

REPORT ON PROCEEDINGS BEFORE

STANDING COMMITTEE ON STATE DEVELOPMENT

**INQUIRY INTO REGIONAL PLANNING PROCESSES IN NEW
SOUTH WALES**

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Macquarie Room, Parliament House, Sydney

Wednesday, 17 August 2016

The committee met at 9:15 am

PRESENT

The Hon. G. Pearce (Chair)
The Hon. M Veitch (Deputy Chair)
The Hon. R. Colless
The Hon. P. Green
The Hon. N. Maclaren-Jones
The Hon. E Wong

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The CHAIR: Welcome to the fifth hearing of the Standing Committee on State Development's Inquiry into Regional Planning Processes in New South Wales and the second hearing to be held in Sydney. I acknowledge the Gadigal people who are the traditional custodians of this land and I pay respect to the elders past and present of the Eora nation and extend that respect to other Aboriginals present.

Through this inquiry the Committee is seeking ideas that will stimulate regional development and reduce the time and complexity involved in the planning approval process. The Committee is also interested in maintaining community expectations regarding the environment and the economic aspirations of local businesses. The Committee will be conducting its final two hearings in Albury and Ballina in September.

Today we are hearing from a number of witnesses, including the Environmental Defenders Office NSW [EDO NSW], the Better Planning Network, the Costa Group, the NSW Housing Industry Association and the Department of Planning and Environment.

I make some brief comments about the inquiry and the procedures of today's hearings. 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 they must take responsibility for what is published about the Committee's proceedings. It is important to remember that parliamentary privilege does not apply to what witnesses may say outside their evidence at the hearing and I urge witnesses to be careful about any comments 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 broadcast of proceedings are available from the secretariat. Media representatives who are not accredited to the parliamentary press gallery should approach the secretariat to sign a copy of the broadcasting guidelines.

There may be some questions that you as witnesses would like to take on notice to answer. In case of any of those questions we ask that you provide an answer within 21 days. If you want any messages delivered to Committee members, you should do that through Committee staff. Finally would everyone turn their mobile phones to silent for the duration of this hearing.

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RACHEL WALMSLEY, Policy and Law Reform Director, Environmental Defenders Office NSW [EDO NSW] affirmed and examined

NARIMAN SAHUKAR, Senior Policy and Law Reform Solicitor, EDO NSW, affirmed and examined

The CHAIR: Would either of you like to start by making a short statement?

Ms WALMSLEY: Yes. Thank you for the invitation to give evidence today. As you may know, EDO NSW is a non-government community legal centre. We specialise in public interest environmental and planning law. We give free legal advice to community members and groups across New South Wales on environmental and planning law, with two-thirds of our telephone advice calls from regional and rural areas. Similarly, our community outreach workshops and resources assist communities across New South Wales. Mr Sahukar and I are from the law reform team and we have been involved in local, State and regional environmental planning processes over a number of years. As public interest lawyers, our focus for this inquiry is on the legal architecture for regional planning and community engagement in regional planning. EDO NSW strongly supports encouraging and incentivising regional development that is ecologically sustainable and that benefits regional communities in the short and long term.

Our submission to this inquiry focuses on five issues that are critical to regional planning. First, ecologically sustainable development is essential as an overarching guiding principle for regional development. Second, strategic planning should have a clearly legislated purpose and process. It should be coordinated, evidence-based, apply ecologically sustainable development [ESD] principles and maintain or improve environmental outcomes to support local communities and economies. Establishing a clearer legal framework for improved strategic regional planning, in terms of both procedure and outcomes, will assist in creating certainty for ecologically sustainable growth and development, protect sensitive environmental areas and productive agricultural landscapes, integrate infrastructure planning and reduce future land use conflicts. Third, regional planning must be linked to natural resource management [NRM] goals and data. New South Wales needs to adopt statewide NRM goals and targets that can apply to the regions and invest in gathering and analysing data on ecosystems and their services, including a State environmental accounts framework.

Climate change is already affecting regional New South Wales. Regional planning, and the planning system more broadly, has a crucial role to play in mitigating impacts and ensuring resilient landscapes in communities. New South Wales needs a greenhouse mitigation strategy and targets linked to the planning system. Any future regional planning framework must consider climate change risks and impacts, how impacts may be minimised, how regional communities and landscapes may adapt and what adaptive planning mechanisms may be required.

Finally, up-front comprehensive community engagement is critical for regional planning, as every community is different with different needs, aspirations, development opportunities, environmental assets and land use constraints. Regional communities, including Aboriginal communities and traditional owners, should have better, earlier and more accessible ways to help plan for the future of their towns, communities and environments.

We note that there are a number of concurrent reform processes underway that are all relevant to regional planning. These include reforms regarding biodiversity and native vegetation, Crown lands, coastal management, Aboriginal culture and heritage, integrated mining policy, local government, as well as planning reforms.

Regional planning cannot be considered in isolation. We therefore do not support a new stand-alone regional planning Act; we support integration of our five key issues into robust regional planning, part of existing planning laws. Principles and criteria for good strategic planning must be developed in consultation with regional communities and clearly set out in amended planning laws. It takes time and resources to do comprehensive regional strategic planning well. Regional planning processes must be effectively resourced and implemented and integrated with NRM targets for the short- and long-term benefit of local regional communities across New South Wales. Thank you.

The Hon. MICK VEITCH: That was a prepared opening statement?

Ms WALMSLEY: Yes.

The Hon. MICK VEITCH: Would you be able to hand it up to assist Hansard?

Ms WALMSLEY: Yes.

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The Hon. MICK VEITCH: I want to go to a discussion around community engagement. In your submission, and I know the Hon. Richard Colless will say he already knew this, you cite source number 32. Mine is an electronic document so the page numbers do not match. But your source of information says:

For example, a three-yearly survey by OEH entitled 'Who Cares About the Environment' in 2012 found that people who live in rural areas outside any town undertake the highest average number of everyday environmental behaviours, have the highest participation in restoration projects and are more likely to say that State Government environmental support and funding should occur at the local level. (Footnote 32, page 12 of submission.)

For those of us from the country, that is probably not the sort of information we did not already know so it justifies part of what we already knew. My first question is, what is your definition of "outside any town"? Do you know what the definition from that document was for "outside any town"?

Mr SAHUKAR: Not specifically. That is a survey conducted by the Government so that is an example where there is an attempt to understand community values in relation to the environment. We do not have a great deal of information to go on in this systemic form but that would be a good example of a survey that tries to look at those issues.

The Hon. MICK VEITCH: Because I reckon "outside any town" would be a farm, there is a pretty good chance it is farming.

Mr SAHUKAR: Sure, yes.

The Hon. MICK VEITCH: So if we go to where the footnote is sourced, the statement is: "To improve regional planning processes, we need to understand residents' diverse perspectives and aspirations". You go on to talk about evidence for informed decisions. One of the things that has come up in this inquiry and other inquiries—just recently the Crown land inquiry—was about meaningful community engagement but nobody can tell us what that means, other than, it would appear, that at the end of the process, if you do not get the decision that you were agitating for, then the consultation was not meaningful. I know that is a cynical way of putting it but that essentially is what we have heard from both sides of the debate. There seems to be a common theme about lack of meaningful community consultation. What would you consider to be a process that attains meaningful community consultation?

Ms WALMSLEY: We have done a lot of analysis in this area. We have looked at international jurisdictions and various different methods. In the planning reform process in 2012 we wrote substantially on this and we would be happy to provide that to this Committee.

The Hon. MICK VEITCH: Would you please do so.

Ms WALMSLEY: There are case studies of where communities were engaged right from the very beginning, before any decisions were made. I think there are certain elements of best practice—first of all, it has got to be early before the decisions are made. It cannot be a one-off fly into a community, tell them what is happening and then fly out again. It has got to be iterative. You have got to make sure that you have talked to all the right people and everyone has had a chance to understand what is going on, particularly in rural areas there are different groups with different needs—for example, the way you would consult with an Aboriginal community might be totally different to how you would consult with farmers in that area and so forth. I think in every different process you need a consultation plan that suits that local area. You are completely correct in your observation that people have lost faith in the planning system. The community feels detached from it because when they do put in the effort of getting involved in a consultation process and then the outcome is so far divorced from what they expected they lose faith in the system. That is one reason why it is necessary to have checks and balances, so if there is a bad decision there is accountability and feedback loops, but there are certainly ways you can do consultation better.

Funnily enough, in regional planning there have been so many different iterations over the years in regional environmental plans, conservation plans. There are actually examples in some areas where that was done well and sometimes the Government has outsourced the consultation to third parties to do it—we can provide examples of where that has been done well to the Committee—but I think the important thing is that it is early, it is iterative, it is well resourced and it is not rushed. One observation that we would also make, in terms of consultation on regional planning, is that lots of local communities get involved in shaping an LEP or a regional plan. They put a lot of effort in and it is a really positive process, then down the track there is a spot rezoning decision or a project that comes in that is State development or something that is done under a SEPP that completely undermines the process of the planning that the community actually engaged in.

The Hon. MICK VEITCH: It does not take into consideration the plan that was put in place via that consultation?

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Ms WALMSLEY: Yes. So if you get good regional strategic planning in the first place, that should be actually able to scope where these projects might be or where the future land use conflicts might be. So if you do the community consultation right up front then that should actually reduce land use conflicts and reduce those instances where people want to be able to exercise judicial review or merits review or challenge decisions because they feel their planning process has been undermined. As I said in my opening statement, you cannot look at regional planning in isolation; you have to look at where it fits in the planning system—and it is quite rightly in the planning system. I don't think a separate piece of legislation will fix issues like that because there will always be these other issues in the planning system that can trump regional planning and undermine community confidence.

Mr SAHUKAR: I just add to that, the traditional approach to consultation is to have a submission period and for people to give written submissions. That is an important aspect of consultation but I think the areas that need to improve are around, as Ms Walmsley has said, tailoring methods to the communities you are talking to and to go beyond the minimum and scope of exhibiting something for 30 days and that is the basic requirement. I think there is an acknowledgement that community consultation does need to be done better and it needs to be done in more innovative ways. It is about talking to regional communities to understand what methods of engagement work for them. What forums could the government show up at to try and seek opinions? What is the evidence base that is presented to the communities so they can make informed decisions? Giving the communities access to up-to-date data—whether it is demographic or environmental or other socioeconomic data—so that they are not just being asked their opinions about something they may not know much about but they are able to make an informed decision based on their experience living in the community and up-to-date expert information.

The Hon. MICK VEITCH: For example, say you get to the end of that process and there is a spot rezoning. In the planning review the Independent Commission Against Corruption made statements about the need for third party merit appeal processes. What is your view on that? How would you see that working if it was actually put in place?

Ms WALMSLEY: Happily we have just done a report: "Merits Review in Planning in NSW". So what our report does is to look at the history of merit reviews—how long we have had it in the planning system—and the evidence is quite clear. It has not opened the door to vexatious litigation or anything. Actually, very few third party merit cases are brought, but the value of bringing such cases is very clear in getting better outcomes for local communities, better conditions, better transparency and accountability. I am happy to table that report. We can provide extra copies if it would be useful to the Committee. That is one of those really essential checks and balances that needs to be part of a planning system.

Document tabled.

The Hon. MICK VEITCH: One of the difficulties for government, no matter which side of politics is in office, is getting the balance right. Accusations are levelled at both sides of government—we are either too far in favour of developers or we are too far in favour of the environmental movement in local communities. What is your suggestion for getting it right in regional planning? What is the mechanism for getting the balance right?

Ms BROKMAN: Funnily enough, on the issue of merit reviews the vast majority, almost 99 per cent, are brought by proponents, not third parties, so there needs to be a return to looking at evidence when you are addressing issues like this. In terms of getting the balance right, if you look at the new part 3B in the planning Act that brought in regional and strategic planning, that takes a triple bottom line approach and if you look at greater Sydney, obviously it is not rural and regional, the model there is to have an economic commissioner, environment commissioner and social commissioner to try and feed into a triple bottom line. I would be quite interested to see how that might apply if that model was used in regional and rural areas. One project we are involved in with the environment commissioner is giving some input at a really early stage—a discussion paper by a range of groups, not just environmental groups but also housing groups and development groups—about how district plans will be made to actually give effect to the regional plan in the Sydney area. So if you translate that to rural and regional areas, one way of getting the balance right is to look at the social issues, economic issues and environmental issues and at an early stage have some really good, informed input into how district plans might be made that give effect to the regional plans across those areas and achieve that balance. But the planning regime is only one area where that debate is being played out at the moment.

The Hon. MICK VEITCH: The Committee has been informed, both by written submissions and in testimony, that in Queensland they have one go-to person in the bureaucracy for planning decisions and that in Victoria they have a flying squad of bureaucrats with all the expertise go to the regions to assist the local councils with development issues, particularly State development issues. What are your views about both of

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those models? Do you know of a better model that would assist because the Committee has been told that resourcing in local councils to assist in these applications is disparate and varied across the State?

