to Aboriginal people of land that is not constrained?

The CHAIR: With the new conservation Act there will be an increased burden on people with properties to then look after those properties.

Mr DAVID SHOEBRIDGE: We might let you answer rather than us bounce back between us.

The CHAIR: Mr Smith is saying that they will not have the resources to pay for it.

Mr SMITH: If we can just go back to that noxious weeds point of view, some of the lands that they may have a claim on now might lead to the council chasing them to carry out effective weed control work. It is a bit circular.

Mr DAVID SHOEBRIDGE: It would be no different to the Crown, though.

Mr SMITH: There is still an expectation that the legislation requires the landowner to undertake the control work.

Mr DAVID SHOEBRIDGE: But do you agree with the fundamental proposition that when we are talking about returning Aboriginal land to Aboriginal people we cannot only be talking about returning that land which has environmental constraints and other constraints so that it cannot be developed? Any bill must prioritise returning land that can provide economic benefits to Aboriginal people, not just that which cannot.

Mr SMITH: Yes, I think I would agree with that but my caution is that we need to be very aware that we might be handing a burden over even if it is developable land.

Mr ADDISON: I was just going to say that a lot of the claims are over quite usable land and quite developable land that can be rezoned. At the moment a lot of the Crown lands may well be zoned public open space or something like that but certainly once they become freehold land there would be no reason why they would not be treated like any freehold land and be able to be rezoned and then developed.

Mr DAVID SHOEBRIDGE: But the claim needs to be determined as a priority either way?

Mr ADDISON: Absolutely.

The CHAIR: We talked about the low-hanging fruit for these land claims. The low-hanging fruit needs to be those parcels of land that can give them economic opportunity or a return on their investment.

Mr DAVID SHOEBRIDGE: And there needs to be a process to identify it.

The CHAIR: I think through the State development committee we are coming up with that particular outcome. We are moving that there needs to be a coming together of all those bodies to make sure that they identify those opportunities throughout New South Wales. The deputy chair of that committee is here, so if you want to know more about that later on at lunch you can.

Mr DAVID SHOEBRIDGE: I have one further question. Mr Addison, we are going to back to HuntFest, I am sorry.

Mr ADDISON: No need to apologise.

Mr DAVID SHOEBRIDGE: Well, I am not really. One of the core complaints from SAFE is that the development application [DA] that was approved in 2012-2013 was for a photographic competition.

Mr ADDISON: That is incorrect.

Mr DAVID SHOEBRIDGE: A photographic competition together with some camping and hunting displays.

Mr ADDISON: That is incorrect.

Mr DAVID SHOEBRIDGE: Just let me finish the question. Since then the licence has been greatly expanded to include an actual registered arms fair with the New South Wales police. They assert that such an arms fair is inconsistent with the DA and therefore council has not been operating in accordance with the

Environmental Planning and Assessment Act by allowing an activity on the site which is inconsistent with the approval under the DA. What do you say to that?

Mr ADDISON: The DA was not for the event. The DA was for the temporary structures within the event.

Mr DAVID SHOEBRIDGE: Do you say the use of the land is not relevant to the DA, because that is the first time I have ever heard a council make that submission?

The Hon. LOU AMATO: You can take it on notice if you wish.

Mr ADDISON: No, the DA was not for the event per se. The DA was for temporary structures that were going to be erected as part of the event.

Mr DAVID SHOEBRIDGE: So they could use the structures for an abattoir? Surely the purpose is essential to the DA. I have never heard a council ever make this submission before. It is novel to me. They could use the structures for an abattoir, could they, on that basis?

Mr ADDISON: No, because an abattoir is not permissible and an abattoir would need a DA. The event did not need a DA because it was consistent with the plan of management over the land. If they held the event with no temporary structures—they did not want to erect anything—there would have been no DA.

Mr DAVID SHOEBRIDGE: Can I say that is the first time I have ever heard a council say that the purpose of an event is irrelevant to the nature of the DA. It is a truly novel argument, but that is the approach you have taken?

Mr ADDISON: No, it is—

The Hon. SCOTT FARLOW: I take it, Mr Addison, what are you saying is that there was a DA for certain structures consistent with a certain event. Is that correct?

Mr ADDISON: That is correct.

Mr DAVID SHOEBRIDGE: No, Mr Addison, you are saying the event is irrelevant to the DA because the event was a photographic competition and now is an arms fair.

The Hon. SCOTT FARLOW: No, what Mr Addison is saying—

Mr DAVID SHOEBRIDGE: Perhaps Mr Addison can answer.

The CHAIR: Order! If I hear it right, Mr Addison is saying that there was a DA for structures to be put in place.

Mr DAVID SHOEBRIDGE: The event is irrelevant.

The CHAIR: The consent is to make sure the structures are sound and in accordance with whatever the law says. Is that right?

Mr ADDISON: That is correct.

The Hon. MICK VEITCH: Is it possible to get a copy of the plan of management for that particular block of land just for the Committee?

Mr ADDISON: Yes.

The Hon. SCOTT FARLOW: Was that plan of management signed off by the Minister?

Mr ADDISON: It was. Also, I know your interest in Crown roads. One of the problems or one of the things that needs to be changed in the Roads Act is in regard to unformed roads. If local government was to take over Crown roads it should also come with the ability obviously to lease those roads and also to potentially close and sell those roads. But under the current legislation once even council-owned roads are closed they become Crown land. We cannot close and sell an unformed council road without the money going back to the Crown.

The Hon. LOU AMATO: I travelled on one only three days ago that went for 38-kilometres but only through rural properties. All it did was service those properties. I live on a property and I have to maintain my own road. Do they have to maintain their own roads?

Mr ADDISON: If they are on a Crown road.

The CHAIR: Is it on the user pays system?

Mr ADDISON: Yes.

The Hon. LOU AMATO: In my circumstance I and my neighbour have to maintain it ourselves. There are only two of us on the road.

Mr ADDISON: Yes, that is not uncommon.

Mr DAVID SHOEBRIDGE: In terms of roads, it is a fundamental problem, is it not? The Financial Assistance Grants [FAG] funding model needs to be reformed so that regional councils get a fair share. FAG funding for roads should be on the amount of roads you have, not the population you have. Do you agree?

Mr ADDISON: Yes.

Ms CUSACK: Very strongly.

The CHAIR: I think the west would love that. On that note, you will have 21 days to answer any questions you have taken on notice. The secretariat will help you through that. There may be some others, given the interest in different issues. Thank you for your time.

(Witnesses withdrew)

(Luncheon adjournment)

GREG PETERSON, Chief Executive Officer, Nowra Local Aboriginal Land Council, affirmed and examined:

SONNY SIMMS, Community Elder, Nowra Local Aboriginal Land Council, sworn and examined:

The CHAIR: I acknowledge the traditional custodians of the land on which we meet, in particular the Yuin nation, and pay my respects to elders past and present. I also any other Aboriginal people who are present today and welcome Mr Greg Peterson and Uncle Sonny Simms to this hearing.

Mr PETERSON: I would like the community to note that I am not an Aboriginal person.

The CHAIR: Would either of you like to make an opening statement?

Uncle SONNY SIMMS: I just got this copy a while ago.

The CHAIR: Take your time. Mr Peterson, do you have an opening statement of any sort.

Mr PETERSON: Uncle Sonny is the traditional person who has for a long time, right from the beginning of the land rights movement in regard to land here in this area, been the person who led the fight for land to be given back to Aboriginal people and custodians in this area and, in fact, right across the whole of New South Wales and Australia. My particular position has only been here for six months and I can only give evidence in regard to the frustrations both past and present in regard to Crown land claims and some of the issues that have come to my attention in that six-month tenure of my position. All of the guidance that I have received in regard to land claims of the past or possibly ongoing have come from uncle Sonny.

The CHAIR: Uncle Sonny if you are unable to make a statement we will proceed with questions?

Uncle SONNY SIMMS: I will proceed. I can go back to May 1983 when the Aboriginal Land Rights Act was first introduced and upon Nowra having the annual meeting and electing the chairperson, secretary and the treasurer. I was elected the secretary the first time and I went to the Lands department office up here in North Street. I was there for three weeks going through numerous Crown land sites throughout the Shoalhaven and sites which were very dear to us. Going back to all those years we still have claims outstanding in numerous sites. Back in the 1990s with the support of Greg Watson, who was then the mayor of Shoalhaven just prior to the Chair of this Committee, he supported about 23 land claims being pushed forward. Nothing has happened to them so far.

I know there has been a backlog of land claims not only in our local Aboriginal land council but all land councils in this State where we have been more or less blocked in numerous places. We were looking to set up a cemetery for our Aboriginal people and ourselves—up to the old cemetery in Kalandar Street and Kinghorn Street there is a parcel of land out the front, which ran from Albert Street back to Kalandar Street. We lodged a claim on that. That claim did not get a guernsey simply because council said, "We are going to build a croquet court there." That was a furphy because they had that in mind at Bomaderry, the old tennis courts. That would have been an ideal block of land for us, especially as a cemetery.

We really campaigned hard on that to get that as a cemetery for our people, the bit that adjoined the existing one there. Over the years we have been stalled with our claims. I have been to the office in Sydney and they were talking about hurrying claims along, nothing has happened. In the land council we have a stack of land claims there. It is okay to have a stack of land claims but what is the good of having a lot of land claims when you can't utilise those land claims once they are granted? Once it is granted it takes forever and a day to get a guernsey.

The Hon. LOU AMATO: How may have been approved and how many are you still awaiting?

Uncle SONNY SIMMS: I have been retired eight years.

The Hon. LOU AMATO: To your knowledge?

Uncle SONNY SIMMS: Less than 100 claims of our local Aboriginal land council.

The Hon. LOU AMATO: That is granted, is it?

Uncle SONNY SIMMS: No. Granted, yes.

The Hon. LOU AMATO: So how many do you think have been granted since 1983?

Uncle SONNY SIMMS: You would be looking at no more than 50 land claims but the claims that have been granted is billy goat country. We can't go and utilise that and build there or if possible send that land off to give our land council equity, especially where money is involved.

The Hon. LOU AMATO: There is no way of doing some sort of economic development for the Aboriginal people? You cannot make money out of it for your people?

Mr DAVID SHOEBRIDGE: Not with the land that has been granted.

Uncle SONNY SIMMS: One of the most vital pieces of land in the Shoalhaven is up along north Nowra, Yurunga Drive.

The Hon. LOU AMATO: It is beautiful up there.

Uncle SONNY SIMMS: A magic piece of land. We have had it surveyed. There is water, sewer all through there, electricity, tarred roads at the front and part of the back. We have had numerous people interested in that but we seem to stall there because prior to Lucky Gattellari and McGurk coming down—I took them up there because they were looking to buy land through the Shoalhaven.

Once McGurk and Lucky saw it they said, "We will buy it off you now." I said, "No. It does not happen that way. There is a process to take forward." So that has fallen through. But in North Nowra we have a lot of good land. With a lot of the land out towards Budgong you would want to be a billy goat to get around up there.

The Hon. LOU AMATO: Yes. It is all scrub.

Uncle SONNY SIMMS: So we have only got a small portion of land which we can build with and a lot of claims still outstanding in places that we can build. Going back a decade ago, the NSW Aboriginal Land Council sent down a team of seven blokes. They went throughout the State lodging land claims. We were unaware of that. They even lodged a claim for the cemetery out at Worrigea. The State land council never even consulted with us. We copped a lot of backlash over that claim on the cemetery when it is already in operation out there. Those seven blokes who came down should never have been here to act on our behalf without being invited by us.

The Hon. SCOTT FARLOW: On that point, we received some evidence from the State land council the other day. They said in a lot of cases they submit claims on behalf of Aboriginal people because they have more technical expertise than some of the local councils. From your perspective have you ever asked them to assist you with putting in claims because of their technical expertise?

Uncle SONNY SIMMS: We sent them away to Steve Wright at the time and to the Department of Aboriginal Affairs. They were handling the claims at that time. If that has changed hands from then to now I do not know.

Mr PETERSON: The answer is no. All claims are submitted through the Registrar of the Aboriginal Land Rights Act.

Mr DAVID SHOEBRIDGE: But the question is whether or not you ask for the assistance of the peak body, the NSW Aboriginal Land Council, in getting your claims together and submitting them because of their expertise. You know the local land but they know the process. Is that how it works?