Mr SAHUKAR: I do not know that we can comment on those specific examples but from the perspective of community confidence and transparency in a process, I guess you are talking about a proponent having a single go-to person to facilitate their development application through the various stages?

The Hon. MICK VEITCH: Through the bureaucracy, yes.

Mr SAHUKAR: The important aspect from a community perspective on that is that there is transparency as to how that process works and that there is appropriate opportunities for community input at each of those stages. So if you are looking at previous reforms to major projects where discretion and decision-making was centralised within one department, there was an erosion of community confidence in that because that was seen as not transparent, as over-riding other rights and therefore it was not the optimal system from a community and balanced perspective. That would be the sort of caution I would say on the kind of single decision-maker point of view.

On the second point about assisting local councils with particular expertise, I think that is an excellent idea. It is not just about a fly-in, fly-out approach, it is about building capacity within local councils. It is about resourcing councils and local land services and other natural resource managers to work together to make sure that while a local council or a regional plan is being developed, and other relevant agencies like local land services or like offices of environment have the appropriate input, that their expertise is valued and that is seen to be integrated into the process, and that the community understands that is happening.

Ms WALMSLEY: I can also say that that would depend on the scale of the development. Obviously local developments are best decided at the local level, but perhaps for larger developments extra resources would be useful. Certainly we would not support taking away local development decisions from local communities.

The Hon. ERNEST WONG: Thank you for your very thorough submission, particularly in regards to climate change and the environmental aspects. My question is to do with community engagement. Could you elaborate on your recommendation 4, that this should be a thorough and community involved consultation process? When you say "process", are you talking about where government has a development plan and has started to consult with the community to see whether it is feasible, or at the beginning engaging with all stakeholders in the regional area to see what would be the best model for development? You also mention new technology. Please elaborate on what sorts of new technologies you have in mind.

Ms WALMSLEY: On the first element, in terms of community consultation, I will add to my previous comments. If you look at the state of regional planning now in the State, we have seven regional plans. One is approved for the Illawarra already. For four of them the exhibition period has already closed. One is on exhibition and the development plan for New England and north-west is currently being prepared. I think these are important questions, but to some degree the horse has bolted because these planning processes started some time ago and they are in hand. The challenge is taking the time to make sure communities have had input. We have certainly been contacted by clients who have said, "We missed that opportunity; that exhibition period has closed, so we cannot have any say in our regional plan from here on in." There is that perception. As Mr Sahukar said, there is a call for submissions, the department might visit, you do the submission, and that is the end of it.

What I was saying before about iterative is that community consultation and engagement is not one off; it is about a longer term relationship with the community for your scoping early on, you exhibit your comment and then you go back to communities and talk about why the plan was decided the way it was, and you have an ongoing relationship. One thing mentioned in the opening remarks is that under climate change scenarios there might be the need for adaptive management—regional plans might need to change and there might need to be adaptive planning mechanisms. That means you might need to go back to the community and say, "We have new information, new data"—assuming you have the environmental accounts and the monitoring side working. If you have new data you need to go back to the community, so it is not just a one off; it is a long-term relationship to do community engagement properly for regional areas.

The Hon. PAUL GREEN: I refer to page 12 of your submission. We have been doing some other inquiries that cross-pollinate my question.

The Hon. MICK VEITCH: He is asking that you excuse him if he asks the wrong question for this inquiry.

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The Hon. PAUL GREEN: In terms of returning land claims to Aboriginal people, evidence to that inquiry said that they would still put ecologically sustainable development [ESD] above and padlock that to the return of land. Would the EDO be of the view that environmental principles should be mandated on the return of those lands to those people? If I cross back to this inquiry, that will allow me to ask my next question.

Ms WALMSLEY: Yes, we support ESD applying to all developments.

The Hon. PAUL GREEN: Over and above land claims and the rights of people getting back land to restore the situation of 200 years ago?

Mr SAHUKAR: The idea of ESD is not about environmental protections overriding other considerations; it is about integrating social, economic, environmental and equitable considerations. There are obviously very important cultural heritage and cultural knowledge issues related to those lands and the relationships and identities of Aboriginal people to those lands historically.

The Hon. PAUL GREEN: That brings me to my next question. If they were to be successful in their land claims and the Aboriginal culture, and the nation of that area were of the view that that land did not have high value, even though we may hold the opposite view, and they wanted to use that land economically, would you be averse to acknowledging that that land may not hold the value and that we have to put it through ESD principles?

Ms WALMSLEY: That would be for the relevant local Aboriginal land council, who was the traditional owner of that land, to decide and determine for themselves.

The Hon. PAUL GREEN: So you would allow that to happen?

Ms WALMSLEY: Yes, it happens at the moment. The State land council is one of the biggest owners of land in New South Wales and in lots of contacts it is a developer. Like anyone else it might want to do coal seam gas [CSG] or might want to develop it.

The Hon. PAUL GREEN: So you are not averse to that? If they want to do CSG on their land claim and it is approved?

Ms WALMSLEY: What we are about is having good environmental laws for all development.

The Hon. PAUL GREEN: As long as they tick the boxes?

Ms WALMSLEY: If they have done an assessment that is rigorous and comprehensive, and the laws say that is allowed, same as for everyone else then of course they can proceed. We are not anti development; we are saying there should be robust laws that ensure that any development by anyone is ecologically sustainable. A good part of the ESD principles is intergenerational equity, and that is really important for a lot of Aboriginal communities. It is never a simple answer, but we are all about having good laws that apply to everyone.

The Hon. PAUL GREEN: I know it is not a simple answer, and that is fine because we come back to what Mr Veitch said. He talked about meaningful feedback, and in that situation there would be conflict because many of the environmental groups would not agree with that for numerous reasons. Those groups would have given meaningful stakeholder feedback in that situation and the higher value, which we would hope is to allow the people to manage the land that they have been given back, would be placed on their being given full control and autonomous use. How would you feel if we were to pursue—and we have not talked about whether we are going to go this way—an Aboriginal State environment planning policy [SEPP] that would allow those people to have a pathway forward to get some quick returns on the economic benefit from their lands?

Mr SAHUKAR: I think that is primarily a question for Aboriginal people. It is difficult in the abstract to comment on whether we would support or not support that concept. I suppose it would be understanding a bit more about the purpose of that policy, its interaction with existing legislation—whether land rights legislation or the Planning Act—and the preference of Aboriginal people in giving effect to things under that SEPP.

The Hon. PAUL GREEN: It is a critical pathway to bring economic release and would allow them to be self-reliant and move into the things they want to move into. Obviously, that is the baseline purpose.

Mr SAHUKAR: I think it is difficult to make comment on that.

The Hon. PAUL GREEN: That is fine. You talk quite a lot about E-zones in your submission. They seem to have been critical in the way the Northern Rivers situation was handled. I have had a look at that and the point for me was that what tends to come out from those who have been affected is the same as if we went to your home and restricted you to having only two people in your house at any one time for the rest of your life. They feel totally violated by someone putting a map over their property and saying that they need not only to

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manage but to resource and potentially have some farmland sterilised from further utilisation although that land is a resource that gives them a profit and brings regional employment. From reading your views on E-zones, it seems to me that you are of the view it should be open slather over and above the needs of local people and their property rights.

Mr SAHUKAR: I think the E zone review was looking at the way local councils had made their decisions. The process that had been gone through was a process of local decision-making and then there were complications at the point of whether those LEPs would be signed off. There was argy-bargy within the department and within councils as to what that would ultimately look like. We do strongly feel that E zones play an important role and we are concerned about unduly restricting the nature of those environmental zones, particularly where local communities and their local councils have decided to apply those zones. It is important in the context of the planning system where E zones protect environmentally sensitive lands that that is working complementary to other laws that are designed to protect the environment or to provide for economic development and so on. Essentially what we are saying is that we should not unduly restrict E zoning by imposing criteria that may not be suitable. We are not saying that all of those criteria are problematic but we do raise specific concerns.

The Hon. PAUL GREEN: Once again, it is like me coming to your home because 90 per cent of the community has said they only want two people to live in that house for the rest of their lives. My point is that meaningful stakeholders can make a commitment over someone else's property but it is not really fair if that person then has to resource it and do it. On page 15 your submission says:

In most cases, privately-owned land will not have an E2 or E3 zone applied to it unless the landowner agrees or requests it.

I was up at Byron looking at a macadamia farm. That person will lose up to 35 per cent of his crop but he has planted 60,000 trees. He has done all the right things but he is going to be penalised and sterilised by a community expectation to put a map over his property and say, "We want you to do more." The guy has done more than enough and continues to do more than enough for the environment. Do you have a comment on that? Should there be E zones over privately owned land?

Mr SAHUKAR: We cannot comment on the individual cases.

The Hon. PAUL GREEN: I know. It is just an example.

Mr SAHUKAR: There is no requirement for me to give consent over the zoning as to my house, so I do not think it is just a simple matter of whether the landowner gives consent or not. There should be a consultation process that is gone through when an LEP is amended but it is not about every individual consenting to the type of zoning. In relation to existing uses of that land, existing uses are protected under the planning Act. If you are doing something already that has been approved under that Act zoning does not take those rights away from you.

The Hon. PAUL GREEN: But the mapping might make it more complicated if it is agreed to.

Mr SAHUKAR: It may do, but I guess what I am saying is that in our criticisms of that process we give particular examples of why those E zones are important and why we feel the proposed criteria to restrict those E zones are unduly onerous. We have concerns about those criteria both applying to the Northern Rivers region, which is the most biodiverse region in New South Wales, but also the potential for those principles to then be expanded across New South Wales without appropriate consultation and without that being tailored to the local needs of those councils.

Ms WALMSLEY: Bringing it back to good strategic regional planning, in an area like the North Coast you identify where the high biodiversity areas are and that unique biodiversity and you identify the macadamia farms. You can try to address land use conflicts by doing good strategic planning. Also, an important element that we have talked about a lot in the context of the recent biodiversity reforms is you do incentives and payments for land managers if they have got biodiversity on their land to actually pay them to manage that biodiversity. So you are not sterilising it.

The Hon. PAUL GREEN: Who is paying them?

Ms WALMSLEY: In the context of the biodiversity reforms the Government investment in—

The Hon. PAUL GREEN: The Government is paying?

Ms WALMSLEY: Yes, for the stewardship.

The Hon. RICK COLLESS: Initially the Government is paying.

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Ms WALMSLEY: Some of it is also through offset schemes funded by developers. There is a pool of money to invest in private land conservation. For that macadamia farmer, if there is an area of his land and he can get private land incentive money to manage that area for biodiversity outcomes then that is an income stream and an appropriate use. There are really good solutions out there being talked about at the moment. We are just saying you have the protections and you have the incentives.

The Hon. PAUL GREEN: That is my whole point. It is the carrot or the stick. The guy has planted 60,000 trees and he has beautiful biodiversity. It is a model of how you would want people to manage the land. I now want to ask about the Land and Environment Court. Coming back to meaningful stakeholders, the court can tend to rule both ways. I have seen where the community, police and local social groups are fighting a Dan Murphy's and the Land and Environment Court has ruled in favour of Woolworths, or whoever owns Dan Murphy's, over and above that. Do you think the Land and Environment Court needs some reform to give a fairer outcome to local communities where the majority of the community disagrees with the development?

Ms WALMSLEY: I think we are really lucky in New South Wales to have a Land and Environment Court because not every jurisdiction has a specific court with that level of expertise. I think it depends on the type of challenge. What the court does obviously is look at law. If it is a judicial review challenge and the decision-maker has ticked every box and properly assessed it then Woolworths can go ahead by law if it is a correct decision according to the law. It does seem unfair to local communities when that decision is made but that is based on the process. If you are talking about the community having an actual opportunity to talk about the merits of the project that comes back to why a merits review is important.

The Hon. RICK COLLESS: Thank you for coming in and for your submission. One thing we like to see in these submissions are recommendations because they give us something to work on. Can I expand on this concept of ecologically sustainable development [ESD]. It has become a bit of a cliché and so has the triple bottom line of the economic, social and environmental aspects to be considered. How can we get back to really rationalising what ESD is? How do we rationalise it and make sure that there is an equivalent and equal approach given to that triple bottom line statement?

Ms WALMSLEY: I think that comes back to the legislative architecture that we are talking about having a real, clear overarching principle of ESD in the legislation that is clearly articulated. You are exactly right, sometimes it is referred to as triple bottom line and sometimes it is referred to as the actual principles of ESD, which are quite different. There are so many interpretations out there. I think that is a challenge in how ESD has been implemented. If you look at the planning Act at the moment there are 10 or so objectives. One of them is ESD but that is just an objective that has to be considered with the other list of things to consider; it is not actually an overarching objective. In certain decisions there can be double counting of economics and then it is confusing how it is currently applied. For regional planning, having a really clear principle about how ESD applies to regional planning should be set out in the legislation itself and articulated more clearly. I think that would guide everywhere that regional planning is done.

The Hon. RICK COLLESS: You made some very good comments about the state of regional planning in New South Wales and the regional plans as they have been rolled out. My concern with what is happening in regional planning is about country centres that need jobs provided. They need the opportunity for people to find work in their local communities, which means there has got to be some sort of industrial or agricultural development or whatever it might be. One town that comes to mind quickly where there has been a lot of discussion about some of these things is Griffith where there is a lot of poultry as well as horticultural development occurring. A lot of big developments are happening there. We have had lots of reports from the people trying to get those developments off the ground that they are being held up by environmental issues placed on them that do not really apply in that situation. I think that is what we want to sort out in this inquiry, to see if we can put in place a system that bypasses some of those things that may not necessarily have an impact in Griffith but will have a big impact in Western Sydney or somewhere like that. That is one of the concerns that we have, that those sorts of things are holding up those developments sometimes for two or three years.

Ms WALMSLEY: Can you give us an example of the environmental issues?

The Hon. RICK COLLESS: I can. One that springs to mind quickly relates to the poultry developments in the Griffith area. They had to put in dust-monitoring systems. They had to have some information on how much dust was going to be generated by this development. This development is in a dry land agricultural farming area where there is quite a bit of dust generated by general farming practices, dirt roads, and things like that anyway. The dust generated by this development will be insignificant compared to the background level of dust that is generated by dirt roads and dry land farming practices.

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Ms WALMSLEY: The elements of any particular individual development application [DA] should be assessed on its merits at the time. One thing that we have said about regional planning is that regional planning has a role in looking at cumulative impacts. Where you say that development itself might have minimal dust impacts, there is a role for regional planning to look at surrounding developments and how many poultry developments might be in that area and whether you will get to the stage with cumulative impacts that dust might become an issue in the broader Griffith area. It is important to assess for individual developments, but there is also a role for regional planning in looking at cumulative impacts in growth areas. If a particular industry is in one area, you have to look at the carrying capacity of land and the landscape more broadly than the individual DA.

The Hon. RICK COLLESS: Good point. What you are getting back to now is should we be looking at identifying land for its high-value use, whether it is high-value biodiversity land, which has been taken into account in the biodiversity review in the forthcoming legislation. That then raises the question should we be looking at identifying land that is high-value agricultural industry land, for example, such as the chook shed operations and so on. Should we be looking at land that is high-value urban development land around those country towns? How do we then rationalise between an area—and this follows on from what Mr Green was raising about the E zones—that is high-value land for macadamia production or blueberry production on the North Coast but it has potential to be high-value biodiversity land? How do we rationalise the conflict when we go into the regional planning phase and say this land will be identified as high-value biodiversity land, this land will be valued as high-value macadamia land? There will always be a crossover of opinions because somebody from the environmental movement is going to suggest that the macadamia land should remain as environmental land.

Ms WALMSLEY: That is exactly the role of good strategic regional planning, to get everyone together at an early stage and map out those crucial areas. It is extremely hard to get agreement, because there will always be some conflict. If you have evidence base, if you have the environmental counts, the data to show where the best soils, the best productivity and the best biodiversity is, and you can map that area out with agreement of the local community and create some certainty around what will happen where, that is the value of good strategic planning. That is what you should be aiming to do. It will reduce land use conflict later and there should be a bit more certainty when an individual application is put in. If it is in the right zone that has been mapped for that particular activity, that should be a quicker process because it has already been foreshadowed that that is the appropriate activity for that area.

The Hon. RICK COLLESS: That is what I would like to see come out of this inquiry, that we would get to that stage. I am concerned there is always going to be a conflict at that planning stage where the environmental movement is at loggerheads with the farming movement, or whatever, about a particular area or particular piece of land. What process do we go through to rationalise that?

Ms WALMSLEY: We are not a campaign group, so we are about putting good processes in law. If you have good community consultation to get those groups together to talk about it, that can help. There will always be that kind of disagreement. There is a lot more crossover than you think. For the biodiversity reforms we did a lot of workshops recently with Landcare and farmers about people's aspirations in regional areas and the projects Landcare farmers do. The actual crossover was encouraging when getting different people with different views in a room and talking about it. That is the basis of good regional planning. If you have legislation that is really clear, processes that are clear and iterative, you can start addressing some of these challenges. It is human nature that you will always have debates.

The Hon. RICK COLLESS: When we go through the process you are describing and come to a general agreement, should there be something put in place that says that no third party appeals can be entered into to challenge that?

Ms WALMSLEY: No, I think you will always need—

The Hon. RICK COLLESS: That will always happen. The environmental movement always has the resources to challenge anything that the community thinks is important, such as agriculture production.

Ms WALMSLEY: As I said earlier, the large majority of merit reviews are brought by proponents. Very few are brought by third parties.

The CHAIR: Do you have any stats on that?

Ms WALMSLEY: If you look at the analysis of the Independent Commission Against Corruption, it is not about how many cases are brought, it is about making the system accountable. If decision-makers know their decisions will be analysed on the merits, their statement of reason, they have to show that they have analysed all the correct things, it improves the integrity of decision-making. As I said in the report, there are a

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number of merits for having a merits review. It is not exercised very often. Your statement about the environment movement having resources is not accurate. A lot of our clients are farmers, local individuals who do not necessarily have the resources, so they come to EDO because we are a community legal centre and we do not charge like a corporate firm. Most of our clients do not have the resources to run that kind of challenge unless there is a public interest element and they can get help from EDO. It is rarely used, but it is an important accountability mechanism to have for that check and balance. You can have an excellent regional plan and then a particular project might be approved incorrectly or unlawfully and it would undermine your whole regional plan. So of course the community should have the right to challenge that if there are grounds to do so.

The Hon. RICK COLLESS: It should not get to that stage, should it?

Ms WALMSLEY: Not if you have done the front end right.

The Hon. RICK COLLESS: If we have done the regional plan process properly—

Ms WALMSLEY: The law reform team is about getting better laws. Litigation is only ever a last resort. If the system has failed, litigation is the last resort. If you get the laws and the processes right up front, then you can avoid that.

The CHAIR: Mr Sahukar, you nodded your head when I asked about stats on the merits reform.

Mr SAHUKAR: That is right. I am not sure if we reference it in the report, but I think the local development monitor sets out the appeals of local council decisions and it shows that 98 to 99 per cent of those appeals are brought by developers, as Rachel was saying, and that is because developers have a much greater range of appeal rights compared to community objectors, because community objectors only have appeal rights for high-impact designated development and in some cases those merit appeal rights are further taken away from the community. That is reflected in the statistics of who is going before the Land and Environment Court, so 99 out of 100 appeals are being made by the proponents who are not happy with the development decision made by council.

The Hon. PAUL GREEN: Do you have any stats on your annual report of who applies to your—

Ms WALMSLEY: Yes, we can provide the annual report.

The Hon. PAUL GREEN: I want to come back to the Land and Environment Court reform. I am not sure you got to the bottom of whether it needs reform, nudging or changing. Given the comment we were coming to was ground truth in the matter, things like the Dan Murphy situation, which was put in a domestic violence hotspot. It did not seem that the court had the ground truth, the meaningful feedback of stakeholders, and they went through it clinically and ticked it off because it met the law and the developer was able to mitigate some of the concerns, but it was not really the truth against what was happening in the community.

Ms WALMSLEY: I am not aware of that case, but the Land and Environment Court has a practice of doing site visits. Commissioners and judges go out to sites to do ground truthing.

Mr SAHUKAR: Our criticism is not of the Land and Environment Court. We are saying that it provides an important service for the community at large. It allows all comers to the court to have access to the rigorous expertise of judges and commissioners and the experts who are employed to understand the nitty-gritty of the case at hand. Our criticism is not of the court. We think it provides an important service. We are saying that the laws that give effect to community rights, such as the planning system, need to adequately reflect the checks and balances that we are talking about so that there are adequate merit appeal rights for high-impact development and so that there is open standing—as there is now—for the community to enforce the law, where it is breached, and to seek judicial review of Government decisions that contain a legal error.

The CHAIR: That is a good summary of your position. Thank you very much. You have undertaken to provide information on notice. If you could do that within 21 days the Committee would appreciate it, but if you need extra time we can accommodate that. The secretariat will assist you. Thank you for your time today.

Mr SAHUKAR: Thank you.

(The witnesses withdrew)

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JEANETTE BROKMAN, Co-Convenor, Better Planning Network Inc., sworn and examined

The CHAIR: Thank you, Ms Brokman, for coming along. Would you like to make a short opening statement?

Ms BROKMAN: Yes. I would first like to acknowledge the traditional owners on whose land we meet, the Gadigal people of the Eora nation, and pay my respects to their elders, past, present and future. I thank the panel for the invitation to appear today. Better Planning Network [BPN] is a statewide not-for-profit grassroots volunteer-based organisation. Founded in 2012, in direct response to the proposed New South Wales planning reforms green paper, today BPN has a network of hundreds of groups across the State. These range from statewide organisations such as the National Parks Association of NSW and the Nature Conservation Council to local community groups such as Byron Residents' Group in the far north. We are committed to achieving a robust planning system for New South Wales, one that fosters best practice environmental, heritage, social and sustainability design outcomes. We want to ensure that best practice planning is achieved through a collaborative and authentic community partnership engagement approach.

I will provide some context by outlining the issues that are important to BPN members and affiliates. In a survey of members and affiliates conducted in September last year, when asked what the two most important issues were, the following areas were identified. The first was environmental issues and the proposed biodiversity legislation. The second was the high-growth population strategy for New South Wales and its impact on urban planning. The third was urban renewal projects and priority precincts. The fourth was local council reforms. The fifth was mining policies. The sixth was Crown land reforms. The seventh was affordable housing. The eighth was private certification. The ninth was the introduction of the Greater Sydney Commission. The tenth was building regulations. These views were provided before council amalgamations took place this year and before the revised biodiversity legislation was announced.

We anticipate that the results for our next annual survey, which will be available at the end of September, will reflect similar results. There will, however, be some changes. From the feedback we are getting, we believe that the environment and proposed biodiversity legislation will remain the key priority, with Crown land reforms, council amalgamations and the planning reforms coming to the forefront. To this end, the Planning for People Charter, which was prepared in collaboration with a number of peak bodies in 2014, is a key policy document that responds to community concerns and provides a vision for good planning across the State. We are pleased to say that that is supported by Labor, The Greens, the Christian Democratic Party and Independent members of Parliament. We hope it will soon be endorsed by the Coalition and the Shooters, Fishers and Farmers Party.

The objectives for the charter are that good planning is governed by the following five principles: the wellbeing of the whole community; the environment and future generations across regional, rural and urban New South Wales; effective and genuine public participation in strategic planning and development decisions; an open, accessible, transparent and accountable, corruption-free planning system; the integration of land use planning with the provision of infrastructure and the conservation of our natural, built and cultural environment; and objective, evidence based assessment of strategic planning and development proposals. In the context of this inquiry, we believe that any changes to the planning system should be governed by these principles. Further, we suggest that it is important to consider the changes that the Government has introduced since the proposed planning reforms were stalled in Parliament in late 2013.

While the proposed legislation, we believe, was unworkable and the process needed to start again rather than be amended, the Government has since then rolled out a series of changes. This has made the system more complex, although code-complying development has been expanded and e-planning introduced. Until more recently there has been only minimal consultation. Over the past year this has improved, with some positive dialogue achieved. However, overall we still consider the system to be broken and that there is a need to rebuild community trust and confidence. To this end, the announcement in September last year of the expansion of code-complying development by the Premier as a State priority raised concerns. Intended to see 90 per cent of housing dwellings assessed under the code development process, this is a key issue for regional and urban communities. In short, it is considered a false economy that is seeing poor development outcomes. Further, the emphasis on economic benefits, which still dominates planning decisions at the expense of environmental and social considerations, remains a key issue for communities, as demonstrated by the response to the proposed biodiversity reforms that will see land clearing increased, not reduced, which we see as necessary.

The rollout of regional plans is considered a key issue, particularly in terms of the conflict between land uses and that the plans do not give sufficient emphasis to sustainable environmental and social outcomes, nor respond to many community concerns. There is growing concern about the State's population growth rate. The grown rate for Sydney is 1.7 per cent in 2015, one of the highest when compared to cities in the

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Organisation for Economic Co-operation and Development [OECD]. At the same time, many regional communities are struggling and facing challenges in their sustainability and infrastructure, while hotspots such as Byron Bay have become an extension of the Sydney market in terms of housing affordability.

The lack of response to recommendations by the Independent Commission Against Corruption, [ICAC] needs to be addressed in any changes to the planning system. In the context of this introduction, we believe there are good opportunities to stimulate regional development. However, we do not believe fast-tracking approvals using the planning system will deliver the outcomes needed. Rather, we see the danger of a two-class system being created. Robust and holistic governance is needed, with sensitive and much-needed meaningful community debate. To this end, we see the opportunity for regional communities to be invigorated through the introduction of renewable energy projects, specialist incubators and educational facilities that make regional communities a preferred and viable choice for the growing population of New South Wales.