Mr PETERSON: The answer to that question is it depends on how complicated the land deal is. As an example, you might be aware that NSW Aboriginal Land Council [ALC] is looking at making a blanket claim on stock routes across New South Wales. NSW ALC is looking at Aboriginal fishing rights which would move Aboriginal rights to fish away from the foreshore to an area further offshore. These are claims that are already engaged. Some Aboriginal land councils have been successful in claiming rivers.

A group of people have been successful in claiming part of the Georges River within the suburbs of Sydney. If that were to occur we would have a substantiation for a land claim over our own river. These are all things that depend on the cost of things—that is the issue. The issue is land claims cost money, time and effort. It sometimes moves away from the social and community supportive activities that land councils need to be doing, like taking care of their own people and their own difficulties. It moves the money away from that very important work that land councils do as well as just claiming land across New South Wales.

Mr DAVID SHOEBRIDGE: Are you saying you seek the assistance of the NSW Aboriginal Land Council on those more complicated claims?

Mr PETERSON: Yes. If we have a land deal, dealing with our own land that we have won, it is absolutely compulsory that we get permission from NSW ALC in order to move that forward after our members have agreed to move it forward.

The CHAIR: Uncle Sonny, we are talking about giving land back to the Aboriginal people through land claims. You made a statement about most of the land that you get back tending to be billy goat country that you cannot do anything with.

Uncle SONNY SIMMS: A lot of it is.

The CHAIR: In light of that, when the Government hands land back it hands it back like a painting—it is fully painted rather than being a blank canvas. For Aboriginal people, particularly in terms of being self-determining, do you think we should be able to hand the land back to you without the hindrances of zoning and other issues such as planning instruments so Aboriginal people can be totally autonomous in the way they deal with that land?

Uncle SONNY SIMMS: We have had very interested land developers come and work with us over the years, especially on one of the parcels of land up there at North Nowra. We had buyers for that and there was a stumbling block there. There was a large tree on the block: "It is the home of the black cockatoo." That stopped that deal.

Mr DAVID SHOEBRIDGE: But you did not want to chop the tree down, did you? You also want to maintain the habitat for the black cockatoo. You just want land where you do not have those environmental constraints.

Uncle SONNY SIMMS: There was no proof of the black cockatoo living in that tree. I was going to go up there and smoke him out if not get my chainsaw and chop it down.

The CHAIR: From where the Aboriginal people had the land—and I think Mr Shoebridge will ask a question about the recognition of Aboriginal land in the Crown Lands Act—are you of the view that community expectations through planning instruments handcuff or padlock the opportunities that the Aboriginal people have for their land claims if they are successful in getting them?

Uncle SONNY SIMMS: It is a double bunger. You are handcuffed and padlocked. It is the same as out at South Nowra where we built eight houses in 2004. We still got opposition from the non-Aboriginal community. People protested, "We do not want black fellas living near us." We had a big rally at council. Thank God we got up and won that decision to build our houses. One lady said, "You have land elsewhere. Why can't you build out there?" So even when land is granted to us and we put it to good use we still have opposition from the broader non-Aboriginal community.

Mr DAVID SHOEBRIDGE: When was that?

Uncle SONNY SIMMS: We lodged the application prior to work commencing on the houses—that would have been about 2002. We attended a meeting at council.

Mr DAVID SHOEBRIDGE: And do you find there is still an element of that racism, effectively, against Aboriginal people as developers or applicants?

Uncle SONNY SIMMS: Since the 1950s or early 1960s this has been classified as the third most racist town in New South Wales. That element is still here today in this town.

Mr DAVID SHOEBRIDGE: The Chair suggested I might ask this. Given that all of New South Wales was Aboriginal land and many people would say still should be treated as Aboriginal land and given that Crown land is 42 per cent of the State and we are going to change the law in relation to Crown land later this year, do you believe that any new law on Crown land should say loudly, clearly and prominently right at the front that for any future dealings on Crown land the prior Aboriginal ownership and potential Aboriginal ownership and transfer to Aboriginal people should be the single greatest priority?

Uncle SONNY SIMMS: Yes. I say that should be the number one in that because, honestly, you do not realise how much backlash we cop here when we want to build or sell land. Mr Peterson supported a lot of our claims but even some of them were knocked back. It comes up here because Nowra is the home of the black cockatoo. We also come up against the golden bell frog—he is another stumbling block.

Mr DAVID SHOEBRIDGE: Because of the way the Aboriginal Land Rights Act operates when it comes to claimable land, isn't the bigger issue that you are pretty much left with only claiming that land which cannot be used for residential, recreational or other development?

Uncle SONNY SIMMS: Yes.

Mr DAVID SHOEBRIDGE: We need to fix that so that the land you get does not come with all those environmental constraints and you get a fair chunk of that Crown land that is actually developable.

Mr PETERSON: I add to that that there are three big constraints on any land win. The first constraint is we win a case and get land granted to us but it is not surveyed and therefore we never get the landed title—it is ours but not ours. The second thing is that when it comes to the defining of land like the classification of land for land use, surely Aboriginal sites officers are the only people who can determine the culture and heritage value of that land—no-one else.

The last thing is, it is like scraps from the table. Yes, we are being given land. As an example, we have just won 22,000 hectares of land connected to Morton National Park. We do not have title. It is unsurveyed land. It has not made it impossible as a land council to talk to National Parks and Wildlife about a memorandum of understanding of how that land might be managed, because they at least understand it is custodial land, but on paper it is not. It is not ours until we have the title deed, like anyone else in Australia.

When it comes to social programs Uncle Sonny has already reflected the fact that the only other large social program that the land council runs is in social housing. He and his friends and community members built that up. The first one was 22 years ago and Filter Road was the other one. He is correct, people believe that Aboriginal people are receiving this land at no fight, no money. That is not correct and it needs to be corrected on the public record. It costs NSWALC and land councils a small fortune. On the record, we pay rates. It is not free. The services we pay for that go past our neighbourhoods are exactly the same as any other citizen. We try as much as possible to make sure that we sit within the environmental constraints that we have to live with but we are quite often—and when I use the word "we" I am talking about generally land councils and Aboriginal people in any community—constrained all the time by the fact that other people who are non-Aboriginal tell Aboriginal people about Aboriginal business. That is just not on.

The CHAIR: That is my point. Shoalhaven City Council has written in its submission when talking about Aboriginal land rights and Native Title legislation that it must be reinforced that one of the core objectives of the Aboriginal Land Rights Act 1983 was to use the benefits accrued from land dealings to improve cultural, social and economic outcomes for Aboriginal communities. We have been going across New South Wales in a different capacity, as the State development committee. I would say that the indication I am getting is that community expectations of environmental values are overriding those particular hopes and dreams for the Aboriginal people of cultural, social and economic outcomes. Would that be a fair comment?

Mr PETERSON: That would be a fair comment. I think the other thing is when we win a piece of land there is this great need to automatically class it as E1. We cannot get on the local environmental plan [LEP] to change the LEP to make it economically viable for any economic activity to happen on that land. That has to be changed.

The Hon. LOU AMATO: You are saying it is sterile.

Mr PETERSON: Yes.

The CHAIR: It is a Clayton's claim.

Mr PETERSON: It is a Clayton's claim because as soon as it goes to E1—

The CHAIR: It is sterilised.

Mr DAVID SHOEBRIDGE: But that is a factor of the land that you are allowed to claim under section 36 of the Aboriginal Land Rights Act, because you basically have to prove that it cannot be used for residential, recreational or other purposes. You are left with, as Uncle Sonny says, billy goat country because that is the way the legislation operates. The solution to this is not denuding environmentally sensitive land. The solution to this is handing developable land without those environmental constraints to Aboriginal people in the first place.

Mr PETERSON: Okay, I can see the point you are making but I can draw your attention to where the university sits right now. That land was granted to the university by the Nowra Local Aboriginal Land Council. Land that is immediately adjacent to that is land that council and ourselves as a land council were negotiating for residential occupation and development. Right across the road from that is a piece of our land that is deemed E1. It has been cleared four times. It has no Aboriginal content. You could ask yourself how would that have happened when development is tearing up the hill at a million miles an hour with a number of developers. It is true. It is happening.

The CHAIR: I do not think it is that quick, Mr Peterson.

Mr PETERSON: Listen, in the big scheme of things I know that council looks at 10 years.

Mr DAVID SHOEBRIDGE: But if it has been cleared four times are there things preventing you sitting down with council, putting in a planning proposal and rezoning it? I fully understand resources may be a

key part of it. Is it a question of resources, so that when you have those parcels of land you can go through that process?

Mr PETERSON: We can go through that process but you would be aware of how difficult it is to change an LEP. We are halfway through a cycle. Sure, we are going to make plans to try to do those things but I come back to the fact that while you may think that it is going to be a long time before ground is broken out at Mundamia, I have to tell you that we have already got one that has passed 3A. It is already on paper. It is already done and dusted. If we had been able to come to an agreement with council or council had not put in an expression of interest we would be there. The road is there, we have actually allowed council to put in a larger main to the top through land council land.

The CHAIR: Where is this, Mr Peterson?

Mr PETERSON: In Mundamia off George Evans Road.

The CHAIR: That is around the university.

Mr PETERSON: It is going to be a happening thing and it is highly likely it is going to be the first happening thing because everyone else is way behind us in terms of that plan. From the development of that land I can tell you that when we talk to people there are three conditions. The first condition is that culture and heritage will come first in all things. The second one is that a developer upon making any contract, whether it be a purchase or a partnership, will have to enter an agreement where at least 10 per cent if not more people from broken ground to key in the door are people of Aboriginal descent. The last one is that all proceeds will be an open and transparent deal. There will be no underhandedness, no nothing from either side. There will be sharing information and getting it happening. We are having people come to us who are quite happy with those conditions. So it could happen. It may not but it is greater could than not. If people think it is going to be in the 20-year plan I think they need to think again.

We are getting 2,000 new personnel out at Albatross base. It will become the centre for the defence force for the Black Hawks for all three forces. That is going to increase the population in town. Where are those service men and women going to live? The other side of it at the university is we have a plan in our mind at the moment, it is not on paper, to eventually come to an arrangement to be able to build an accommodation centre owned by the land council out at the university site. The issue there at the present time is those students who are attending from outside this area are living in the cheapest accommodation in town and holding out what effectively is the lowest socio-economic group in this area, Aboriginal people, from getting lower rental property because it is being taken by students who have no accommodation facility outside of taking of that.

The CHAIR: What stakeholders are in this conversation with you to progress those developments? Who has been around the circle?

Mr PETERSON: We have already got expressions of interest in regard to the Mundamia development, so we are moving forward with one of those developers. That is after my last part, but it has not gone before the members so I do not pre-empt a decision. I can just say that I have permission to move forward. With the university it seems that—from my discussions with Robbie Collins out at the university—there are a couple of things. The first thing is there has not been a formal recognition with the local Aboriginal people about their vesting that particular site and Uncle Sonny could talk about it more because it was his group that did that.

The CHAIR: We are limited for time but one of the issues in this inquiry is whether the Government has been part of the conversation to empower and help the Aboriginal people develop in appropriate places where they have land.

Mr DAVID SHOEBRIDGE: Uncle Sonny, to your mind the Aboriginal land council has a bunch of priority claims that they would like to see progressed.

Uncle SONNY SIMMS: Certainly.

Mr DAVID SHOEBRIDGE: Is there any kind of structure with the State Government that allows you to put on the table that these are the priority claims and to work through those first or is the priority being determined by the department in its own bureaucratic way? How is it working for you Uncle Sonny?

Mr PETERSON: I can give you clear evidence of that. On 23 February a group of regional CEOs of Aboriginal land councils and their chairs and deputy chairs met down in Batemans Bay. The Department of Primary Industries—Lands officers came and they were talking about obviously the review of the Crown lands process and that the Premier and other officers within the Government were very keen to get it moving forward. I asked that person a question about the silliness of the bureaucracy. Surely if we have claims that are surveyed

right across New South Wales they should be the first at the top of the pile because it means Aboriginal people can get instant, if they are passed, title. They can move forward. He tried to explain to me that the pile was like this.

Mr DAVID SHOEBRIDGE: Twenty-nine thousand deep.