To achieve this, infrastructure and an emphasis on regional funding are priorities rather than a standalone planning Act, which is not supported and has received considerable criticism from communities and experts alike. The delivery of more robust regional plans should support regional development, with specialist hubs in regional areas that provide grassroots think tanks and expertise, with communities actively engaged to formulate the development of regional plans. This would also encourage the return of an educated workforce to regional communities to offset the high growth rate in terms of an aging demographic, which will be exaggerated in many regional communities over the next 20 years.

The performance of regional development could be benchmarked through the Planning for People Charter, as is the case already for communities on the North Coast who now use the charter to assess the performance of their local council. Further, given the inquiry's focus, we would also like to comment on one of the assumptions that is often made by the Government and we believe needs to be debunked. Increasing housing supply does not necessarily address housing affordability, particularly in communities such as that of the far North Coast where the market is on par with that of Sydney. Rather, more recent evidence shows that high urbanisation along with investment from the Sydney market pushes up local prices. As such, specialised and independent research is needed before planning system changes are made.

We see this as a key consideration to ensure that local property prices do not escalate and in turn make regional communities less attractive. While we considered the proposed planning reform at the time unworkable and that the process needed to start again rather than be amended further, the Government has since rolled out a series of changes. It is also relevant to note that the call for papers in March 2014 highlighted the close relationships between the Government and lobby groups in that less than a month after the legislation was stalled in the lower House, correspondence to the Government indicated industry representatives and special interest groups were making recommendations as to how the reforms could be achieved and bypass Parliament.

In addition, correspondence from the newDemocracy Foundation suggested the introduction of citizen juries. With hindsight, recent commentary from the department and the Greater Sydney Commission indicates that these recommendations are being progressed, with or without community support. To this end, it is essential that open, transparent and robust governance be achieved to break the nexus of a planning system that is dominated by industry and special interest groups. We would be happy to talk about this in more detail and look forward to the inquiry providing some strong recommendations to the Government on how regional communities can be actively supported.

The CHAIR: Thank you, Ms Brokman. As the network has not provided a written submission, we provided you with longer for your opening statement than we normally would.

Ms BROKMAN: May I respond to why we did not provide a submission?

The CHAIR: No, you do not need to. That is fine. It would help us if you could give us a list of your membership—who the network comprises—perhaps on notice.

Ms BROKMAN: Our affiliates—yes.

The CHAIR: Do you have statistics as to how many survey participants there were and the results and so on? That would be very helpful to us as well if you could take that on notice.

Ms BROKMAN: In response I will let you know that 176 out of the 400 groups responded.

The CHAIR: Fantastic—thank you very much.

The Hon. MICK VEITCH: Thank you for your attendance today and for your opening statement. I would like to explore a bit further your comments around a separate regional planning instrument and the view of your organisation as to why that should not happen.

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Ms BROKMAN: First I would like to explain that a lot of the groups, while they are informed about this particular inquiry at this point in time, were not aware of the inquiry at the time. So our conversation today is informed by ringing up groups to find out their views and also giving them a newsletter. In response we have had quite a few groups contact us. We have also spoken to professionals and experts including urban planning academics who specialise in regional planning and also experts in the profession who I know work very closely with the Government. There is a united position that a standalone instrument would not be suitable. It would be difficult to enforce, it would have issues as to where the overlap between regional and urban communities would be, it would create a two-class system, essentially, and it would make the system more complex.

As we all know, the system is quite complex and there are improvements being made to the system at the moment. I attended a briefing yesterday at the Department of Planning and Environment [DPE]. One of their briefing statements was that they were able to reduce the 66 State environmental planning policies [SEPPs] to 50 and are now putting the next stage in process whereby they are going to reduce the SEPPs to some themes and consolidate the SEPPs further. That is obviously an improvement to the system. But introducing another layer in the planning system is not supported. We do not know of a single organisation at this point in time within our network that supports it. But we have noted that when we looked at the research and the submissions made that the minerals councils appear to support it but councils generally do not support that.

The Hon. MICK VEITCH: During your contribution you drew on a statement in response to a survey you had sent out that mentioned "effective and genuine consultation". This is sort of a conundrum for everyone.

Ms BROKMAN: It is really major and it is one of our key themes. I invite all members here, if you have the opportunity, to attend our next forum next week in Parliament about what makes good city planning. To provide a bit of context, the Better Planning Network [BPN] started initially on a campaign to stop the planning reforms from coming in because we felt the legislation was not a positive way forward for New South Wales. Over the last year we have extended our conversation to look at what we can achieve in terms of solutions and also to ignite community debate. That follows because we see a vacuum in terms of having genuine community debate. There is growing frustration and anger in communities that, whilst there is a consultation process, they come away from it feeling that they have not been heard and feeling that it is a tick-box exercise.

To this end, the Greater Sydney Commission has recently been introduced, as you know. To give you an example, they have a time line to produce six district plans for New South Wales. They have just told the community in June that they are going through the process and they have not as yet rolled out the district workshops. They will put those plans on exhibition on 21 November. They themselves have said it is a very tight time line that cannot be achieved. In that process, it is not only the community consultation process that is not working; it is also the time line set by the Government. We appreciate that the Government is here to set the agenda in terms of economic priorities, but we believe that in that process it is not only the community consultation that is not working; it is actually the time lines that are being set.

One of the comments made at the DPE briefing yesterday was that they themselves were struggling with the time lines. These are professionals and whole teams of people who are paid to go through that process. Then you go back out to the community and you put something on exhibition or you might have a workshop that might be, say, three hours long, introductions are made and finished, and the actual content of that workshop might be an hour and a half. The actual consultation process at the moment is simply, from our perspective, following a set agenda that does not allow for robust new idea making, and it is not done at the initial stage. In other words, you ask people to comment on or endorse something that is already shown.

I will give you an example. There was an event I attended last year. UrbanGrowth ran the workshop in Newcastle. There had been problems in the city on another workshop. I was keen to go up to the community because they said the initial workshops were not working. I caught the train, arrived and went to the workshop. Given the feedback I had received, I had asked beforehand whether there would be a change and I had been convinced that it was going to be a new, fresh approach. When I arrived there was a long walk through the area so that people could understand what was proposed and understand the context, which was very positive, but by the time the workshop started—the event was from 10 a.m. to 4 p.m.—the actual content was basically 1½ hours or less when you had to give the information and then close it down. Within that process the actual consultation at the work tables was probably about 45 minutes.

During the course of the event there was suddenly a realisation at the table I was at that what we were being asked was whether we liked option 1, 2, 3 or 4 but that they were part of an interrelated approach with each option building on the previous option. Option 4 was assuming all of options 1, 2 and 3. I asked the people on the table behind me whether they knew that and they said, "No," so I put my hand up and asked if I could

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speak. There was then 10 minutes of consultation because they did not want me to ask the question in front of anybody else and they did not relay that to anybody.

The process that day for the people that were in the room meant they walked away with frustration, yet when they released the results of the community consultation it said it had been endorsed. That was because the question that was asked at the end was like a push poll. They asked if we thought the workshop was valuable. Of course everybody thought it was valuable, because they had some chance of saying something. This is one of the problems we are experiencing. Regional communities often do not even get that process. Newcastle and Sydney do, but you have to fight for that process. Other communities have never even had it. For instance, there is the example of North Parramatta. I know it is in Sydney but again that process has completely failed. Two years later that community is still talking about the fact they were not consulted. That sets a really bad approach with government.

That sets a really bad approach with government. It kills off the conversations that you can have and it kills off the better outcome that you could achieve. For instance, some of the groups now these days are not taking an adversarial approach, they are rather saying: This is the solution that you have for the plans for our area but this would actually produce far more. They are linking up with local business groups and local landowners and finding solutions themselves.

It is a long answer to your question but I think that we are failing in terms of really building a very good, viable community consultation approach that would see communities come together and work. I think we have an intelligent population but many people are exhausted from battling the process but there are enough people out there at the moment who want to rebuild and have a positive way of going forward. They see the problems; they are there to talk to government; but it also needs government to come to the table without the pre-set agendas and to talk about what the priorities are for New South Wales. I have hope that we can achieve that.

The Hon. ERNEST WONG: This is the same question I asked of the previous witnesses in regards to the process of consultation. My understanding of what you have said is in regards to the consultation process where it is not effectively providing a chance for the stakeholders, the community groups, to be heard. So I would ask the question then: If that process be starting at initiation, even at the stage of the drawing board, before everything is going to be on the drawing board, and then providing the opportunity for the community or the stakeholders to endorse it, rather that we start at the initial process to look into what would be the best for them before they come to the drawing board. Do you think that would be a more effective way of doing it? If that is the case, then can you comment on the process that we are now having, particularly for some of those plans that are already being endorsed or being, not implemented, but being endorsed?

Ms BROKMAN: I think it is relevant to respond to that in two separate examples. Firstly, I did have the opportunity yesterday to attend the DEP briefing, these are briefings that are done now every half year.

The CHAIR: Who conducted that briefing?

Ms BROKMAN: Alison Frame, the Deputy Secretary who is responsible for—I am guessing—policy and strategy, I think. It was introduced, we were told, in response to a meeting that we and other stakeholders had had with the Minister. So he was responsive and this was introduced with the new Secretary in the department. We have had two this year. They have been very good. We believe there is an opportunity to, rather than just comment, respond to the briefings that we can actually engage with that in a further opportunity at the start. We are making that recommendation. We also talk to industry lobby groups and I was talking this morning to one of the industry lobbyists who was in the room who felt that we did not have the opportunity to put something forward and converse about that. So there is an opportunity there.

It is both with the department and also in the consultation process. For instance, with the regional plans that have now been rolled out, there is frustration about the land use. And I think it is particularly relevant that, for instance, in the briefing we had yesterday there was some really solid information that, when communities sit down around the table and are given that information, for instance the ageing of the population workforce, some really good statistical information that will be released, we understand, on 6 September, that the opportunity is given to the community to sit down and say, "Look, in this area we have these issues. This is what the evidence shows. Where do you think we should go forward?" I think it should start from that premise. I think there is an amazing opportunity to do that because our society is far more educated, far more collaborative and far more connected than it was.

If the Government does not set that agenda at the start and be instrumental in working with that, rather than tokenism such as social media, then the communities themselves will drive those outcomes and the Government will be left behind. Rather than being a laggard in terms of that consultation process, it should be at

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the start, using some really good processes to initiate that debate. The information that I was privy to yesterday, along with many other people in the room, including industry lobbyists and government authorities, was of real interest. I thought, when I walked away, if we could only show that to regional communities and engage from that starting process so that you have that conversation and look at the priorities for the region and the opportunities there are.

The Hon. ERNEST WONG: You mentioned infrastructure. What kind of role do you think that should play in the planning process?

Ms BROKMAN: We see it as an essential part of the process. We know that, as digital technology comes online, it will change but at this point in time and, we believe, for the next 20 years, it is essential. One of the issues is, for instance, if you have a look at the opportunity of developing south, at the moment we are expanding Sydney, rather than building regional hubs. Sydney is outgrowing itself and becoming an even more sprawled city. If we looked at proper infrastructure development, for instance Newcastle or Goulburn are examples, there are amazing opportunities to do that. We know the cost is high and we believe that we need to have a look at that and to look at what options there are. But at this point in time we see infrastructure as fundamental, not the Planning Act, in achieving those outcomes.

The Hon. NATASHA MACLAREN-JONES: Thank you for coming today. I think one of the charter principles you raised at the start was about evidence-based. On your website it raises concerns about developers paying for reports such as the environmental sustainability reports. Are you recommending that they do not pay for those reports but that the Government pays, or is there some other way?

Ms BROKMAN: Two issues we raised recently with the department. We had the opportunity to have an intimate conversation on a bus tour that we took the department on recently around Sydney, to show the bad development. It was interesting because on the bus tour we had the opportunity to take the Environmental Defenders Office [EDO].

The Hon. NATASHA MACLAREN-JONES: This is more about regional planning.

Ms BROKMAN: But I think it demonstrates the same thing. What we are seeing, when we look at development, whether it is in regions or on an urban basis, we see a fundamental parallel between the two things. That is that reports are not robust, they are paid for by the developer or the proponent and the evidence from the Government relies on that. The proponents or industry lobbyists are feeding that evidence through. When we look at other reports, for instance the McKinsey report on debt leverage and the implications on land values, it is an interesting report. It identifies that urbanisation is one of the key challenges in terms of affordable housing or land values.

We think that private certification and those reports should be separate. How that mechanism is introduced, we do not have an answer right now but we would like to talk to government about it. We know that on that bus tour, when we had the executives from the department with us and we also had the opportunity for a specialist, a professional and also the EDO were in it, private certification was the forthright conversation that happened and the Secretary said to us, "How would you solve that? How do you fix it without incurring a greater cost?" So we recognise that government is about not incurring greater cost and we would like to talk to government about those options but I cannot respond to that question right now.

The Hon. NATASHA MACLAREN-JONES: I am happy for you to take this question on notice because I would be interested to know if you have any evidence of that in regional communities. Planning in metropolitan areas is very different and whilst this inquiry is about regional planning processes it also about ensuring that the economic development and environmental needs in those areas are also balanced. I would be interested to know if there is any research that shows that there is a problem in regional areas—

Ms BROKMAN: In terms of that report?

The Hon. NATASHA MACLAREN-JONES: Yes, in planning. The charter was developed in 2012?

Ms BROKMAN: No, it was actually developed in 2014 in response to the stalled planning reforms in government. It was announced in September that year in Newcastle initially and then in Sydney the announcement was made in October. It was a TDocument and we asked candidates for the State election whether they would sign up to it. The Greens, Labor, some Independents and also the Christian Democratic Party signed up to it. We had a response from the former planning Minister, Pru Goward, just before that election that there was no need to sign it—I am now trying to remember this properly—because the Government already does that. But that is not our point of view. We have raised it again, and we know that some of our member groups have raised it with the Minister, and we are keen to advance that. It is actually really interesting to see that some of the regional communities on the North Coast have actually taken that charter and put

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benchmarks to that charter and now are looking at their local council and using it to benchmark the performance of their local council. It has been a really interesting exercise and it was actually initiated by the community themselves up there.

The Hon. NATASHA MACLAREN-JONES: Your website said it was developed by peak organisations. Do you know which organisations? I am happy for you to take this question on notice.

Ms BROKMAN: Let me just have a look. I can read them out to you right now—it is on this particular document. It was prepared by a working group of organisations, which included the Better Planning Network, Community Councillors Network, National Parks Association, National Trust of Australia, Nature Conservation Council, NSW Heritage Network, Shelter NSW and Total Environment Centre. In response to that, many of the groups endorsed it but what we found was that it was the larger population base that actually endorsed it and there were thousands of people who endorsed it and many of the candidates endorsed it. So there has been a really well received take-up of the charter.

The CHAIR: That list seems to be a little bit one-sided. It does not appear to have much representation from architects, developers or various other organisations.

Ms BROKMAN: We know it was endorsed by the architectural profession but it wasn't actually by individuals who signed it. We did not actually at that point in time seek—knowing the community concern we were hoping to push that debate and have people endorse it—to take it to the next tier and go out, but we know on an individual basis we had many academics and many professionals endorse it and they have referred to it many times since then. It would be interesting to take that, for instance, to some of the lobby groups and I would be interested in doing that but we didn't actually pursue that at that point in time. These were part of our member groups, for instance, the National Trust, so we had created the charter in collaboration with them. Just to let you know, there were even higher performance objectives wanted to be achieved but even within that group, as always, you build a consensus and what we regard as a really good way going forward but it is a minimum position as opposed to actually—we believe these objectives are very achievable and we are encouraged when we speak to the Minister but we are just surprised that the Coalition has not endorsed it yet and we would like them to do that.

The CHAIR: It may have been a stronger document if it had a more balanced authorship.

The Hon. RICK COLLESS: The Planning Institute or something like that.

Ms BROKMAN: We will take that on board.

The CHAIR: It would be worth your while to do some work to try and expand that input.

Ms BROKMAN: I think that is worthwhile, thank you.

The Hon. RICK COLLESS: From a philosophical point of view, does the Better Planning Network support regional development? In particular, do you support regional development in some of those more controversial areas such as agriculture and industrial agriculture such as feedlots, poultry, intensive animal industries and various aspects of mining?

Ms BROKMAN: In terms of regional development we support sustainable development and in that context I cannot respond to your specific question because it is actually not in the context of our constitution. Our constitution actually focuses on changing the planning system. It has not actually looked one step down at individual developments. Just to give you a perspective, for instance, we have more recently spoken out about a number of projects but we don't speak out generally about projects—we leave that to regional communities or urban communities to do that. We did speak out more recently on the loss of the trees along Anzac Parade because we felt that the actual planning system had a problem in terms of the process that was gone through. So if you looked at the process that had actually happened—the approval of the project was made on the day that the exhibition closed and we felt that there were some serious governance issues. So in that context we do comment, when we feel that there is a public need to actually make comment. We have done the same with WestConnex—

The CHAIR: . If I could just stop you there. You did make some comments in relation to the growth of Sydney and the desirability of growth in other areas and you mentioned Goulburn amongst other places.

Ms BROKMAN: I was using it as an example.

The CHAIR: What is your attitude to that sort of thing?

Ms BROKMAN: We see the opportunity for regional development in terms of New South Wales being a leader in renewable energy. If you could rebuild some of your regional communities in terms of that, we

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see the opportunity of that ongoing impact with housing affordability in Sydney and regional communities would become attractive, and you would look at using industries that actually put New South Wales at the forefront of that development. In doing that I cannot go down to the detail but, for instance, we would look at things like incubators. We know that there has been a pilot project more recently in one of the New South Wales regions in renewable projects. We see there is an immense opportunity to use the infrastructure that we already have existing and regional communities can expand on that. We believe that the conversation should be held on that basis.

The CHAIR: So you do not really have a position on the sort of development that Mr Colless was talking about?

Ms BROKMAN: Position, no.

The Hon. RICK COLLESS: Fair enough. You did mention infrastructure being important in regional planning. What do you see as the key infrastructure items that need to be provided in regional areas? Goulburn is probably a little different because it is a regionally significant, large city compared to a lot of other smaller centres in regional New South Wales, which are all crying out for jobs because they are losing population and going backwards. We need to reinvigorate those communities to make sure that they have jobs in the future. What sort of infrastructure needs to be provided in some of those smaller centres to make sure that we have regional development and jobs in those centres?

Ms BROKMAN: Traditionally I would say transport systems but I think there is a change that is evolving over time. I am not an expert at this but I always look at things: Where do you want to be in 2036? So if I was to wake up tomorrow and it is 2036 what would those communities look like? I would imagine that those communities would look as if they had solved some of the dilemmas of mining versus renewable energies, they had education systems and people did not need to leave their local community because they were achieving world-class education systems—for instance, in future you do not necessarily attend university yourself. You will be using an online system. You will have high specialist skills in those areas where people actually go from initial schooling, right through to tertiary education to actually using those skills they have learnt. So in terms of the infrastructure that you require over the longer term I think there is going to be a change; in terms of the infrastructure that you require immediately there is a key area in that transport infrastructure. I think that is one of the areas apart from funding for sewerage, water supplies and whatever. How you solve that, I am not an expert at that right now.

The Hon. RICK COLLESS: I refer you to the comments you made earlier about the North Coast. One of the issues this Committee is grappling with is fit-for-purpose land use. In the discussion around the biodiversity legislation the term "high conservation value land" has been used quite a bit and the biodiversity review indicated that we needed to have that land efficiently mapped, which may or may not happen depending on the cost of doing it. It raises an interesting scenario about what other sorts of value lands we should also be mapping in terms of regional development. If we are going to have high biodiversity land should we also be looking at high-value agricultural land, at high-value irrigation land, at high-value agricultural industry land—

Ms BROKMAN: I think if we—

The Hon. RICK COLLESS: If I could just finish this point, then I will get you to comment. Once we have that land mapped as fit-for-purpose then the approval processes can be significantly shortened in order to allow developments to happen in line with the way that land has been mapped.

Ms BROKMAN: Given the input so far that we have had I would like to actually come back to you and respond to that question specifically because I would like to actually go back to communities specifically to respond to that. I could make a general comment but I think with the opportunity to respond from the actual regions you would actually get a more in-depth comment and I would like to be able to do that for you.

The CHAIR: The Committee would appreciate it if you could take that question on notice and come back to us, together with the earlier items we mentioned such as the membership, the survey results and so on, within 21 days.

Ms BROKMAN: One thing I need to draw your attention to is that our member groups are different to our affiliate groups and our member groups are not necessarily on public record. So I can provide a list of all our affiliate groups, which covers most of our members but I just needed to point that out.

The CHAIR: That is fine. Thank you for appearing before the Committee today. The secretariat will be in touch with you.

(The witness withdrew)

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MICHAEL TOBY, Corporate Affairs Manager, Costa Group, sworn and examined

The CHAIR: Welcome, Mr Toby. Would you like to make a short opening statement and tell us a little bit about Costa Group?

Mr TOBY: Yes, please. I would like to begin by thanking the Committee for the opportunity to have made a submission and to appear before it today. By way of background, Costa is Australia's largest horticultural company, and we have farming operations in each State of Australia in more than 30 different regional communities. New South Wales is a very important State for the company as we grow glasshouse tomatoes in 30 hectares of glasshouses at Guyra, in northern New South Wales, and farm more than 300 hectares of blueberries and raspberries in Corindi, north of Coffs Harbour. Over the last decade the company has invested in excess of \$100 million in New South Wales operations, with this investment occurring in regional areas and generating thousands of jobs and employment opportunities.

On the whole, Costa believes that the New South Wales Government is very effective in its efforts to support regional development and growth, particularly through direct financial assistance. This was indeed the company's recent experience in respect to our investment in the new glasshouse facility at Guyra. With respect to what I would refer to as non-financial assistance, Costa believes the Government could examine ways in which it could assist and facilitate regional investment. I want to stress that when I refer to "non-financial assistance" I do not mean special favours or circumventing due process; rather I am referring to assistance in navigating the various planning approvals processes and ensuring that there are no unnecessary delays or roadblocks to that project becoming a reality and the worth of the investment being fully realised by the company and the community. In terms of regional development, I hope the Committee would agree that projects falling within the range of \$50 million to \$100 million are significant and deserving of such assistance and help.

I will not go into the specific detail of our submission, but in a nutshell it recommends to the Committee that what we call "non-financial assistance" could be provided by way of, for example, a dedicated senior public servant and/or a so-called one-stop regional development shop that is there with the brief to help and guide a local council and company through the planning approval process and, in particular, the development approval process. The company considers that this would be invaluable for attracting regional investment and development. Thank you.

The CHAIR: Thank you very much for a very good suggestion.

The Hon. MICK VEITCH: Thank you for your submission and your attendance today. Did you read a prepared statement?

Mr TOBY: Yes.

The Hon. MICK VEITCH: Are you able to table it?

Mr TOBY: Of course.

The Hon. MICK VEITCH: In your submission you talk about the Victorian model and say that the State has a planning squad. Please explain to the Committee your understanding of how that works and how it could be deployed in New South Wales.

Mr TOBY: I can cite an example of where we were undertaking an investment in regional Victoria and we approached the particular local council to brief them on the proposed investment. We were then put in touch with the Department for State Economic Development, I think it is called. Within the department there is an Invest Assist branch. We were then put in touch with a person in that branch. We worked with them and the council to determine what development approval was required, because we are talking about a small council that did not have the total resources to process and deal with that application. When I refer to the "planning squad", Invest Assist then worked with the Department of Planning to utilise these officers out of the Department of Planning, whose brief is literally to go around the State and work with local councils in processing what I would call significant development applications. In that respect we were looking to spend in excess of \$50 million.

The Hon. MICK VEITCH: How would that apply in New South Wales? Do you have a recommendation for New South Wales flowing from that experience?

Mr TOBY: I can only talk from that experience. I do not know whether New South Wales is utilising something like that, but if it is not I would suggest that it is worth looking at.

The Hon. ERNEST WONG: Following from that, the other option that has been mentioned is the one-stop shop. When it comes to an urban development it would be a lot easier to have a one-stop shop that

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would be the authority to look into the development as a whole. But if it is an agricultural development then probably that would require a cross-departmental partnership. Would you elaborate on how the one-stop shop would help? What model do you have in mind that we can look into?

Mr TOBY: I would refer you to what exists in Victoria. I should mention that I am from Victoria, but I am not here to champion what Victoria does. I think it is a good existing model that is worth referencing. As I mentioned, Victoria has Invest Assist and within Invest Assist what I would describe as senior public servants, some of whom have been at the deputy secretary level. They have vast experience across the bureaucracy/public service. They have the benefit of knowing how it works. They have the benefit of knowing senior people in the relevant agencies and departments. When I talk about a one-stop shop, that literally becomes your starting point if I am a company contemplating an investment. I should say that what gets them excited is the number of jobs, in particular, but they also place a value on investment in regional areas that falls within the \$50 million to \$100 million range. As I said, in an urban setting that sort of investment is probably considered peanuts, but in a regional setting I would say it is quite significant. They are your starting point and from there they will work with you in navigating your way through that process, whether it is the planning process, environmental approvals, cultural heritage approval.

The Hon. MICK VEITCH: Do they smooth through the roadblocks along the way? Exactly what is their role? Is it to assist you in the process or is it to assist the process?