Mr PETERSON: Yes, but I will speak from another life point. I was a principal of schools and we had to filter statistics continuously in order to get best practice. All that is an asset as a pile of stuff on people's desks, surely it can be sorted in a much better way than it is at present

Mr DAVID SHOEBRIDGE: So you had the meeting and you said you wanted to prioritise in a particular way. What did the State Government say in response?

Mr PETERSON: There wasn't a response. I have not seen a response.

Mr DAVID SHOEBRIDGE: Uncle Sonny have you been able to convince the State Government to prioritise those land claims that are going to be most beneficial?

Uncle SONNY SIMMS: Not as yet because, as I said earlier, I have been retired. I am more or less just sitting back there now.

Mr DAVID SHOEBRIDGE: What about from 1983 to 2008? Were you able to get them to prioritise in that period?

Uncle SONNY SIMMS: No. Another thing too prior to that, we have also got to get the okay signal from the State land council—if they say yay or nay. When we have perspective buyers they are still a stumbling block themselves—our peak body.

Mr DAVID SHOEBRIDGE: Effectively you guys need a process in place to prioritise the claims so that you can actually get some benefit out of the land claims legislation, is that correct?

Mr PETERSON: Yes.

The CHAIR: I thank you both for your time, experience and care for your community. If you have taken any questions on notice then you have 21 days to answer them and the Committee secretariat will help you with that. There may also be some additional questions in light of the evidence you have given today.

Uncle SONNY SIMMS: Just for the record, it has to be noted that we gave the university that land as a gesture that in the long term they provide us with an Aboriginal enclave out there. That is still up here. Mr Amato, I see your name. Where is your mob from?

The Hon. LOU AMATO: I have been asked that question and I do not know. There could be something down the track. I know there is some from Berry—a couple of footballers down there.

Uncle SONNY SIMMS: There is an Amato down at Rosebery Park and there are Amato's at La Perouse.

(The witnesses withdrew)

MARK CORRIGAN, Save Collingwood Beach, and

GARRY KELSON, Chair, Huskisson Wollamia Community Voice, sworn and examined:

FRANCES BRAY, President, Lake Wollumboola Protection Association, affirmed and examined:

The CHAIR: I remind everyone that this inquiry is not intended to be a public forum for people to make adverse reflections. I appreciate the contentiousness of some of the issues but please be mindful that witnesses should only focus on the issues raised in the terms of reference of this inquiry and they should avoid unnecessarily naming individuals. Would any of you like to make a brief opening statement?

Mr CORRIGAN: Thank you for the opportunity for Save Collingwood Beach to contribute to this inquiry. Our body represents several organisations in the Jervis Bay region, including a community group, Vincentia Matters, Jervis Bay Regional Alliance and BirdLife Shoalhaven. We also represent several thousand signatories to local and online petitions, all expressing deep concern for the management of the Collingwood Beach foreshore reserve. Collingwood Beach is highly vulnerable to coastal hazards and sea level rise. It is listed as one of 27 authorised locations under the Coastal Protection Act. Many public and private assets are located to seaward at the immediate hazard line. Shoalhaven council is failing to protect this Crown reserve from such threats.

The Collingwood foreshore experienced severe damage during the storms of the mid 1970s following flattening and stripping of the dune for development. A successful remediation program followed, including reshaping a new dune and grass stabilisation, followed by planting of shrubs and trees typical of the Jervis Bay foreshore. Step forward several decades. Many of those shrubs and trees are now being poisoned, loped or removed, as is commonly concluded, by foreshore property owners driven by a desire for private panoramic views. Meanwhile, many in the broader community watch on in disgust as the beach becomes a wasteland. The destruction offends their sense of fairness and social conscience and their concern for the security of the beachfront, their appreciation of local wildlife and their enjoyment of the recreational space.

Shoalhaven council is changing from proactive conservators of the reserve to complicit vandals of this Crown land. As reports accumulate showing the increasing vulnerability of this beach to coastal hazards and sea level rise, council are now actively seeking to reduce protection offered by the natural layers of defence. Poisoned trees are prevented from being remediated and motions are passed advocating the use of buffalo grass in place of vegetation that would satisfy the State Government manual for dune management.

The latest council proposal is the dune vegetation management plan that effectively rewards the vandalism and flies in the face of normal dune management practices. Trees across half the beach will lopped to waist height or not remediated. A clamour for private views suiting a small number of landholders is the only thing driving this vegetation destruction. Council is simultaneously considering codifying such removal as well as considering future multi-million dollar hazard plans that include a rock revetment along much of the beach. The Vincentia, Jervis Bay and New South Wales communities need legislation that mandates vegetation protection for vulnerable foreshore reserves like Collingwood Beach when local government is unable or unwilling to resist vested interests wishing personal sea views to override environmental and broader community concerns. Thank you.

The CHAIR: Before we proceed I want to declare an interest. I note in the submission that you put forward that I was mayor of the city from 2008 to 2012. Ms Bray, do you have an opening statement?

Ms BRAY: Yes, thank you. Our submission addresses all of the inquiry terms of reference. We are particularly concerned regarding coastal Crown lands of high environmental, cultural and socioeconomic value and their present and future planning and management. We are also concerned that Aboriginal land claims including those by the Jerrinja Local Aboriginal Land Council have been outstanding for many years, preventing Aboriginal communities from exercising their rights and benefiting from land ownership. Our understanding is that the lands in the Jervis Bay-Culburra Beach-Lake Wollumboola area are of very high significance and cultural value to the Jerrinja community.

The map that I have made available to you identifies Crown lands in the Jervis Bay area around the coastline and also foreshores that are managed by Shoalhaven City Council. We are concerned at the seeming lack of public information from Crown Lands administration regarding assessment of the high environmental and Aboriginal cultural heritage values of these sites and the lack of management plans for their protection. There is substantial degradation of the Crown lands in the area. We are very concerned about failure to resolve

the tenure issues around land identified for inclusion in Jervis Bay National Park and the Jerrinja Aboriginal land claims in the area.

Given the high cultural and natural values around the area from Callala through Callala Beach and to Myola, we are proposing that the area preferably be managed as part of a continuous landscape and wildlife corridor and an area of high cultural Aboriginal significance, with the agencies responsible—that is, Crown Lands, National Parks and Wildlife Service and Shoalhaven City Council—supporting the Jerrinja Local Aboriginal Land Council and cooperating in management activities to secure the habitat connectivity and environmental and cultural values across the landscape.

Our submission provides a series of recommendations specifically regarding the Jerrinja Aboriginal land claims. We would like those to be settled urgently. We also consider that funding needs to be provided to assist Aboriginal Land Councils to rehabilitate and manage their lands and also to provide training in terms of culturally appropriate practices as well as standard land management methods. We suggest that consideration be given to the traditional ranger training and employment program as occurs with Aboriginal protected areas under the Commonwealth.

I would also like to touch briefly on Crown lands foreshores that are planned and managed by Shoalhaven City Council. In many cases coastal dune and foreshore vegetation protected in Crown lands and council reserves is vital in providing important ecosystem services to the community by maintaining biodiversity, filtering polluted stormwater runoff, protecting water quality and increasing the resilience of coastal foreshores to climate change and sea level rise. All those services benefit private residences and public infrastructure.

We acknowledge the importance of the Local Government Act policy framework for natural area Crown lands in maintaining the long-term ecological sustainability of these high conservation value foreshore sites. We also acknowledge the important contributions by Shoalhaven City Council via its foreshore management program and its Bushcare program, both of which involve major investment of community volunteer effort. We are concerned that these programs are underfunded in some cases and that sometimes councillor decisions are in conflict with foreshore natural areas policy and with expert advice and community concerns. Our submission lists several examples of those concerns.

We are also concerned about planning provisions. As part of the Shoalhaven Local Environmental Plan [LEP] 1985 many of those foreshore areas were zoned for recreational development. With greater knowledge about environmental values and Aboriginal cultural heritage values we now consider that some of those sites should be zoned for environment protection. The example I would like to give you is at Lake Wollumboola on the northern shore where we have endangered ecological communities—Bangalay sand forest and swamp oak floodplain forest—which are zoned RE1 in the 2014 LEP which would allow uses such as caravan parks, entertainment facilities, function centres, indoor and outdoor recreation et cetera in these significant sites.

We are very pleased that Shoalhaven City Council has established a council land review of the zoning classification and categorisation of every parcel of council owned land and is including Crown land. We understand that that will provide for consideration of high environmental and Aboriginal cultural values in any rezoning. We support it in principle but we are also somewhat cautious until we actually see the final recommendations.

The CHAIR: Ms Bray, could you please make a closing comment. You may wish to table your whole opening statement in order for it to be on the record.

Ms BRAY: Thank you. We would like the Legislative Council inquiry into Crown lands to seek to ensure that the high environmental, social and economic values of coastal Crown lands are maintained and enhanced by ensuring they are not alienated from public ownership and access except in relation to Aboriginal land claims and that high standards of management are required consistent with the principles of ecologically sustainable development. Thank you.

The CHAIR: Mr Kelson?

Mr KELSON: Thank you again for this opportunity to comment. The Huskisson Woollamia Community Voice [HWCV] is a community consultative body recognised and endorsed by Shoalhaven City Council for our local area.

Whilst many facets of the May 2014 New South Wales Government Department of Trade and Investment, Regional Infrastructure and Services Crown Lands Legislation White Paper seem intuitive, nonetheless Huskisson Woollamia Community Voice remains cautious about the implementation. Firstly, can we have a more manageable name for the abovementioned government department, please? Second, sale and

disposal of parcels of Crown land should in our opinion require the consent of the community and protections need to be in place to ensure this. It is not good enough simply to have transparency of notification. Local government area councils should be mandated to obtain demonstrable majority support of local communities before proceeding to sale.

The Crown land estate should not be subject to predatory actions of local council administrations seeking to balance their books. Too many local government councils in our opinion interpret trustee management as de facto ownership. I will give you some examples shortly. Similarly, with parks and sports grounds, if management is transferred to councils then the existing rights of the community should not be diluted by the update of the Local Government Act. The proposed online portal with listing information is an excellent and overdue idea in our opinion, but please can it provide quality cadastral information as well? We have the NBN coming to this area so we think we can handle the downloads.

As to the Huskisson experience in particular, we absolutely respect and recognise Aboriginal land claims categorically; however, there is a land claim currently over a small block of Crown land in Currumbene Street, Huskisson, behind a former church. It is centrally located and surrounded by development. It has been identified and would be ideal as a future car parking site. Notwithstanding senior council staff informing us that evidence of European grave sites has been identified on this land, it is still subject to one of the long outstanding Aboriginal land claims. We would like to see some mechanism to have a breakthrough in the new legislation so these claims can be addressed one way or the other.

As to community centres on Crown lands, the community found out by reading an unrelated council draft plan—and I emphasise draft plan, not formally adopted as yet—that there is a long-term goal to sell off community centres located on Crown land and centralise into a more common or central facility. In our case that is the Bay and Basin region. In this case study the legislation needs to protect the community from potential ambush through strong notification of consent processes as described earlier, in our opinion. The last example I would like to share with you is in regards to what is known locally as the overflow camping ground in Jervis Street, Huskisson. This reserve is Crown land under council's management, reserve number 76522, designated by Crown Lands as for public recreation and for additional purposes, community purposes, environmental protection, plus tourism facilities and services.

We have had no end of friction with council's ongoing desire increasingly to commercialise this reserve and involving tree removal and facility installation. It has now been fully fenced. It is enclosed by locked boom gates and signposted as a tourist park. This reserve is evolving by default in our opinion into a formalised caravan park or tourist park against the wishes of both the community and the reserve users, including paying and informal holiday campers still trying to enjoy a true camping experience. In this case study a majority opinion of community and visitors is being steamrolled by the council as the trustee manager and we believe legislation needs to continue to protect community rights in such cases.

The Hon. MICK VEITCH: Last Friday the Minister presented to the inquiry. It was put to him that we had been told that the new Crown Lands Act, whatever it may be, would have an exposure draft so that people could make comment. We are now being told that instead the bill will be presented to the Parliament in October or thereabouts. Do you think there should be a much greater period available for people to give consideration to what is in the new Crown Lands Act?

Mr KELSON: Absolutely.

Ms BRAY: Most certainly.

Mr DAVID SHOEBRIDGE: To actually see the legislation?

Mr KELSON: And have the opportunity to comment or make a submission.

Ms BRAY: And have at least 60 days.