Mr TOBY: Both, in our experience. As I said in my introductory statement, it is not about trying to circumvent the process or do special favours. Assisting during that process is applied in an efficient and timely manner. Especially with agricultural development timing is everything in being able to plant your crop at the right time and realise that investment.

The Hon. MICK VEITCH: Is one of the advantages of this Victorian model that you have a group of people who are doing this all the time so therefore the expertise they develop is quite advantageous to the smaller regional councils that may not have that expertise?

Mr TOBY: Yes, I think particularly in respect to planning matters and dealing with development applications. I preface this comment by saying that this is in no way a criticism of Guyra council, but you look at a council that size and they deal with a development like this once every 10 to 15 years if they are lucky. Therefore they are not going to necessarily retain and have on hand the resources and expertise to deal with it. In that situation, because of our knowledge of Victoria, we did ask the question if it was possible to have people from the Department of Planning come in and assist them simply to process the application because it then had to go to the Joint Regional Planning Panel [JRPP]. The answer was no.

The Hon. ERNEST WONG: In your submission you mentioned a few times that a delay of the process will cause additional costs and jeopardise a lot of investments. Can you mention any cases that support this jeopardising of investment so we can look at the facts to see how that will be jeopardised?

Mr TOBY: I cannot give you any other examples outside of our experience but the delays that we encountered did add to the cost of the development.

The CHAIR: I should declare an interest in that I am sure I consume your tomatoes and blueberries—but I pay retail for them. How do you come to choose between various State locations? I do not know much about agriculture but I would imagine that tomatoes in glasshouses do not necessarily have to be in New South Wales. What are the factors and drivers that come into it?

Mr TOBY: Believe it or not, Guyra, in our view, is the best place to grow glasshouse tomatoes in Australia because of its elevation and its temperature and sunlight. That is one factor. With respect to blueberries and raspberries, believe it or not, Corindi is a very good place to grow blueberries. But the other produce we grow we could literally grow anywhere. I would say to you at the moment we grow mushrooms in every other State except New South Wales.

The CHAIR: My point is that if there were improvements in planning along the lines that you are talking about could it be a factor which would influence you to choose New South Wales instead of another location for some of those projects?

Mr TOBY: It would certainly factor in our decision-making, yes.

The Hon. RICK COLLESS: Thank you for coming in. We have spoken on the phone about some of the issues you have faced with the Guyra development. Can you just go through the issues that you had with the proposal at Guyra when it was first kicked off and the additional issues I think you had as you were expanding? How long did it take to overcome those particular issues?

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Mr TOBY: I think the particular issues were around timeliness and also the capacity of the local council to be able to deal with that development application and to be able to submit it in a way that the JRPP could deal with it and ensure that there were not any delays. Unfortunately, the JRPP rejected it to begin with and sent it back to the council.

The Hon. RICK COLLESS: Was that an issue with the council's preparation of their submission to the JRPP?

Mr TOBY: The council may tell you otherwise, and there are a number of factors at play obviously, but the reason for me being here is to say to you that we think that process would have been a lot more efficient and smoother if there had been officers from the Department of Planning providing assistance and expertise in dealing with that application.

The Hon. RICK COLLESS: In those early stages?

The Hon. MICK VEITCH: The Victorian model?

Mr TOBY: Yes.

The Hon. RICK COLLESS: In your submission you make the point that you grow produce in all other States as well as New South Wales. Are there any other constraints that are New South Wales specific when compared with some of the other States, I guess particularly in terms of the timeliness? What are the reasons for the hold-ups if they are happening here?

Mr TOBY: This may exist but we were not aware of it and I am still not aware of it existing, but having that one-stop shop. I do not know whether you put that in the Department of Trade and Investment. You may have someone sitting there and we just did not ask the right people but having that one-stop shop. If you go to the local council first off they can then say to you, "Okay, what you are proposing is of a magnitude to warrant going to the one-stop shop and we will work with you in doing that." I think that would help considerably because at the very beginning you can then be explaining to that person what the development involves and critical things such as time lines.

The Hon. RICK COLLESS: As you rightly said, many of these smaller councils may never have faced this scale of development before at all and if they have only very rarely, so it is important to get it right.

Mr TOBY: As I say, that is no reflection on them. That is just the reality of it. They are not going to have those resources immediately to hand for something that might crop up every decade or so.

The Hon. RICK COLLESS: In terms of rezoning of land in order to allow your particular developments to go ahead, how does what happens in New South Wales compare with what you need to do in other States in that regard? Did you need to seek a rezoning for the Guyra development?

Mr TOBY: No. I will not stray into making comments about things like the E2 zones. I will refrain from doing that.

The Hon. RICK COLLESS: How does New South Wales compare with other States in relation to providing infrastructure such as electricity, water, roads, et cetera?

Mr TOBY: Very good. We received some financial assistance for constructing a road in particular from the Department of Industry and Investment. I could not fault that at all.

The Hon. RICK COLLESS: An issue that has come up in previous hearings is the way section 94 contributions are levied in New South Wales on all developments. You would have paid a section 94 contribution on your Guyra developments. One of the suggestions is that rather than pay a section 94 contribution for some of these larger developments, developers might be more interested in a voluntary planning agreement whereby they would be required to contribute directly to the cost of provision of extra infrastructure for their development rather than just pay into an unknown empty bucket, as section 94 contributions are sometimes described. Have you had any experience with that? I think they do voluntary planning agreements in Victoria. Have you had any experience with those and how does it appeal to you as a concept?

Mr TOBY: I do not know how you describe section 94. Would you describe it as a land tax?

The Hon. RICK COLLESS: It is an infrastructure fee, essentially.

Mr TOBY: I think what you are saying has merit. We did not have any objection to paying it, but you would like to think that some of that money is—what do they say, hypothecated, so it is actually going—

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The Hon. RICK COLLESS: It is not hypothecated. It goes into a general bin in the council, which they then draw on to use for other sorts of purposes.

The CHAIR: Picking up on that, one of the differences is that section 94 is a known quantity, the numbers are there. Some people are concerned that voluntary agreements are an opportunity for councils to gouge an unknown quantity. Do you have a view on that?

The Hon. RICK COLLESS: But it is hypothecated, that is the difference.

The CHAIR: Absolutely. From a business point of view, would you prefer to be negotiating a voluntary payment based on whatever it is that the council says it wants, or would you prefer to be paying fixed numbers, or would there be no difference?

Mr TOBY: Putting it that way, probably fixed so we have some certainty at the beginning of the project.

The Hon. MICK VEITCH: How do they do it in Victoria? Is there an equivalent model?

Mr TOBY: I am not aware of them having anything like section 94. They probably call it—

The Hon. MICK VEITCH: Something else.

Mr TOBY: No doubt it is called something else.

The Hon. NATASHA MACLAREN-JONES: I am interested in your comment in your submission that says that rather than the process being costly, unruly, complicated and so on, the real obstacle is the threat of delays in negotiating. Can you outline what you mean by that?

Mr TOBY: Well, encountering what I call processing delays and perhaps having something prepared for the JRPP that does not meet their standards, therefore, causing a delay and not enabling us to proceed with the project.

The Hon. NATASHA MACLAREN-JONES: Have you had much to do with community consultation in your development applications?

Mr TOBY: Yes, so a requirement of the JRPP approval was to have a community consultative committee. I am glad you have asked that question because it seems the only model is a community consultative committee for a mine project. Clearly growing glasshouse tomatoes is not a mine project. We would argue it does not have the same impact on the environment, but it is a one size fits all.

The Hon. NATASHA MACLAREN-JONES: Is that across the whole State?

Mr TOBY: No. My understanding is that if it is a requirement of the JRPP, that is what applies.

The Hon. NATASHA MACLAREN-JONES: So everything is compared to a mining application?

Mr TOBY: On a mine project.

The Hon. MICK VEITCH: The extractive industries. At Tumut, the Visy mill has a community consultative committee that has been operating for I do not know how long. The model they have been using is based on the extractive industries model.

Mr TOBY: And we have a consultative committee at Guyra.

The Hon. NATASHA MACLAREN-JONES: We have had a number of witnesses say, in a simplistic way, that the challenges in planning could be resolved with greater community consultation. I would be interested to know your views about that, having been through it, and what could be improved.

Mr TOBY: I think that is a very good point. In an effort to overcome that, we put on a public information session with the council in which we had our planning consultants, our engineer consultants and civil engineering consultants and the people running the tomato farm available so people could ask any question they liked and we also had our plans there and details of the application. We have done that elsewhere in other States. To my mind, a company should do that anyway. There should not be any need to compel them. If they are smart in ensuring that the community understands a development, then they should be doing it.

The Hon. NATASHA MACLAREN-JONES: Do you know of any other ways of improving consultation or do you think holding forums is adequate enough to provide that information?

Mr TOBY: It depends on what level of information you provide. You need to be very transparent. There is no point in not being totally transparent. I think just giving people the opportunity to understand the

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project, and they are not necessarily going to get that opportunity by dropping into the council and having a look at the plans and the development application at the front counter.

The Hon. PAUL GREEN: Recently we got some of your product and the kids consumed it very quickly.

The Hon. MICK VEITCH: I hope you declared that on your pecuniary interests.

The Hon. PAUL GREEN: It was under just \$500. A lot of members took it, so I look forward to seeing their responses. It was very nice, and very good, and the standard was very high. I spoke to you guys briefly about the whole process, particularly in regional areas where jobs are incredibly important. I note that you mentioned there were a few hurdles. Now is the appropriate time to put those hurdles on the record. Under the former Labor Government when we were trying to do major developments down south we at least had—

The Hon. MICK VEITCH: Go on, mention the name of the place.

The Hon. PAUL GREEN: —assistance. The Department of Premier and Cabinet had a person who literally guided the situation through the agencies. Do you have an idea of what hurdles you had and what can make the situation better?

Mr TOBY: As I mentioned earlier—

The Hon. PAUL GREEN: You were reserved earlier. I was watching you from my room.

Mr TOBY: From experience in other States, in particular Victoria, but I should also add Tasmania, one of the most beneficial things the Government can do in order to generate and facilitate regional development and investment is to have a dedicated one-stop shop or unit, if you like, an invest assistance unit within the Department of Trade and Investment that you can go to as a first port of call and you can discuss your proposed investment. Then they can give it the once over to determine whether it is worthy of that type of assistance and also to give you an idea of what approvals processes you are going to come up against. I am not suggesting that all these services be provided for free. A company should have to go and engage their own planning consultant, et cetera, but for the purposes of being able to navigate your way through all of those processes, I think that would be particularly helpful.

The Hon. PAUL GREEN: That is not about averting planning laws, it is about trying to streamline answering the questions you need to answer to get the project going?

Mr TOBY: Yes.

The Hon. PAUL GREEN: Doing the right things the right way in the right order?

Mr TOBY: Yes, without the unnecessary delays. I put it to you that it is in everybody's interest if there is a \$60 million investment happening in a regional area that is going to create 200 or 300 jobs that that occur in as timely way as possible.

The Hon. PAUL GREEN: That is a very good point. If your development of that magnitude is delayed on a daily basis, what is likely to be the real economic cost?

Mr TOBY: We know the cost, but I am not necessarily at liberty to tell you the exact cost.

The CHAIR: There is a significant cost?

The Hon. PAUL GREEN: Let me rephrase it. In another development of that significance, say \$100 million investment in a regional area, what are the sort of cost delays they would face on a daily basis?

Mr TOBY: I could give you a weekly range.

The Hon. PAUL GREEN: Yes.

Mr TOBY: You could be looking at cost delays of between \$200,000 and \$300,000 a week.

The Hon. PAUL GREEN: That is significant.

Mr TOBY: It is.

The Hon. PAUL GREEN: That is probably enough to make you turn away from that development in New South Wales and look somewhere else.

Mr TOBY: It is probably enough to make you think about future developments, yes.

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The Hon. RICK COLLESS: Mr Toby, you mentioned that you do not have any mushroom developments in New South Wales. What is the reason for that?

Mr TOBY: We did. We grew mushrooms at Mittagong. It was a combination of ageing plant and it being too expensive to upgrade, so we closed that facility. Any mushrooms that we provide to New South Wales at the moment are coming from our other production facilities in Victoria and Queensland.

The Hon. RICK COLLESS: You have not looked at starting a new mushroom operation in New South Wales?

Mr TOBY: No.

The Hon. RICK COLLESS: I have a question about the management of tomatoes in glasshouses. Are the glasshouses all atmosphere controlled?

Mr TOBY: Yes.

The Hon. RICK COLLESS: For what sorts of things are they controlled—humidity and carbon dioxide levels?

Mr TOBY: Yes, they are.

The Hon. RICK COLLESS: What carbon dioxide levels do you run in those glasshouses?

Mr TOBY: I am not an expert tomato grower. I cannot give you an exact figure.

The Hon. RICK COLLESS: Are they all controlled atmosphere facilities?

Mr TOBY: Yes.

The Hon. RICK COLLESS: Thank you.