Mr CORRIGAN: I think as long as possible. We currently have our coastal zone management plan where we only have 10 days for comment. It needs to be longer than that sort of time frame.

The Hon. MICK VEITCH: My next question relates to being able to access information about Crown lands in this part of the State and across the State in general. It is not an attack on the Department of Primary Industries—Lands because its staffing has been pretty much gutted and there is not many of them left. It is more about the online availability of information or just being able to get information about what is Crown land in this part of the State. Have any of your organisations had any experience of this?

Mr KELSON: We certainly did in delving down trying to get on to this overflow camping ground I referred to earlier. It was not an easy task. There was a written request to the department initially, followed by intensive follow-up before we were able to access what was the designated usage for that particular park.

Mr DAVID SHOEBRIDGE: And that is one parcel of land?

Mr KELSON: One parcel.

Mr DAVID SHOEBRIDGE: Ms Bray, is this map you have provided us the result of years of knowledge rather than one online search?

Ms BRAY: No, this is a map from the Shoalhaven Local Environment Plan 2014.

Mr DAVID SHOEBRIDGE: But does it identify Crown land or have you had to go and identify the Crown land based on what you know?

Ms BRAY: There is Crown land that is identified at Abrahams Bosom at Currarong. You can see that is actually zoned E1 for inclusion in Jervis Bay National Park, but my understanding is that National Parks and Wildlife Service have said they would step back from that to make that land available to Jerrinja Local Aboriginal Land Council. There are different parts I have marked under different arrangements. Some should go into Jervis Bay National Park, some for Jerrinja. But this knowledge comes from my membership of the National Parks and Wildlife Regional Advisory Committee rather than from Crown Lands sources. When you look on the department's website at the so-called Jervis Bay Regional Park there is absolutely no detail, there is no map, there is no plan of management and it does not make clear which lands it applies to. My knowledge comes from national parks on that.

Mr CORRIGAN: Save Collingwood Beach has only been going for about three months. We started to try to get information on this reserve. I was shocked at how hard it is. I had to put in a Government Information (Public Access) Act [GIPA] application to council where they gave me the purposes that were listed but they also directed me to the gazette website to track down the actual gazette that gave a purpose update. I am still not sure whether I have an accurate list of purposes for that reserve because there is no repository that you can rely on.

The Hon. MICK VEITCH: With regards to plans of management, is there a better way of engaging with communities around the management practices for prospective blocks of Crown land? In your collective wisdom is there a much better way of doing this or are plans of management the way to do it but they need some refinement? I am happy to hear your views.

Mr CORRIGAN: A specific plan of management for the reserve that I am concerned about does not exist. It is a generic plan of management. Not only that, it is a generic community land plan of management. The Crown reserve is not community land but it has got a little paragraph within that plan saying that it applies to Crown reserves that do not otherwise have a plan of management.

Mr DAVID SHOEBRIDGE: Do you know whether it has been signed off by the Minister? Has it been approved by the Minister?

Mr CORRIGAN: I do not think so.

Mr DAVID SHOEBRIDGE: Because it is a council community land one?

Mr CORRIGAN: If it has not gone past the Minister then we don't know that it has been through the checks and balances of the State Government.

Ms BRAY: I am not aware of specific Crown land plans of management for any of the sites that I have knowledge of. I do know about the local government generic plan of management and Shoalhaven City Council does have its natural areas plan underneath that umbrella but I am not sure that applies to each specific site of Crown land that Shoalhaven City Council manages. The other part of it would be Shoalhaven City Council's bush care management plans—I think it is something like 80 bush care sites and groups. So all those are under a plan of management approved by council as part of the bush care program. They are fairly detailed but it does not cover all areas because it depends entirely on volunteers and their interest in particular sites. There are also the National Parks plans of management, which are very extensive. They have a process of development, community consultation and review but often they are very static plans of management and probably need more interaction along the way.

The CHAIR: Did you say 80 or 18 groups?

Ms BRAY: Eighty. I am not sure of the exact number but it is something like that.

The CHAIR: Mr Kelson, do you have a comment about it?

Mr KELSON: Just as we said earlier, there needs to be checks and balances. We believe strongly in regards to the legislation that it does not allow the community input to be overridden. I think it needs to be on the frontend in the legislation, not something that is looked at post.

The CHAIR: You were all present when Uncle Sonny Simms was giving his evidence. You would have heard his comments about getting land back and it being billy goat country which the Aboriginal people cannot do much with. Take, for instance, land claims around Callala Bay. Ms Bray you were talking about Aboriginal land claims over that area of high cultural value. Would you be adverse to the Aboriginal land council saying, "We want that area to be residential." How would you perceive something like that?

Ms BRAY: I am not sure that is the issue because I am not speaking for Jerrinja Local Aboriginal Land Council but my understanding is that they have a great desire to protect and manage their land in natural condition around the Jervis Bay area because it is of such high conservation value. The only informal discussions I have had with people have been more around the benefit they could see from Aboriginal cultural heritage tourism and being able to manage their own lands in a traditional manner and also sharing it with the local community and getting the rest of the community to understand their land better.

The CHAIR: In your submission you talk about the Aboriginal community quite a lot and their high valued land. Have you met with them to discuss the sorts of issues that you keep quoting in your submission?

Ms BRAY: I have not had formal consultations but I have provided my submission to the CEO of Jerrinja Local Aboriginal Land Council—or our submission to the chair of the Jerrinja Local Aboriginal Land Council. I have discussed the recommendations with him and I understand that his view was encouraging of the approach I was suggesting.

The CHAIR: But that "high valued" comment has not been discussed amongst the Jerrinja people, has it?

Ms BRAY: I am not party to their discussions.

The CHAIR: It is a view.

Ms BRAY: I do have long established contacts with members of the Aboriginal community, particularly through my work with bush care and volunteer management—

The CHAIR: I know of your total commitment. I am not questioning that.

Ms BRAY: I do have a lot of communication in that way with Aboriginal people.

The CHAIR: I know you do but I wanted to clarify that.

Ms BRAY: I do want to make it clear that I am not in any way speaking as a result of any formal consultation.

Mr DAVID SHOEBRIDGE: I think you have made that point. Mr Corrigan, the Collingwood Beach Preservation Group has made a submission to this inquiry. They say in relation to the reserve that you are talking about—where you have got concerns about the way the council has managed the vegetation—"that certain interest groups have claimed ownership of the dunes and illegally planted trees that have blocked views." There are two assertions in there—that certain groups have claimed ownership of the dunes and that there has been illegal planting of trees that have blocked views.

Mr CORRIGAN: I have not had access to their submission. I am not quite sure why anyone would say they had ownership of a reserve over and above any other community group, that is just not true.

Mr DAVID SHOEBRIDGE: What about the illegal planting?

Mr CORRIGAN: I know that the local bush care group has paid a tiny amount of attention to Collingwood Beach because of the pressure that has come from both foreshore owners and council not to do remediation work.

Mr DAVID SHOEBRIDGE: In your submission you raise concern about the poisoning and illegal destruction of trees in that coastal area. Can you expand on that?

Mr CORRIGAN: Anyone who goes along the foreshore pathway along Collingwood Beach would be horrified at what they see. It is just like skeleton alley. Trees have been drilled and they have been sprayed—you can see undergrowth has been killed from where trees have been sprayed. To suggest that there is illegal planting compared to illegal destruction, I am shocked and flabbergasted.

Mr DAVID SHOEBRIDGE: The suggestion has also been also made in some of the submissions to this Committee that the stabilisation that is achieved currently with the banksia trees could be equally achieved by grasses and other low-lying shrubs, and they reference some academic support for that. Do you have any response to that?

Mr CORRIGAN: I have seen that said in some of their material. Actually I had a call several weeks ago from the chair of the personal panel, the advisory group to the Minister for Planning. I asked him about the protection and vegetation. He was unequivocal that a stable dune needs the full spectrum of native vegetation and that includes trees. He went through the detail of why that is so and he pointed to a specific page in the coastal management manual. He said, "Go to page 22. It says it all there." I went to page 22 and it was exactly as he was saying.

Mr DAVID SHOEBRIDGE: Could you provide a copy of that to the Committee?

Mr CORRIGAN: I can.

Mr DAVID SHOEBRIDGE: You can take that on notice. The other—

Mr CORRIGAN: Can I just finish?

Mr DAVID SHOEBRIDGE: Yes.

Mr CORRIGAN: It has also been said by that group that 90 per cent of the sand deposit—

The CHAIR: The sand retention under that one metre?

Mr CORRIGAN: —yes—is protected by, effectively, grasses. That comes from a Tasmanian coastal manual as well. I rang the author of that manual and said, "This is being said about your manual. What do you have to say about it?" I pointed to the paragraph in that manual where it says that. She was dumbfounded that you could get that interpretation out of the manual. She said that was not the intention of that at all. It related to the initial protection of the incipient dune. To suggest that that therefore means you do not need trees to protect the overall dune is just wrong. She is going to go back to the department to tell them that this is how it is being interpreted in New South Wales.

Mr DAVID SHOEBRIDGE: The council's proposed management plan for it involves 50 per cent of the area having trees and tall shrubs pruned to between one metre and 1.5 metres in height. What do you think the effect of that will be on the coastal banksia and the like?

Mr CORRIGAN: If they are left to their own devices, banksias grow to 10 metres. I have spoken to a very experienced arborist. I put it to him: "What does it mean to take a 10 metre tree down to one metre?" He said, "When I let out a contract for removal of trees I specify to take them down to a one-metre stump."

Mr DAVID SHOEBRIDGE: So it is not pruning; it is clear-felling.

Mr CORRIGAN: Taking banksias down to one metre is removal, effectively.

Mr DAVID SHOEBRIDGE: Because there is no specific plan of management for this coastal reserve, do you feel it has been almost like a moveable feast or a rules-free discussion which has meant that those key environmental values and land and asset protection values have not been prioritised?

Mr CORRIGAN: It is; that is right. And council staff do not have a lot of guidance either. They are trying to do the best job they can but it ends up being a politically driven debate.

Mr DAVID SHOEBRIDGE: As opposed to being driven by the science of good coastal protection.

Mr CORRIGAN: It is not driven by the science at the minute.

The CHAIR: Mr Corrigan, like the honourable member I have also been down there for a walk. You are absolutely right—some of it is atrocious in the way it is being treated. The history of how that has come about does not excuse the environmental vandalism at all. There were some banksias in zone 1. Are you aware that they should not be in zone 1—the zone closest to the foreshore?

Mr CORRIGAN: I am not quite sure of what zone 1 is.

The CHAIR: There are three zones, from what I understand, zone 1 being the zone closest to the waterfront. My understanding is that there are meant to be grasses in that zone. If you talk to the people that have been there for 20-plus years, they know that environment. My understanding is there are banksias in zone 1—I have seen some of them—and that under sand dune management they should not be there. Would you be averse to those being removed?

Mr CORRIGAN: From memory there are five zones in the proposed plan from council. Zone 1, the incipient dune, is predominantly grasses anyway.

The CHAIR: But that is not my question. I understand that. You are absolutely right: it is meant to be predominantly grasses and it looks like it has taken very well there. I have seen the growth and it has been fantastic. But there are banksias in that area. Would you agree that that is inappropriate there? If you are going to take the sand dune management plan and it says no banksias should be in that first bit, would you be averse to them being removed?

Mr DAVID SHOEBRIDGE: That is not what it says, Mr Chair. It does not mention banksias. It does not say "no banksias".

The CHAIR: I have asked Mr Corrigan the question. I am talking about on site.

Mr CORRIGAN: In the incipient dune banksias would not normally naturally grow. If they were planted there—

The CHAIR: I understand, but I am trying to work through what you are saying is appropriate or inappropriate and cutting heights that are appropriate or inappropriate. I am just trying to work out whether you would say a banksia is inappropriate in zone 1.

Mr CORRIGAN: If a banksia was growing in the incipient dune I doubt it would survive for very long and it would not need human intervention or council intervention.

The CHAIR: Well, they are.

Mr DAVID SHOEBRIDGE: These are dynamic environments. What might start as incipient may over time become a more mature dune—you can find the incipient dune moving.

The CHAIR: I am not trying to get whether we cut or we do not cut. I am just trying to find the best outcome for the environment, the people, the community and those who are trying to manage these areas along our coastline—that is what I am here to do. You have a submission that things have been done the wrong way or ended up outside the order of what has been recommended—is that right? So I have a right to question some of those—

Mr CORRIGAN: The intervention that has been proposed by council is particularly aggressive.

The CHAIR: Mr Pigg gave evidence to us this morning, Mr Shoebridge, and you had the chance to ask him about that. He gave you a comment and we will have the other side of the story later today. There is Crown land, there is a plan of management, the community is saying one thing and the owners are trying to have some ownership and the view because when they were there 20 years ago those trees were not 10 metres tall. And they were looking after that reserve, apparently.

Mr CORRIGAN: The timeframe that you take as the starting point should not be 1969-1974 when it was cleared. Before the late 1960s it was a natural dune. It was bulldozed and cleared. The treatment of that dune resulted in the remaining sand almost disappearing because of the 1974 storms, so the development activity in the late 1960s-early 1970s was clearly inappropriate. Trying to perpetuate that sort of land management of almost removing the vegetation is not sustainable. To try to hold onto that is folly, particularly if we are considering sea level rise.

The CHAIR: I understand what you are saying, but the residents that are there at the forefront did actually manage a lot of that forefront and that is why it is so good now—that is my point.

Mr CORRIGAN: I know that other people who were involved in the management earlier on are also horrified about what is going on with trees—

The CHAIR: I would not doubt that with those banksias that have been totally destroyed—I understand that. It is not a nice sight. It is criminal.

Mr CORRIGAN: In Vincentia, which I am more experienced with, this stretch of about 70 houses out of a town of 4,000 people is the only stretch of foreshore over which there is this sort of private intervention and argument. In almost all of the remainder of Vincentia, and I live across the road from a foreshore reserve, people accept that as part of the sense of place. That is what people come to Jervis Bay for.

The CHAIR: And that is why there is a cycleway around it—because it is beautiful.

Mr CORRIGAN: That is right. This is a particular length which through a folly of history has this sort of debate that has become entrenched.

Mr DAVID SHOEBRIDGE: And it is potentially a very dangerous precedent for the rest of the area.

Mr CORRIGAN: It sets a terrible precedent if it is allowed to take hold.

Mr DAVID SHOEBRIDGE: What do you say about the precedent concerns, Mr Kelson and Ms Bray?

Mr KELSON: In regards to this in particular, we have always been trying to protect balance in a sustainable way. Good balance is the outcome we should all be striving to achieve.

Mr DAVID SHOEBRIDGE: Do you think the current council proposal gets the good balance for Collingwood Beach?

Mr KELSON: I have not been intimately involved in the Collingwood Beach—

The CHAIR: Mr Kelson is with Huskisson.

Mr DAVID SHOEBRIDGE: I understand.

Mr KELSON: I am aware of the issue. I am certainly sympathetic in regards to trying to manage this more carefully and better than it has been in recent times but I would not want to go beyond that.

Mr DAVID SHOEBRIDGE: How about you, Ms Bray?

Ms BRAY: I come from a geography background. I am not saying I am absolutely expert in managing coastal erosion and regeneration of dunes, but the basic principle must be to support the natural processes. So I think you have to rely on expert advice, not on what one resident says compared to another. There is substantial expert advice that is reflected in the new coastal Act that basically says natural foredune vegetation must be the most important thing in trying to manage coastal erosion.

Mr DAVID SHOEBRIDGE: Retain and protect it, don't chop it.

Ms BRAY: That is correct.

The CHAIR: But the wrong sized vegetation in the wrong zone could lead to terrible erosion as well.

Ms BRAY: I think there are professionals in this area and that is where the guidance should come from. There is just such substantial agreement amongst experts, is my understanding. That has been reflected—

The CHAIR: I must say I have a bit of mayoral thinking on this because I like to get a win-win solution. I will leave it there because I think you are right; it is going to take a lot more community consultation on this matter. I will have to end it there in light of time.

Ms BRAY: Can I just say at Culburra Beach we also have concerns about destruction of the native vegetation. Some of that is because people do not perhaps understand how important it is, but I really am very concerned about the precedent set by the Collingwood Beach issue for the entire Shoalhaven.

The CHAIR: Thank you very much for your evidence this afternoon. If you have taken questions on notice you will have 21 days to provide your answers. The secretariat will help you with those. You may receive some further questions from the Committee after hearing your evidence as well.

(The witnesses withdrew)

BOB PULLINGER, Coordinator, Collingwood Beach Preservation Group,

NOEL ROSSKELLY, Member of Executive Committee, Collingwood Beach Preservation Group,

DAWN THOMPSON, Member of Executive Committee, Collingwood Beach Preservation Group, and

TONY EMERY, Director, Soilco Pty Limited, sworn and examined:

The CHAIR: Does anyone have an opening statement to make, or is there one spokesperson?

Mr PULLINGER: I want to make an opening statement in respect of the submission that we made. Our submission proposed an amendment, which was an additional item to be included in section 11 with words to the effect that where possible Crown land in coastal areas be managed in such a way that the impact on the amenity of adjacent property owners is minimised and that coastal views are protected. At the end of my opening statement I was going to table a document.

The CHAIR: We are happy to table the document. Proceed with your opening statement and the staff will collect the document.

Mr PULLINGER: I would like to thank the Committee for the opportunity to appear before you on behalf of the Collingwood Beach Preservation Group. Our group was established to ensure that Collingwood Beach is preserved and enhanced through the application of sound scientific principles of ecologically sustainable development. Ecologically sustainable development includes taking into consideration in an integrated way the wider social, economic and environmental implications of decisions and actions without compromising the ability of future generations to meet their own needs.

Our group is a subcommittee of the Vincentia Ratepayers and Residents Association, which is the community consultative body recognised by council for the Vincentia area. Two of the four points listed in the terms of reference for the Committee are applicable to our situation at Collingwood Beach. They are, namely, item (a), the extent of Crown land and the benefits of active use and management of that land in New South Wales, and item (c), the most appropriate and effective measures for protecting Crown land so that it is preserved and enhanced for future generations.

Crown land along Collingwood Beach consists of a vegetative sand dune managed by Shoalhaven City Council. The dune acts as a buffer against wave action, protecting the coastal walkway, public infrastructure and waterfront properties. The coastal walkway and public infrastructure are positioned in front of the waterfront properties. As such, it is critical that the resilience of the dunes is maintained in a cost-effective manner so that public infrastructure relocation costs are not incurred, the iconic views across Jervis Bay from the coastal walkway, which are a major tourist attraction, are not lost and waterfront residents' properties are not affected.

Unfortunately, over the years the dunes at Collingwood Beach have not been appropriately managed. Promises made to the community that low-growth vegetation would be planted on the dunes that would not block views have not been kept. Instead, the dunes have been planted with banksia trees that have grown into thickets blocking views and which are propagating quickly, creating a monoculture on the dunes. The blocking of views which the community has had for decades has resulted in vandalism to vegetation which council has not been able to stop despite its best endeavours.

On 24 May this year the New South Wales Minister for Planning, Rob Stokes, visited Collingwood Beach and met with the members of the Collingwood Beach Preservation Group. The Minister viewed the vegetation on the dunes, discussed the science behind dune resilience and subsequently wrote to our group summarising the current status of coastal reforms. The Minister confirmed that councils need to balance the environmental and stability benefits of vegetation on dunes against the visual amenity for adjacent landholders in consultation with local communities. It is, of course, also relevant to note that decisions have been made by the Land and Environment Court that have established the principle of views being maintained.

We support the guiding principles outlined by the Minister. Those principles, however, need to be enshrined in legislation to ensure that the community is appropriately consulted by councils managing coastal dunes and that a sustainable approach is taken in relation to dune management. At Collingwood Beach we have had great difficulty reaching consensus on suitable planting arrangements for the dunes. This has stemmed primarily from people not having an understanding of the science behind dune resilience and people who are just simply opposed to any changes to existing vegetation even in circumstances where such changes would be beneficial from a sustainability view point.

Some members of our group have either owned waterfront properties for more than 60 years—that is, since the original subdivision or properties have been in their family for more than 60 years—and as such there

is clear understanding based on historical evidence of the impact that storms have had on the beach, how the beach naturally recovers and what vegetation is suitable to maintaining dune resilience. Some of us members were also involved in the beach scraping that created the present dune after the 1974 storm. They have watched with dismay as promises made to them in relation to their views being maintained were broken and trees planted by people who knew or ought to have known that the narrow-purpose built dune at Collingwood Beach was not suitable for trees.

The frustrating thing for our members is that those who think they know what is best for Collingwood Beach have no appreciation of the beach history and refer instead to textbooks and simply make broad sweeping statements with no reference to the science. We have compiled some documentation that highlights the issues faced by groups like ours right along the New South Wales coast, and probably along the estuaries and floodplains. We have tabled that documentation for your future evidence.

The CHAIR: That would be this document?

Mr PULLINGER: Yes.

The CHAIR: Would you be happy for the Committee to make that public?

Mr PULLINGER: We would. What we would like to do is—there are some photographic images there that probably tell a thousand words—if I could just pass over to my colleagues here to give you some background.

Mr ROSSKELLY: What we have tried to do here is just to highlight really what has been happening over the past 30 to 40 years out there. The initial dune stabilisation effort commenced in 1978. If you look at it there are three particular sites that we have picked on here where what we call a thicket has formed with banksia over that period of time. The main thing to look at here is that there is a before and after photo for each of these locations.

The before photo averaged about 20 years after the stabilisation program commenced. It is important to recognise that when you look at the before photo that is what it looked like 20 years after the initial vegetation was planted. A picture tells a thousand words and I think this is the issue that the residents have. I mean when you take something like that away without consultation, without engagement, it has become a major issue. We do not condone the poisoning or the destruction of the trees but you can see where the frustration comes from in some of the residents who are involved.

Mr DAVID SHOEBRIDGE: You are not trying to excuse the criminal destruction of the vegetation, are you?

The Hon. SCOTT FARLOW: I think that is what he just said.

Mr ROSSKELLY: That is what I said if you did not hear what I said.

Mr DAVID SHOEBRIDGE: You said you do not condone it but then you sought to put it into context. You are not trying to excuse it?

Mr ROSSKELLY: I am not trying to excuse it, no. There is one other thing that we would like to add and then I will pass over to Ms Thompson. We are actually surveying and monitoring the beach on an ongoing basis. We are only one of three volunteer groups along the New South Wales coast doing this. Ms Thompson will take the Committee through some of the programs we are doing there. If the Committee refers to the VVRA newsletter that is in that file it will take the Committee through the results so far of the program.

Ms THOMPSON: Just quickly taking a step back, the first page in the photos is the front of our property and the top photo is how our view was when we purchased our property—we had one banksia. The bottom photo is showing what is in front of our place now. You can see where the fence joins, that is the same position the photo has been taken in. That is why we are very disappointed with how the land has been managed and that is why we are requesting—

The Hon. LOU AMATO: I know the area well. I have been going there since I was a young boy.

Ms THOMPSON: Sorry?

The Hon. LOU AMATO: I know that area very well. I have been going there since I was a child.

Ms THOMPSON: Good, I am glad because you will know what it used to be like. The other photos are similar—that is how the property was when the person bought it and that is what they have got now. I will now take the Committee to not the flyer but the newsletter. If you look at the first page there is a photo there of us doing the survey. We had Professor Roger McLean come to the dunes and show us how it should be done. He

gave us ideas as to where we needed to do it. We contacted Shoalhaven council and we got a copy of their latest dune survey, which was 2010. We had intended to follow the same transects that were on that plan from 2010 but we could not get through in those locations because of the dense vegetation. We therefore took appropriate transects across the closest point to the ones that had been taken previously.

We have surveyed the dunes probably five times I think now and done surveys that we have passed on to Shoalhaven Council for their monitoring as well. We have found generally that the sand moves and comes back and in many places, in different areas the sand is building up on the front part of the dune, on the top of the dune. The sand on the frontal face of the dune goes and comes back but generally it is showing that it is fairly stable—it goes one day and then maybe by the next survey comes back. We have been surveying generally about every six months to three months depending on whether we have had bad storms or not. In the last lot of storms in July, where a lot of the other beaches and even Creswell were badly damaged, the quality of beach dunes was very good—we lost very little sand. We were very happy with the results of that.

The CHAIR: Mr Emery, would you like to make an opening statement?