The CHAIR: Thank you, Mr Toby. You have been very helpful. We appreciate you making the effort to come from Melbourne today. You have made some very good suggestions. Thank you very much for that.

Mr TOBY: Thank you.

(The witness withdrew)

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CRAIG JENNION, Executive Director, Hunter, Housing Industry Association Limited, sworn and examined

TROY LOVEDAY, Assistant Director, Residential Development and Planning, Housing Industry Association Limited, sworn and examined

The CHAIR: Welcome. Would either or both of you like to make a short opening statement?

Mr JENNION: Yes. Good morning, and thank you for inviting the Housing Industry Association [HIA] to attend today's hearing. HIA recognises that regional development and planning is an important matter for New South Wales and for our members. HIA has more than 9,000 members in New South Wales, with more than 4,000 members working outside the Sydney metropolitan area, constructing and renovating homes across regional New South Wales. In making our submission to the Committee in December last year, we noted that HIA was not in a position to respond to all the terms of reference of the inquiry. We have put forward our position in relation to the need or otherwise for a separate planning Act, the role of strategic planning to assist regions, and pathways to improve decision-making processes.

HIA does not feel that a separate planning Act is necessary. The fundamentals of the current Act are sound and can be applied in any location. The real issue, in our view, is at the next level of the planning system. The way that strategic plans for regional areas are made and applied and the use or current lack of tailored design codes and standards for regional development is a more important area for improvement and would offer tangible benefits to councils and the housing industry. All councils struggle to obtain sufficient resources, but regional councils in particular have limited resources to prepare high-level strategic plans and design codes that adequately address housing needs, population growth and economic development. At the time of making our submission, three draft regional plans were on exhibition. HIA commented on each of them and on the three further plans that have been recently released. It would appear that the Department of Planning and Environment is working with regional councils to address the issue. HIA is supportive of this.

Since we made our submission to the inquiry, the department has released a draft of the inland code for exempt and complying development. HIA has commented on it and is a strong supporter of the need for that code. Exempt and complying developments offer a streamlined and consistent approach to rural structures and housing that will reduce the pressure on councils to undertake detailed assessments for minor and low-risk structures. The use of a State-based single code can improve certainty for home owners and regional builders. It removes the need for individual councils to prepare codes, hopefully allowing staff to focus on the assessment of more complex developments and strategic planning issues in their area. Thank you again for inviting us to attend today. We would be pleased to answer any questions you may have.

The CHAIR: Mr Loveday, would you like to add any comments?

Mr LOVEDAY: No, thank you.

The Hon. MICK VEITCH: Was that a prepared statement?

Mr JENNION: It was, yes.

The Hon. MICK VEITCH: It would be good if you could table that.

Mr JENNION: Certainly.

The Hon. MICK VEITCH: Thank you very much. Have you had a chance to look at the evidence the Committee has taken around the State as part of this inquiry?

Mr JENNION: I have had a brief look at the submissions from similar associations or organisations, but I have not looked at the evidence.

The Hon. MICK VEITCH: I am keen to explore with you the models in other jurisdictions. The Committee has heard evidence that in Queensland there is a go-to person within the government bureaucracy who, for developments of a certain value, navigates the way through all the other agencies. The Committee heard testimony this morning that a flying squad model operates in Victoria. I am keen to hear your views on both those models. Are you aware of other models in other jurisdictions?

Mr JENNION: Mr Loveday will be able to talk about the Queensland model and similarities in how that operates. I was previously in our Victorian office. That fly-in model of managing resources for regional councils has been very well received by councils that I have spoken to. The planning Act is being looked at again and there has been public comment on it. I attended a public forum in Newcastle. Regional councils at those events talked about the need to be able to share resources. I do not want to speak on behalf of councils, but

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they were very conscious of the fact that the number of reports, policies and submissions and the amount of strategic work that they were doing often meant that they could not always understand where they were going or put in the necessary resources. Being able to share expertise at a regional level would be the strong suit of any system in New South Wales.

Mr LOVEDAY: I note that my former employer, the Department of Planning and Environment, is appearing before the Committee this afternoon. I spent some time working as a project manager in the department. The department had a fly-in squad that would help with large, State significant proposals, to work through blockages. It did that through councils or other State agencies. That model continues. There are project managers assisting the department's assessment planners.

The Hon. MICK VEITCH: What is the trigger for that? Take us through how that works. Is it triggered by the dollar value or does a council get in touch and say that a large development application has been submitted? What is the trigger to activate the flying squad?

Mr LOVEDAY: In my time at the department it was done either through a recommendation from the Department of Trade and Investment, which is now the Department of Industry, or through a request made to the director-general, who would then make a decision based on criteria.

The Hon. MICK VEITCH: Who would make the request to the director-general? Was it the proponent?

Mr LOVEDAY: It was normally the proponent. A large residential or commercial developer would make a formal request to access that service provided by the department. The criteria would be based on the number of jobs or the amount of economic value it would deliver to the State economy.

The Hon. MICK VEITCH: There are models in other jurisdictions that you are aware of.

The CHAIR: The sort of model you are describing there is what I would call a reactive rather than a proactive one.

Mr LOVEDAY: That is right. So it is reacting to—

The CHAIR: What we have heard about is more a proactive approach.

The Hon. MICK VEITCH: So in Queensland, for instance, how do they operate?

Mr LOVEDAY: I am not too familiar with the set-up in other States.

Mr JENNION: Nor am I. Sorry.

The Hon. ERNEST WONG: I have a follow-on question. In your submission you mentioned strategic plans not being able to be implemented without experienced staff taking it through the whole process. Does the model you have mentioned fit with the models the Hon. Mick Veitch has just mentioned—the Victorian and Queensland models—or do you have a particular model or person that you have been thinking of? Would that person be from the State department, from local government or from an independent body? Could you please elaborate on that.

Mr LOVEDAY: In our submission we have referred to the experience of local council staff—the people who are assessing developments or writing local strategic plans within councils. They can tap into the experience of other staff in their regional area through their regional organisation of councils or they can talk to the department of planning if they have a particular issue on which they need expertise. I think they can make requests and seek the department's assistance.

The Hon. ERNEST WONG: So that is just for the strategic plan process rather than the process of helping those developments or investments to have a more efficient or effective way of getting approval. It is a different thing.

Mr LOVEDAY: Yes. I am referring to the strategic plan process.

The Hon. MICK VEITCH: In your submission you talk about the regional plans. You mentioned in your opening statements that at the time of your submission there were three draft regional plans and subsequently there are now further plans. What are your views about the original plans as they stand now? I want to give you a chance to update your position.

Mr JENNION: I am speaking purely from the Hunter's perspective. I look after from Gosford up to Forster and up the Hunter Valley, so traditionally the Hunter and the Central Coast. There are two separate plans for the Hunter and the Central Coast. It was clearly evident from our work and our submissions that we put in

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that they were written by different officers, each with a very different focus. There was not a lot of consistency in flow and format. In particular our strongest comments were about the lack of detail as to outcomes that we could measure the effectiveness of these new regional plans against in future.

I have been at events post our submissions at which I have heard a regional manager from the department of planning talking about why that was the case and that it allows some flexibility. From our side of the table, sometimes we like certainty and sometimes we like flexibility. Sometimes we like it a bit of both ways. But certainly with a regional plan for our industry we are looking for something whereby if we are standing on a hill and we are heading in this direction, if you own the block three blocks down you can work out who is in front of you, particularly around the areas of infrastructure, or try to get a bit of an idea of whether it is worthwhile holding onto a block of land. That is a little uncertain in the current format of the regional plans in the Hunter in particular.

The Hon. MICK VEITCH: In your submission you say:

[They] must provide certainty and offer clear direction on the manner in which the region will grow into the future.

Do the draft regional plans that have been put up meet that requirement?

Mr JENNION: No. That is our concern, particularly in the Hunter. I could not comment on some of the other ones that have come out in the Illawarra and other locations, but certainly the ones for the Hunter and the Central Coast, and the one for the Lower Hunter in particular, do not have any set guidelines or targets for either approval numbers or any other sorts of targets that are more than a broad motherhood sort of statement. It does not give you any indication that in these local government areas priority should be given, particularly for infrastructure.

The Hon. MICK VEITCH: If the draft regional plans become regional plans, there will be the implementation phase. What are your views about the capacity to implement and deliver on those regional plans? Is there enough detail in them now to measure their success?

Mr JENNION: No is our very quick answer on that one. There were no measurable outcomes. In Victoria, going back a while—I have been in this State for seven years now so I hope I am almost a local—

The Hon. RICK COLLESS: You have 23 years to go.

Mr JENNION: Yes—that is what I thought. Particularly in Newcastle that is definitely the case. In Victoria they had an urban growth plan that was measured against a report that was put out annually. It may not always have been on the same date every year, subject to political circumstances, but it was a document that was able to look at the growth areas around Melbourne and made it possible to set targets. It showed certain amounts of greenfield land zoned and some of it shovel-ready to be developed. You could look at some targets and see how we were going. Of course it could be used as a bit of a stick sometimes to say, "Look, in these areas around Melbourne you are doing well and in others you are not." But it gave some certainty to industry to say, "You cannot go in there and say we need to move an urban growth boundary as there is plenty of measurable zoned land."

The Hon. MICK VEITCH: Were the people or the organisations responsible for implementing those plans in Victoria the same people who prepared the reports or were the reports prepared by a separate entity?

Mr JENNION: They were both by the equivalent of the department of planning.

The Hon. MICK VEITCH: So the department of planning was the driver.

Mr JENNION: Yes. In Victoria it was both the driver and it would measure it. It would openly discuss with industry. I used to go there as a representative of a lot of developer members. We were able to talk quite openly about where they thought things were going. For example, you could say, "In this local government area we have zoned enough land for residential development." In the room were other landowners, and that had its pros and cons: "When do you think this will be released? How many lots do you think you will have in this area?" It was as simple as having a whole lot of maps and some highlighters. You could say, "We think we will do 1,000 lots in this area. This is our area on the map." You could get a bit of an idea of what was available over the next two to five years. There were pros and cons of doing that openly. Your competitors could also see what you had drawn. They changed those processes following some feedback to put them a little more behind closed doors. But still those meetings were occurring at which the department would actively give some idea of what was happening and could compare both their targets and development application [DA] approvals and what was happening on the ground with those forward looking reports.

The Hon. MICK VEITCH: Based on your experience, what would you suggest to improve the implementation and reporting in the current draft regional plans?

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Mr JENNION: There needs to be some sort of reporting of how we are tracking against those. In the draft regional plans there are references to implementation committees and references to the fact that they are all to have some sort of structure but there are no details of how that will be reported and, more importantly from our perspective, whether that will be publicly reported and available.

The Hon. PAUL GREEN: In New South Wales some time ago we did growth management plans that were somewhat along those lines. They identified future residential needs but did not go so far in the detail. They only looked at lands in regional villages and towns. I guess that would be market driven, though. If you did what you said and lined all those things up, if it is a coalmining facility and the whole town goes downhill, obviously the release need is not there. Having too much work too early could be a waste of resources, could it not?

Mr JENNION: Yes. And obviously once you get out of the capital cities—I was talking about Melbourne as a growth area with boundaries which were, like Sydney, rapidly expanding at the time—when you get into regional Victoria and New South Wales, the patchwork quilt of development means that those levers are very different. As you are saying, you can do a lot of work. I guess it depends on where the demand is coming from. Tapping into what we were saying earlier, councils need to put resources into these things. They have to weigh up whether they are going to get anywhere.

The Hon. PAUL GREEN: So your comments were more metro orientated?

Mr JENNION: Yes, but also particularly looking at the Lower Hunter. The reason I am focusing so much on that is that it is a significant area and there is a lot of development going on in that area. In the area that I look after, the Hunter and Central Coast, almost 10 per cent of the DAs last year were in that location.

The Hon. RICK COLLESS: In relation to the Lower Hunter, what about towns like Singleton, Muswellbrook and Scone where there has been a downturn in the mining industry? What is happening there with the housing industry?

Mr JENNION: Basically unless you are along the eastern seaboard the development approvals have gone backwards in the last two years. Looking at roughly the last six months or even the last year, when I compare that whole area I was talking about from Gosford to Forster and up the valley in detached dwellings we are actually up 12 per cent, so it is going quite strongly. But using the LGAs before amalgamation, almost half of those are going backwards. They are all those LGAs which are outside Maitland, Port Stephens, Newcastle, Gosford and Lake Macquarie. We are going a bit backwards in Gosford but that has some different circumstances. It is not demand stopping that, it is more land supply. That confidence has certainly disappeared once one gets north of Singleton and Cessnock.

The Hon. PAUL GREEN: Non-coastal areas?

Mr JENNION: Yes.

The Hon. PAUL GREEN: In your opening submission, paragraph 5, you talk about a fundamental element of regional growth and infrastructure as detailed strategic plans, State and regional environmental plans that "must provide certainty". What concerns do you have there about risk?