Mr EMERY: I would just like to make some comment on the Government's policy of purchasing unwanted Crown roads and I quote from a fact sheet of June 2016. The reason I am commenting on this is because myself and two of my neighbours have an area at the front of our properties fronting the Shoalhaven River that for some reason was nominated as a reserve for Crown roads some 20-odd years ago when a subdivision was made. This area is totally surrounded by the Shoalhaven River and the river reserve and then our own properties. We have applied to purchase these three blocks of land under the policy and the interesting point is that the fact sheet says, and I will quote if I may: "The NSW Government is committed to managing the Crown estate to maximise outcomes for the community and this includes exploring the sale of road reserves which are not required for public access. In many cases there is considerable scope to rationalise the Crown road network without compromising the broader public interest."

Later in the document it says that to close a road the Act requires a number of steps to be taken which take a minimum of seven months to complete once an application commences being processed. Later on it says that the Government has streamlined the process. When we made our initial application we were told that it could be 12 to 18 months, which we felt was on the outside or quite a long time for a simple process. So we made the application 2½ months ago. We were advised last week twice verbally that it was going to take five to six years.

Mr DAVID SHOEBRIDGE: Did they say why? Just the nature of the beast?

Mr EMERY: Just overwork and the quantity of submissions that were in front of them were the only reasons given. So my request to the Government through this Committee, Mr Chair, is that the State Government takes steps to look at the process, streamline the process and employ the number of people required to undertake this within a reasonable timeframe.

The CHAIR: You have got a public road to your property and on either side of that is a Crown road, is that right?

Mr EMERY: There is a public road through these properties, which has been there for 150 years.

The CHAIR: At the end of that is the river?

Mr EMERY: At the front of the properties is the river with the 30 metre Crown reserve, then when the subdivisions were made for some unknown reason there was another 30 metre road reserve put in place that was not argued against at the time. So these three road reserves are sitting in no-man's-land and for obvious reasons the people who own these—

Mr DAVID SHOEBRIDGE: They have no egress either side—it is a little orphaned stretch.

Mr EMERY: That is correct. One of the gentlemen wants to put a tennis court in front of his house between the river and his house. He cannot do that without putting part of it on this land. If it takes five or six years his kids will probably have left home and gotten married by the time that happens. It is nonsense.

The CHAIR: You said the process was about seven months to close the road. Walk us through the process you have gone through to try to jump the hurdles that have been put in front of you.

Mr EMERY: We have just made a normal application—

The CHAIR: To which department?

Mr EMERY: —to the Department of Primary Industries [DPI]. I can leave the information—

The CHAIR: Table the documents.

Mr EMERY: I have a covering letter to you that I wrote last week. It is fortuitous that this inquiry was in place and I was able to get on here today.

Mr DAVID SHOEBRIDGE: So the fact sheet says 18 months. You put an application in—

Mr EMERY: The fact sheet says seven months.

Mr DAVID SHOEBRIDGE: And the bureaucrats say five to six years.

Mr EMERY: Our initial advice, and I think it is in writing, was 12 to 18 months, then the verbal two months later was five to six years.

Mr DAVID SHOEBRIDGE: And your summary is that that is so far from good enough that you want us to make a clear recommendation to resource it and make it happen in a reasonable time frame?

Mr EMERY: That is correct.

The Hon. PETER PRIMROSE: This is after the streamlining?

The CHAIR: Yes.

Mr DAVID SHOEBRIDGE: Maybe there is one person in New South Wales processing them all—who knows, Mr Emery?

The Hon. MICK VEITCH: Actually they employed a whole heap of people at Grafton when they closed Grafton jail to expedite the process for the Crown laneways.

The CHAIR: It has been expedited from 20 years down to five years. If you are finished, Mr Emery, I will come back to Mr Pullinger. Mr Pullinger, you would have heard evidence from the previous witnesses. You say about 90 per cent of the sand is retained on bushes under a metre tall or something like that. Can you clarify where the evidence of that has come from because that has been put under scrutiny. We have heard evidence that the author of the report said it did not pertain to the observation that you presented to me. If you could provide those facts and figures.

Mr PULLINGER: Yes. That came from the Tasmanian Department of Primary Industries, Parks, Water and Environment coastal works manual which states that low growing plants such as grasses are more effective at stabilising sand than trees or shrubs as 90 per cent of wind borne sand is transported in the 0.5 metres closest to the ground. We see evidence of that at Collingwood Beach where we do not have tall vegetation. We are an accreting beach. It is the grasses on the edge of the incipient dune that are collecting the sand. You do not see sand being collected at the back where the trees are. So that is where we see that coming from. That is where we get that evidence from.

The CHAIR: How long have you been living at your residence across from the beach?

Mr PULLINGER: I have been there since 1976 and I am very proud that in 1978 we spent 29 days helping plant the grasses on those dunes. We have seen it grow from one dune to another dune. We have seen the dunes go further seaward. The 100-foot mark was the boundary line for the 1952 subdivision, 100 feet from our property boundaries. We now have dunes that go eight metres further seaward and that is where the end of the veg is now.

The CHAIR: Thank you. Mr Rosskelly, how long have you been there?

Mr ROSSKELLY: I have owned properties on or adjacent to Collingwood Beach since 1974, so I have seen the effects of the 1974 storms, the remediation effort and what has happened since then.

Mr DAVID SHOEBRIDGE: And 1977?

Mr ROSSKELLY: The 1974 storm was the most damaging.

The CHAIR: Ms Thompson, how long have you lived there?

Ms THOMPSON: We have owned property in the area for 30 years and we have had our current home for 20 years.

The CHAIR: So you have historical evidence of how this has transformed over time. My second question is as I put to Mr Corrigan. When I was down there you showed me the different zones. I thought zone 1 was towards the water's edge—incipient or something?

Mr PULLINGER: Incipient is the dune up the front.

The CHAIR: And you showed me some banksias on that particular zone. I am pretty sure your comment was that under the dune management they are not meant to be there—is that right? Can you take the Committee through where the banksias come in to the stabilisation plan over those three zones?

Mr PULLINGER: The banksias come into the stabilisation of dunes on the hind dune. If you walk the cycleway at Collingwood Beach you see the sign that is displayed by council that says the houses are built on the hind dunes. So we have a situation where we do not have a hind dune. When the developments took place, if you speak to the people who did the original developments, part of the development application [DA] was that when they had to level their properties. They had a condition—I think it was whatever the water and lands conservation was in those days. The DA requirement was that they had to level the properties and put what they levelled under their houses. So it has become a common thing that is said: "No wonder you get white ants in your houses down along Collingwood Beach," because they levelled whatever it was on there as it was a condition of the DA.

So that says that we do not have a hind dune. That is what we have been told. We are also told that if we walk the walkway. If you go to page 83 of coastal dune management, which is what we look at as to what should be built into our vegetation plans but obviously we do not look at it for Collingwood, it says that banksias are appropriate on the hind dunes but they are not appropriate on the foredune or incipient foredune. That is where we come to the problem. We get the big, bad storms. We are not denying we are going to get big, bad storms. And there is no one-size-fits-all for a storm. If we start to have the banksias get in behind that incipient dune and before the foredune we will lose it straight away. Even Gary Blumberg who did the Royal HaskoningDHV report in June 2014 agrees. At Huskisson Community Centre the question was asked, "Will the banksias protect us if we get the 1974 storm?" He said, "They will do nothing to protect it." So that is where we have come from. And these banksias did not exist. We went for 20 years without this and starting to have this.

The CHAIR: You showed me a banksia around which the sand was totally eroded because it was not protected by the grasses. Opposite it was a little mound where grasses had taken. It was more stable than the one where the banksia was. Can you quickly walk us through that?

Mr PULLINGER: In the package of information we have provided at the last page is what we call our amendment to the Collingwood Beach dune vegetation plan. You have probably heard previously there is a Collingwood Beach dune vegetation plan that has been discussed. We went through and said we wanted some amendments made to it in relation to where the thickets of banksias are, which is the critical thing, in what they call zone 4. People have lost their views there. One the reverse side of tag 7 is a picture of a banksia at the end of Moona Moona Creek. The picture from when we had some storms in either March or September last year shows where the wind has eroded the sand around those roots. So you can say the banksia stays but it does not do anything. If you get some water or wind around it it just erodes more. I should have provided a photo to show that all you see on the dune that is about 2.5 metres to the north of those roots is some grasses. The grasses collect the sand.

Mr DAVID SHOEBRIDGE: The picture I am looking at shows the only bit of beach that is retained is the bit under the banksia.

Ms THOMPSON: Yes.

Mr DAVID SHOEBRIDGE: How does that help?

Mr PULLINGER: I do not know if you have ever been there—

Mr DAVID SHOEBRIDGE: I have been there.

Mr PULLINGER: If you walk around it you will see where the wind has eroded right around that. If you look two metres from it you see the dunes where grasses are growing through the sand. There are probably two ways you can look at it but you see what has happened, you see where they do erode and you see where the dunes are growing and the sand bank that is about 2.5 metres there. We picture it quite often. Our concern is that our greatest asset is sand. What is going to protect this beach? What is going to knock the energy out of the waves when we have the big storms? It is the sand. It is our buffer. It is our greatest asset. We try to collect the sand.

Planting things that are going to have sand erode around the roots will not do anything to help us. The sand will come. You may be aware of Professor Roger McLean. He is one of the geomorphologists who has been around since 1974. He measures Bengello Beach down at South Moruya and has been doing it since the 1974 storm. At the coastal conference the year before last he said, "I see evidence that when storms come we lose sand down at Bengello Beach. It gets returned and I do not see any evidence of sea level rise eroding that beach down there."

He said, "Storms have impact." He came there and we have got an access way there. Quite often you read that access ways are the worst thing for the beach. He said, "This is the best thing you can have on a beach because it lets the wind come through and the sand accumulate." He was like a grandmother with twin grandsons. He said, "This beach is beautiful. It's accreting." He shared so much knowledge with us.

Similar to Wooli, we spoke about us being one of three beaches on the coast. It was only last week that Angus Gordon spoke about Wooli and nearly every beach suffered damaged on 4 June when we had the storm. At Collingwood we did not because it was a nor'easter. As I say, there are no two storms alike; we acknowledge that. But he said at Wooli they measured their dunes and they actually have sand trapping where they go and trap sand. They just sort of have like a hessian thing and they have got a technique behind it because they have got the specialist. I said to Angus, "I suppose they copped a little bit of damage being right on the coast?" He said, "They did, but thank goodness they do their measurements and they do their sand trapping."

He said that the risk management is all about trying to mitigate the risk. You do not eliminate it; we live on the coast or we live on the estuaries or on the floodplains so we do not get rid of it. But it was lovely to hear him endorse that mitigation. Professor Roger McLean actually sent us a letter after we had done a few surveys and said we should talk to our local council and make a presentation at one of the coastal conferences. We thought that was a great rap and we hope to do that because we work with council.

Mr DAVID SHOEBRIDGE: You reference in your submission a letter from the planning Minister but you do not provide it. Could you provide us with a copy of the letter from the planning Minister?

Mr PULLINGER: We can do.

Mr DAVID SHOEBRIDGE: You were showing the Committee page 82 of the coastal management plan. Do you have that in front of you?

Mr PULLINGER: Yes.

Mr DAVID SHOEBRIDGE: You will see that for a healthy dune system you need mature trees, followed by smaller shrubs, followed by the incipient front of the dune.

Ms THOMPSON: Yes.

Mr DAVID SHOEBRIDGE: If your proposal is adopted by council and all of the trees are chopped down will there be any mature trees between your property and the incipient dune?

Mr PULLINGER: This must be a great misunderstanding that everybody has.

Mr DAVID SHOEBRIDGE: I am referencing the document that you showed about a healthy dune system. It is a simple question. If you chop down the trees will there be any mature trees?

The Hon. SCOTT FARLOW: Let him answer the question.

Mr PULLINGER: Yes, and we are not proposing that all trees get chopped down. That is in our amendment to the plan. Our amendment to the plan was saying to leave the whole, mature ones there and get rid of the thickets. That is what the plan has not addressed. It just wants to leave the thickets there. But we are saying where you have got the thickets you could go and have a banksia at the end of every second boundary or something. Just like you light up a tennis court we can shade up the footpath if you like. We are not out there going to go and get chainsaws and get rid of everything. This is the misunderstanding or it is what it is not being made clear to the public.

If you take the time to read what we call our amendment to the plan and you see the 11-point plan there, we are talking about crowning on the big banksias. We are not going there and saying we are going to get rid of everything. We say that the banksias are not the effective stabilisation of the beach. It is the grasses and the low shrubs. That is what happened for 20 years up until about 1993 when it was the grasses and the wattles that did it all. Our dunes have gone from one dune to two.

Mr DAVID SHOEBRIDGE: The very document you showed us to prove your point made it clear that you need mature trees as part of a protective, sustainable dune system. Regardless of what you say, the photos you have shown us show that you want it returned to a state with no trees. Do you not understand how deeply damaging that would be to the coastal dunes?

Mr ROSSKELLY: But this is not a natural dune. I do not know how well you know the area but if you walk between Church Street and Susan Street that is a natural dune. You have multilayers; you have got primary, tertiary and a hind dune. You have got eucalypts, you have got banksias, you have got your grasses down the front. The area where the dune vegetation plan relates to is a strip of land probably not even 20 metres wide. It was put in place to get accumulation of sand to form the buffer to stop the events like the 1970 storms.

Mr DAVID SHOEBRIDGE: Wasn't Mr Pullinger's evidence that it was getting to 100 metres? I must have misunderstood your evidence.

Mr PULLINGER: I said 100 feet. The boundary of 100 feet is where the median high water mark was.

Mr DAVID SHOEBRIDGE: You cannot pick and choose parts of the coastal management plan that you want. You cannot point to the diagram that shows you need mature trees, shrubs and grasses and say, "That says on our dune we should only have grasses", and then ignore the fact that there are mature trees. Do you understand how that is not a sustainable argument, Mr Rosskelly?

Mr ROSSKELLY: One of the consultants that the council used was a gentleman called Garry Druett. Garry made the point that the houses that actually sit on the hind dune perform the function that would normally be performed by the taller trees in terms of the uplift of the wind, et cetera.

Mr DAVID SHOEBRIDGE: Do you have it in writing from any credible ecologist that your houses perform the role of the hind dune?

Mr ROSSKELLY: I am only passing on to you the comment of the council consultant.

Mr DAVID SHOEBRIDGE: Mr Pullinger, you said when you provided us this submission, and I am grateful for it, that the science was contained in here. I have looked at it and I cannot find any scientific papers or a scientific opinion or ecologist opinion that in any way supports your position. Where is the science, because it is not in this?

Mr PULLINGER: I think the more one goes researching into this, and I will—

Mr DAVID SHOEBRIDGE: It was your words. You said it is the science. I cannot find any science in it.

Mr PULLINGER: We have had our people who have got the ability to research. There is one document in there that I do not have in this documentation here because we have got so much documentation that we have submitted to council with management plans and position papers and whatever and we have quoted them over the various times. One of the documents there is referred to in the NGH Environmental report as saying you need them. The same document says at the end that there is no one science that applies to dune management. I think it is one of these things that has probably come around in the last 20 years.

I did not actually refer to stabilisation of dunes and you said why are we saying we need banksias. If I refer back to Mr Tim Fletcher from the council, when we have gone through this process it has been, "Look, there is going to have to be compromise in this." If we wanted to be the pure scientists we would be saying let us do what they are doing at Illawarra where they have not even got grasses, they are letting the sand take it out. But the Collingwood dune is a different dune. It is not like the wide dunes, et cetera. We have come into this with compromise, saying that we do not want to go and drastically change things.

If you look at the last page where we have got our 11-point plan, all we are saying is let us take the crowning up a metre or something, let us go down to 90 centimetres with the pruning on the bottom. That way we are going to collect what is on the ground there from the low shrubs and the grasses. We are going to have some trees left there but we do not want the thickets. We said let us eliminate the thickets. There appears to be a situation where there is no defined thing that says there is only one science. You go overseas and look at some of the articles which we have quoted—there are many papers we have put in to council—and you get these different outcomes from it.

We have come in here and said that we want to compromise, we want to try and get this resolved because it has been going on since the late 1990s. There were no problems up until the 1990s. In respect to Bushcare they came out with their first plan and point number seven was that they will communicate with the owners. You would have thought when you are going to do something drastic like that that would be point one.

Mr DAVID SHOEBRIDGE: Lastly, the one study you have referenced is a Tasmanian study. Mr Corrigan says he spoke to the author of that study and the author says that your interpretation of her study is unsustainable and in fact incorrect and that her study does not support your position. That being the only scientific study you have referenced in this Committee makes it very difficult, does it not, to accept your conclusions?

Mr PULLINGER: I believe that we have also referred to the Queensland one there somewhere. The advice from the Queensland Environmental Protection Authority and the Beach Protection Authority in their Coastal Technical Series 2 is that the roots of plants and trees have virtually no capacity to reduce the loss of sand from the beach caused by wave attack.

The CHAIR: We are going to move on so the Labor Party can ask some questions.

The Hon. MICK VEITCH: The Crown laneways is an issue referenced for this Committee. Can you walk me through the process? You have gone online and followed the application process?

Mr EMERY: Correct.

The Hon. MICK VEITCH: Was it difficult to find information about the specific Crown laneways we are talking about?

Mr EMERY: No, not particularly. The website and the form itself is quite clear and reasonably simple. I did not fill it out myself; my neighbour, who is here today, did.

The Hon. MICK VEITCH: It is an online process. Did you have to conduct any assessment—

Mr EMERY: No, we did not lodge it online because we provided maps, drawings and photographs to go with it.

The Hon. MICK VEITCH: That forms part of your assessment?

Mr EMERY: Yes.

The Hon. MICK VEITCH: Do you know if anyone from the Department of Primary Industries—Lands is going to come out and conduct an assessment?

Mr EMERY: We have got no idea.

Mr DAVID SHOEBRIDGE: They are making arrangements with his grandkids.

Mr EMERY: The people involved have not even—we have been allocated a number but that is as far as it has gone. No-one has looked at our application to determine whether—one would think that these things would be put into: difficult, impossible and easy. We believe ours is very straightforward and easy and quite simple. The process involved is simple—it goes on the VG of the property et cetera. No, nothing has happened at this stage.

The Hon. MICK VEITCH: To this point in time how much has it cost you?

Mr EMERY: Actually they were very good here. The lodgement fee is \$475 as I recall and they accepted one lodgement fee for the three of us, which was a pleasant surprise.

The Hon. MICK VEITCH: Are there any other neighbours who need to be consulted other than the applicants?

Mr EMERY: No, there is one neighbour to the south and they have been verbally consulted. They have no objection because the allocated reserve, the road reserve finishes at her boundary, nothing in her property.

The Hon. MICK VEITCH: I am not aware of the locality but if it were to be approved or granted would it then deny recreational fishers or kayakers from getting access to the water?

Mr EMERY: The three portions are totally land bound. There is no access to any other public roads.

Mr DAVID SHOEBRIDGE: Other than through the coastal reserve and obviously a fisher could already be at the coast because of the coastal reserve.

The Hon. MICK VEITCH: That is correct. I guess we have just conducted the required assessment to process the application.

Mr DAVID SHOEBRIDGE: But there may be some environmental questions.

The Hon. MICK VEITCH: Yes, there may be some other issues that have to be assessed by the department.

Mr EMERY: Environmental concerns are not a listed reason for assessing the potential for sale. It is mainly other land use, neighbours, et cetera and whether the land has a future use for Crown land or for the Government for roads et cetera.

The Hon. MICK VEITCH: You have been allocated a number but not an individual to work with in this process?

Mr EMERY: No.

The CHAIR: Thank you all for appearing before the Committee today. If you have taken any questions on notice you have 21 days to reply to them. There may also be some further questions in light of the evidence you have given. The secretariat will be glad to help you. Thank you for your passion and commitment to your causes. The Committee will see how it can assist in this inquiry.

(The witnesses withdrew)

(Short adjournment)

JIM BRIGHT, Committee member, Stop Arms Fairs in Eurobodalla, and

LOUISE WEBB, Committee member, Stop Arms Fairs in Eurobodalla, sworn and examined:

The CHAIR: Would either of you like to make an opening statement?

Ms WEBB: I have a brief opening statement. First of all I would like to thank the members of the Committee for inviting members of Stop Arms Fairs in Eurobodalla [SAFE] to this hearing. One of the terms of reference of this inquiry is to examine the benefits of active use and management of Crown land to New South Wales. As our submission argues, Eurobodalla Shire Council has not used its power of control over Crown land to bring benefits to either the shire or the State. It has also failed to undertake anything like proper community consultation in what the council itself has labelled commercial activity in regard to the use of Crown land designated for public recreation.

SAFE is not arguing for a lesser role for local government; however, as set out in our submission, the actions of Eurobodalla Shire Council in a series of decisions that have now saddled far South Coast residents with an annual Arms Fair on Crown land until 2022, highlights a flaw in the current system regarding the responsible management and use of such land. That flaw is the failure of, first, the council, and, secondly, the Minister with responsibility for Crown land to adhere to the requirements clearly set out in the reserve trust handbook. Despite SAFE's repeated, detailed advice to Minister Blair and his advisors about what was happening in Eurobodalla, we received what was clearly a standard response letter which did not attempt to address the points we had raised. There is no point in having laws, regulations and guidelines if they can be ignored at will.

The second and final point I would like to make is that the use of Crown land for an Arms Fair, where children are exposed to deadly weapons and in the context of the promotion of killing animals for recreation, would I believe strike most people as inappropriate. Surely it is time for a responsible State Government to display leadership and rule out the use of its own land for the proliferation of guns. Thank you.

Mr BRIGHT: I would like to make a preliminary statement as well.

The CHAIR: Yes, please.

Mr BRIGHT: As alluded to by Ms Webb, our organisation's experience with the Eurobodalla Shire Council in its capacity as a Crown land trustee has been one of seriously flawed process. There really is no excuse for this. Like many other NSW State Government agencies, the Department of Primary Industries has a number of guidelines and instructions in place to assist the 150-odd councils and other organisations throughout this State to effectively undertake their important obligation to the community in the management of Crown land. The problem; however, at least in the case of the Eurobodalla Shire Council, is that little if any regard is being given to those guidelines by the council staff in the briefings and reports that they provide to elected councillors.

The CHAIR: Would you like to table those?

Mr BRIGHT: If I would be allowed, there are nine copies here.

The CHAIR: Yes. Thank you.

Mr BRIGHT: This detailed submission was prepared by members of Stop Arms Fairs in Eurobodalla [SAFE] and sent by us to the relevant Crown land officials in May of this year. It documents a series of actions and decisions by our local council that appear to be almost at complete odds with the advice and instructions contained in Department of Primary Industries [DPI] documents such as the trust handbook and the leasing and licensing instructions and in some instances with guidelines from other State Government organisations such as the Office of Local Government.

Our view is that in exercising its primary responsibility for the management of Crown land DPI must be more proactive in ensuring that all councils are taking steps to ensure that their staff are fully conversant with the relevant instructions and guidelines. In addition, and crucially, council staff should be required when briefing elected councillors on Crown land issues to bring their attention the existence and relevant contents of those DPI instructions. Arrangements such as this are essential to the quality of council decision making. I finish up with a plea that it is time for this Government to withdraw as a player in the arms trade.

The CHAIR: Have you given to council the documents you tabled to the Committee and asked for a response? Has council responded to any of that?

Mr BRIGHT: We did not provide that one directly to the council. Many elements have gone to them in other forms.

The CHAIR: You wrote to four Ministers.

Mr BRIGHT: Our understanding is that DPI might well have consulted with council on the matters we raised.

The CHAIR: Because I think you wrote to four Ministers—is that right?

Mr BRIGHT: Yes.

The CHAIR: And you got an unsatisfactory reply from each one of them—from two of them I think you got no reply and from the other two you got a reply that was not satisfactory.

Mr DAVID SHOEBRIDGE: Form letters, almost.

Mr BRIGHT: Yes.

The CHAIR: Shouldn't all sporting groups have a right to some sort of application to operate on Crown land?

Ms WEBB: Yes, they should, in principle. But there are some other elements to this that make the council's decision inappropriate in our view. One is the length of time that this group has been given to use this land. The other is the nature of the event. It is a very controversial type of event. It is not just any sporting group—a cricket club or that sort of activity. It has caused a great deal of controversy in the community. In making its decisions, as we have pointed out in our submission, the council has breached various laws, regulations, other requirements and the expectations of the community that they will act in a responsible way and not seek to lock a future council in to a controversial event beyond that council's term.

The CHAIR: We had representation from that council this morning. I asked whether in their view the processes followed were in any way illegal or untoward. They said that they were not.

Mr DAVID SHOEBRIDGE: There was some consultation undertaken with the local community by the council. You reference the fact that in September 2014 the council consulted about the variation of the licence to go from a photographic competition at that point to a full-blown arms fair. What did the local community say in response?

Ms WEBB: The council ran an online submission process and received over 400 responses.

Mr BRIGHT: There were about 450 responses.

Mr DAVID SHOEBRIDGE: What about from the local community?

Ms WEBB: Of the local community, some 81 per cent of local respondents said that they did not want the HuntFest photographic competition to become an arms fair. They expressed their opposition to it and then the council did not proceed according to that information.

Mr DAVID SHOEBRIDGE: So the council ignored the vast majority of local submissions?

Ms WEBB: Yes, they did.

Mr DAVID SHOEBRIDGE: How does that make you feel about the consultation process? You are consulted, the local community expresses its view, 81 per cent of it says no and the council just proceeds regardless.

Ms WEBB: It does not seem to me to be a sensible process. What is the point of consulting the local community if you are not going to act according to their expressed wishes? I add, if I may, that in the lead-up to the council's latest decision to extend the HuntFest licence until 2022 there was no consultation whatsoever. The process was begun in a meeting before Christmas and proceeded over the holiday period up to the council making its decision in March with no community consultation whatsoever.

Mr DAVID SHOEBRIDGE: And the current council's time expires on 10 September 2016, doesn't it?

Ms WEBB: That is correct.

Mr DAVID SHOEBRIDGE: Prior to this extension, when was the licence going to expire?

Ms WEBB: In 2018.

Mr BRIGHT: The last event would be in June of 2017—the June long weekend. The actual formal period of approval was up to 31 May 2018.

Mr DAVID SHOEBRIDGE: So the council for some reason in March 2016 decided that they wanted to give a five-year approval which will be effective from June of 2018 at the earliest—is that right?

Mr BRIGHT: Yes.

Mr DAVID SHOEBRIDGE: Did they explain why the current council thought it was appropriate or democratically justifiable to seek to bind the hands of a future council—in fact, probably two future councils—that had not even been elected?

Mr BRIGHT: Amazingly, that question has been asked time and time again at public forums and in various other ways and the Eurobodalla Shire Council has not responded.

Mr DAVID SHOEBRIDGE: When you say not responded, it is a clear question the community would be asking. I assume you have asked it. Is that right?

Mr BRIGHT: Yes, it has been in numerous written and oral submissions to the council.

Mr DAVID SHOEBRIDGE: The council must have attempted to justify their position in some way, or have they just ignored you?

Mr BRIGHT: No, they have ignored that and many other key points that are contained in the submissions here. I think this council has decided we do not have the financial means to mount a legal challenge or whatever to anything and they just ignore us.

Mr DAVID SHOEBRIDGE: One of your concerns in your submission is that the development application [DA] that was approved in 2012-2013 was for a photographic competition and structures associated with it and since then the use has changed fundamentally to be an arms fair. When I put that proposition to council their response was that the approval was only for the structures and that the nature of the event was not part of the original DA approval. Have you had separate legal advice on this point?

Ms WEBB: We have had separate legal advice that challenges that view, the very idea that it was just for the structures. We have had advice from the Environmental Defenders Office [EDO] that says that the structures that were approved are not the structures that are now being used such as steel shipping containers for archery and things like that. The advice is they are not the structures that were approved and a separate, new DA is required. I have copies of the EDO advice.

Mr DAVID SHOEBRIDGE: Do you want to provide that to the Committee?

Ms WEBB: Yes.

Mr DAVID SHOEBRIDGE: Have you provided that advice to council?

Ms WEBB: This is a copy of a letter written from the Environmental Defenders Office to the council in May 2015.

Mr DAVID SHOEBRIDGE: Have you had a response from council?

Ms WEBB: I do not have the response with me but I understand that the response was that council had legal advice that argued to the contrary.

Mr DAVID SHOEBRIDGE: Could you provide what you have got there and then on notice I would ask you to provide the council's response if you can find it.

Ms WEBB: Yes.

The Hon. MICK VEITCH: Essentially we are talking about the appeals process against the council decision and the subsequent council decision to extend. Were you made aware of an appeals process at any stage?

Mr BRIGHT: Sorry, could I have that question again?

The Hon. MICK VEITCH: I am talking about the process that would be followed if you wanted to appeal the council decision.

Mr BRIGHT: I am not sure that there is an appeal available to us about this council decision. We might have been able to mount a legal challenge against some aspects of their decision but I am not aware that we have some form of appeal against this decision.

The Hon. MICK VEITCH: That is fine. I think you just answered what I was after.

Mr DAVID SHOEBRIDGE: Because the Minister's sign-off is the last step in approving a licence on Crown land you made submissions to the Minister seeking for him not to sign off on the licence. Is that the process?

Mr BRIGHT: Yes.

Ms WEBB: Yes.

The Hon. PETER PRIMROSE: I note on page 9 you indicate that you wrote to four Ministers and a couple of them on a number of occasions. You were not satisfied with the replies that you received from two and two others have not replied at all. Is it still the case that you have not received a response from those two other Ministers?

Mr BRIGHT: There has been no response yet from the Minister for Local Government, Paul Toole, and no response from local member Andrew Constance.

The Hon. PETER PRIMROSE: I was wondering whether you could make available to the Committee a copy of those letters and the responses that you have received just so the Committee is aware of them.

Ms WEBB: Certainly.

Mr DAVID SHOEBRIDGE: At the core of this is a frustration from you that what you see as pretty clear statements in guidelines, legislation and manuals are not being applied appropriately by the Crown land manager, in this case the council. Do you think one of the solutions would be to give the community standing to apply to somewhere like the NSW Civil and Administrative Tribunal for a determination on this, to actually give you a legal right to have these matters determined and clarified and to enforce the Act and the regulations?

Ms WEBB: I think that would be an appropriate step. It would remove the barrier that SAFE struck in regard to following up the advice we had from the Environmental Defenders Office. Without scope to take the matter to court we had nowhere else to go when the council simply refused to respond meaningfully. I agree that what you are suggesting may be a positive way to go.

Mr DAVID SHOEBRIDGE: Because without some sort of remedy that you can get your hands on you can be ignored by Ministers or be palmed off with form letters from Ministers and there is nothing you can do. That must be terribly frustrating for you.

Mr BRIGHT: I can certainly confirm that. You can see that an enormous amount of work has gone into almost a forensic analysis of what has gone on, where the council has completely failed to follow Department of Primary Industries Crown land guidelines. We take that to all sorts of people—Ministers, officials—and just get some very general response which does not even attempt to respond to any one of our series of problems that we have identified. That is a very, very difficult situation to be in.

The Hon. MICK VEITCH: This Committee is essentially looking at the environment in which a new Crown Lands Act will be introduced into the Parliament in about October. Am I hearing that in that new Act you would like some sort of an administrative appeals process for decisions that affect the operation of Crown land?

Mr BRIGHT: There certainly seems to be a need for some more effective process than there is at the moment from our perspective, yes.

Mr DAVID SHOEBRIDGE: Regardless of which side you fall on the argument about whether an arms fair is right or wrong, the fact that you have informed, capable, intelligent members of the community coming together, making detailed submissions that are supported by detailed research and those people are effectively ignored shows that there is something deeply wrong in how Crown land is being managed, does it not?

Mr BRIGHT: Or certainly with the trustees.

Mr DAVID SHOEBRIDGE: Indeed, at the end of the day a huge amount of community concern, effort and time could be saved if there was a quick and ready review mechanism where you could have these matters determined by an appropriate tribunal which had all the facts in front of it.

Mr BRIGHT: Yes.

Ms WEBB: Yes.

Mr DAVID SHOEBRIDGE: Because this ongoing dispute, if you like, has not been easy on the community in Narooma, has it?

Mr BRIGHT: Yes. At the council meeting on 22 March that approved this extraordinary extension from 2018 through to 2022 inclusive there were around 40 people in the gallery—a mature gallery with a number of clergy in the gallery—and numerous public forum presentations all asking for explanations about a number of these things. In an unorchestrated event 22 people then exercised their right to request that the council not go into closed session to decide the matter and there was no response. They just smiled and went into closed session.

Mr DAVID SHOEBRIDGE: Did they tell you why?

Mr BRIGHT: The problem here is they have chosen to use, they say, a tender process to decide about these two applicants, who are merely two separate organisations looking to conduct completely different events for a charge that is going to be determined by the council. There is no aspect of this that is a tender.

Mr DAVID SHOEBRIDGE: This was not a \$500,000 civil works contract; this was about how you use a community asset for a long weekend.

Mr BRIGHT: This was two separate organisations simply applying. The council staff decided they were going to use a tender process and they have applied the full-blown tender arrangements that apply to local government in New South Wales even though under the law and under any sort of logic this was not anything like a tender. They have used that to exclude everybody from the entire process.

Mr DAVID SHOEBRIDGE: Because they alleged, I assume, there was some sort of commercial-in-confidence or tender process and excluded the community from the key decision.

Mr BRIGHT: Yes, that is right.

Mr DAVID SHOEBRIDGE: Do you think it is appropriate that the community is excluded?

Mr BRIGHT: When you look at the legislation it simply does not fit the circumstances they are talking about. We are talking about two not-for-profit organisations and there is no commercial situation to be in any way endangered by this process having been in the public. Any reading of the detailed guidelines from local government, the Act, et cetera, will lead you to conclude that this is not and should not be a confidential process.

Mr DAVID SHOEBRIDGE: Did you complain about that to the Office of Local Government?

Mr BRIGHT: Yes, we are yet to get that response. These complaints have been with the Minister and the office since 29 March this year.

Mr DAVID SHOEBRIDGE: Could you provide the Committee with your complaint to the Office of Local Government and if some miracle happens and you get a response could you include that response as well?

Ms WEBB: To rub salt into the wound on the day that the council made that decision not only did they use the cloak of the tender process to insist that they had to go into closed session to make the decision but they also did not do it appropriately—they failed to meet the requirements clearly set out in the Local Government Act about fully explaining what the reasons were and moving a motion thereby. They just trotted off—when the public refused to leave the council chamber they took themselves elsewhere. It was a very frustrating and upsetting day for a lot of people.

The Hon. SCOTT FARLOW: Have the council used that process for any other venue or event that you are aware of or only for this?

Mr BRIGHT: In December the council introduced a new code of practise for dealing with these things.

The Hon. SCOTT FARLOW: So that applies to all?

Mr BRIGHT: Yes, and where you have a situation in which two organisations apply for a venue at the same time they have written into their code that it will be a tender process. Of course, we have challenged that from day one. It would depend on the nature of—whether it is two commercial organisations or whatever.

Mr DAVID SHOEBRIDGE: We had better hope there is not a dispute between the under 13 hockey team and the under 13 rugby league team, otherwise they will have to put a tender in to get a field? That is ridiculous.

Mr BRIGHT: And there is no option. Eventually they will wake up to the fact that the only process they have built in to decide a conflict is to have a full-blown New South Wales local government tender process.

Ms WEBB: Not only that, they said that Crown Lands had ticked off this process for dealing with any sort of conflict of organisations wanting to use facilities at the same time.

Mr BRIGHT: Yes. The report to the council, when they introduced the new code, contains a sentence saying, "Crown Lands has confirmed the process we are recommending to you." We subsequently took that through a freedom of information or GIPA process and have established absolutely that their proposed process had never been anywhere near Crown Lands and Crown Lands never said that they were endorsing that process, and that is part of that document.

Mr DAVID SHOEBRIDGE: Mr Addison from the council has been listening to this. I will put some questions on notice to see if we can get a response on that.

The CHAIR: Thank you for appearing before the Committee today. We appreciate that you have travelled a long way but it has given you an opportunity to have a say this side of Sydney, which is good.

Mr DAVID SHOEBRIDGE: We also thank you for your work in the local community, which is much appreciated.

The CHAIR: You have 21 days to respond to any questions taken on notice and there may be some further questions put on notice following the evidence you have given today. I wish you both a safe trip home and once again thank you for coming.

Ms WEBB: Thank you for having us.

(Witnesses withdrew)

(The Committee adjourned at 3.33 p.m.)