Mr JENNION: For the landholders and land developers there is a lot of capital invested in these projects. Obviously refinancing and being able to address the loans is the biggest issue. The most common concern when you get into regional again is that infrastructure side of things—who is going to pay for it and are the infrastructure plans up to date and relevant for the current time frames? Again, on that third development example, in line is Hunter Water, for example, in the area I look after with infrastructure being upgraded in a timely fashion and where does it sit so that I can know that my project might be ready to go from a capacity of residents wanting to buy in that location but the infrastructure is simply not there and who is going to fund it? Those sorts of elements are the most common to pick up.

The Hon. PAUL GREEN: In the next line you talk about the rural areas that fall behind in terms of strategic plans, through a lack of experienced staff and some other things there. Do you suggest that the Government should be putting something in place to make sure that those that are falling behind are quickened, to make sure they can meet demands? How do you address that, if they are falling behind?

Mr JENNION: What was going through my mind there were the most recent experiences with the review of the Local Government Act. I was fortunate to be on a table that was pretty much regional local planning staff. My take-home from the meeting, other than the discussion, was that they are always looking both forwards and backwards at the same time. Whatever the plan or review that they are acting on, whether it is biodiversity or a review of the local environmental plan, they were finding that they were juggling different priorities and different deadlines and from their perspective they were not consistent with the rollout of those

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sorts of things. That is just the feedback from the experience. It provided clarity that, for these guys, they were adding to it the difficulties of being a regional staff, an experienced staff, the usual stuff you get in any office, people going on maternity leave, people being transferred into different roles, annual leave, long service leave, all the sorts of things that impact any business. But for local government, because they have a smaller team, if that expert in biodiversity is not there, they certainly fall behind in processes. And also, when you are getting some of those reviews that happen that might be established, say, every two to three years that you should review XYZ plans, they are finding that they do not have the resources and time to address different priorities.

The Hon. PAUL GREEN: That obviously costs the person who is trying to get the plan up because every day lost is a dollar spent. That brings me to the next part that probably affects. You can deal with that by way of exempt complying development and you mentioned that. Do you want to talk about that a little bit and maybe give us a snapshot? You say you are working with the Department of Planning and Environment project to develop a draft regional complying development code, so maybe you can give us a snapshot of that and of how exempt complying might be able to address the earlier issue you were talking about.

Mr JENNION: I will just talk historically for a second and Mr Loveday might then speak. He and his predecessors have been involved with the Department of Planning in providing feedback on the complying development. That is handy in saying, if you are designing this house in these formats that is great because it is no different to what we have been building for 50 years and that should be able to be fast tracked through. And through our membership we have often been able to bring about variations and suggestions. Some have been supported and some not by the department historically. We found a lot of value since the complying development has been introduced, in my case from a little more distance from Newcastle. But our common feedback on that process has been that the department has always looked upon our suggestions appropriately. In the majority of cases, if they stacked up, they have come through to be appropriate adjustments. Now we are moving into more regional elements of that and that is something we have been very supportive of.

Mr LOVEDAY: We have been talking to the Department of Planning regarding increasing complying development. At the moment there is a State policy for exempt and complying development, a code that applies across the State. The department has exhibited, and we have made some comments on, a separate code for inland areas which has our support. We are also continuing to talk to the department about other improvements regarding maybe a complying development code for coastal areas. So, rather than have a one-size-fits-all dealing with complying development across the State, maybe the controls can be targeted to different areas which have unique circumstances. And coastal areas outside the major areas of Sydney or Newcastle may not have the same issues.

The CHAIR: So you are supporting the inland code as a good option because of the different circumstances?

Mr LOVEDAY: Yes.

The CHAIR: Inland would be west of the divide or something?

Mr LOVEDAY: Correct.

The CHAIR: You see the potential need for a coastal code as well?

Mr LOVEDAY: It has been flagged with us by the department and we would like to work with it on that, yes. And when we talk to our members from outside Sydney, they would much prefer to do a complying development certificate than go through the development application process, because it saves time and money.

The Hon. PAUL GREEN: Exactly and if that person has gone on holiday, you do not have to wait for them to come back because you have got all the parameters you have to meet.

That brings me to my final question. You say that there should be greater support to encourage private certifiers to operate in regional areas. I am not overly keen on this because, if you get dodgy ones, the local government has to pick up the tab for that because of their signing-off projects and they are long gone.

Mr JENNION: From our perspective—and I am sure Mr Loveday can fill it in if he feels it is appropriate—the risk is more in local government than on the private side because it is the private guy who has all the risk and all the insurances. If he gets things wrong, he is out of business. I mean no disrespect to local government private certifiers, but if you are no good at your job you can move around quite easily. Private certifiers that I operate with and who are some of the Housing Industry [HI] members are forever using our service to make sure that the advice they are giving and the decisions they are making are appropriate because the buck stops with them personally.

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Our concern in the Hunter—and I suspect it would carry across all of the State—is that there are not a lot of private certifiers in regional locations, for a number of reasons, from the amount of dwelling approvals that are coming through in that market. But they would quite often rather stay employed in local government than go into it themselves because of the risks and costs that are involved. We would like to see more private certifiers, though. A lot of our members still use local government, they see it as being appropriate for complying development and they get efficient services. You often see that in local government, that it often offers more efficient service under the private certifying complying development system, than as a development application [DA] in some locations.

The CHAIR: On that point, because we have heard some evidence about deficiencies in private certifiers, without expressing a view, some people seem to think it is a bit of a cheap shot to have a go at private certifiers as the reason for a development that they do not like. Your firm view is that there is a good role for private certifiers. If you could just express the reasons for that again?

Mr JENNION: Again, they are often looking at the same codes and same rules and regulations, they are not creating their own rules and regulations. They are generally professional staff. I do not know in the Hunter of a single person who operates in that space that I would say is not extremely professional. They are generally not small companies any longer. The small, independent operators that existed in the early days have either morphed into much larger entities or they have gone to work for other private certifiers. You are not tending to find in regional locations—and I cannot speak for capital cities where they probably could go under the radar a bit more—but under the remit of this Committee, in regional locations it is my experience that they are professional, larger bodies with, for example, one in Newcastle that would call our services at least fortnightly and employs at least 17 staff. He would be one of the largest ones operating as a private certifier in our vicinity and he offers efficient, good quality services because otherwise you would go to local government.

The Hon. ERNEST WONG: We were talking about residential development having a different nature from agricultural or mining developments and there being a lot of varying factors such as population, market demand, infrastructure or public transportation. Do you think those factors are given adequate consideration in the draft plan consultation process? Do you think those factors should play a significant role in those strategic plans?

Mr LOVEDAY: In the original plans that I have seen, and I have looked at a couple of them since I have been at HIA—we are currently working through one that we need to get a submission in by next week and we finalised one for the Murray-Riverina two weeks ago—their implementation is going to be through local environmental plans. So there will be a timing process to translate the targets and the goals set within those regional plans into the new local environmental plans and councils will have to go through a process of reviewing their local environmental plans to make sure there is consistency with the new regional plans. That will ensure that they have appropriate land zones for residential developments and there are appropriate controls regarding delivery of infrastructure working with the relevant agencies that provide infrastructure, whether it be Roads and Maritime Services or utility providers. Does that answer your question?

The Hon. ERNEST WONG: Not really. From your perspective have those things been adequately considered within the strategic plans we now have?

Mr LOVEDAY: I do not know if they really encourage the type of development that you are referring to. For example, you can encourage housing development by having land zoned for it and you can encourage commercial development by having commercially zoned land, but to actually go beyond having appropriately zoned land and a process for the delivery of infrastructure actually attracting development to a particular regional area, I do not know that a regional plan is really the right process.

The Hon. ERNEST WONG: Is that something that you think should be factored in?

Mr JENNION: I think we are sometimes awfully unfair on regional planning as being that one Bible that you go to that has everything that you need in the one spot; they often refer to other reports and other studies. But reading through the draft regional plans at the moment they certainly have had chapters on all of the elements that you have broadly mentioned, so they have certainly been addressed at a high level. Certainly if you were a particular developer or somebody who was suddenly saying, "I own that third block and it has native vegetation. How does that sit in the biodiversity world of State or local governments?" It does not always make it clear whether your project is going to be 100 per cent residential or 70 per cent but generally they have got a bit of an idea of what is on that site at purchase. For example, they know what a threatened species is and they have got a bit of an idea of the general vibe. They understand where the creek lines are and that they are only going to be able to develop up to this sort of vicinity. Sometimes the regional plan will not always drill down to the detail that everyone is always looking for but in theory you should be able to move on those reports fairly easily.

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The Hon. NATASHA MACLAREN-JONES: My question follows on from Mr Green's question in relation to partner certifiers. The Committee heard this morning from a representative of the Better Planning Network. I am not sure if you are familiar with the Better Planning Network but one of its charters is about objective evidence-based assessment and one of the concerns is about developers commissioning their own reports and impacts on the professional standard. What is your view in relation to that?

Mr JENNION: A couple of thoughts come to mind. The first one is the quality of anyone's report—you can always question the author from any perspective, whether it is coming from government or the industry. There is always an interest behind a project. Obviously if you are employing a consultant, from a developer's perspective, generally you are going to reputable companies. You are not going to go and try and fudge the numbers; it is going to come up at some stage. You are actually wanting approvals efficiently and as quickly as possible. For example, if you were to state, "There is no threatened species on this block" then you would obviously be hoping that some threatened bird or moth did not fly across someone's face while it was being assessed. Particularly, around things that don't move—vegetation—generally a lot of that stuff is known. You may not have known that there was one flower in the back left-hand corner but in most cases you are looking to get decisions made quickly.

Mr LOVEDAY: With code assessable development such as complying development, you are really assessing it against a lot of things that are quite black and white. There normally isn't a lot of discretion there. You either tick the box in terms of bushfire or you tick the box in terms of flooding and, if those things are okay, then your option to enter the pathway of complying development is open but then you have to be a certain distance off the boundary or your height is measured at a certain point and then your setback from the front and the rear, so it is all numerical. So in terms of a report, I am not aware of the concerns raised by the Better Planning Network but they tend to be DA merit issues where you do have merit assessment of impacts—overshadowing of a neighbour or impact on removal of a tree that might be significant. They are normally in the DA merit pathway with complying development and, provided you meet the code and your site ticks the boxes in terms of constraints, you can't really get an architect who is going to say, "Let's try and fudge these figures."

The Hon. RICK COLLESS: Is there an industry association certification process for these people or do they just hang out their shingle and start work? What are their qualification and certification processes?

Mr JENNION: It is very complex. They have to get approved.

Mr LOVEDAY: The Building Professionals Board.

Mr JENNION: Obviously we are talking about engineers, surveyors and all sorts of different qualifications. It is quite complex. It is a little bit different to the space where it isn't licensed—so building inspections where you are turning up and saying, "Is that defective? In my professional opinion it is or it isn't." With private certifiers you actually need to have some pretty serious qualifications and work experience. That is the strength of the system—and it can also be perceived as a weakness—but it certainly means under the current system you need to have some pretty serious experience. You often find that people aren't able to do that—for example, "I have ticked five or six boxes. I want to be a private certifier. I have had a lot of experience." It just doesn't operate that way; the risks are often too big. It is quite specific on your experiences and skills.

The Hon. RICK COLLESS: So part of the problem with the lack of availability in smaller regional centres is the higher level of qualification and certification that they need. What are our options for overcoming this and making these people available in some of these smaller, regional communities?

Mr JENNION: Obviously the honest answer is markets will always determine whether there is a space for it. But the honest thing, in my experience, that is making it harder for private certifiers is actually local government certifying in that space. Some of their fees are much lower than someone could go out and operate on. If you were suitably experienced—and a lot of them have come from local government, either directly or had previous experience—the first thing you are going to do is work out whether you can pay your rent and provide schooling for your children based on these sorts of rates and the size of the population. That tends to be the biggest driver, I suspect, in regional locations—who is your competition and is there enough work?

The Hon. RICK COLLESS: I go back to the issue of exempted and complying development codes. How does that work in practice?

Mr JENNION: It is really good that at the moment the Department of Planning and Environment has released some online processes. If you had a box of a house you can look at the size and see if it will fit. You can look at graphical images and see straight away without involving consultants or going too far down that route. But in most cases you are engaging a certifier—to be honest, in my experience, most of them still being with local government; in rough numbers, they will be doing a very high percentage of those. You then submit plans, similar to a DA and they come out to do inspections at certain stages as well.

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The Hon. RICK COLLESS: So it really only applies at the construction stage for housing. Is that correct?

Mr JENNION: Yes.

Mr LOVEDAY: There is a housing code, and you can do renovations, alterations and additions. You can do some commercial and industrial development as compliant development. You can do secondary dwellings, which are like granny flats on the same lot. It is a pretty broad spectrum of development through the compliant pathway. We, as well as a number of other industry bodies, are continuing to talk to the department about finding better ways to use compliant development, because its take-up is still rather low. There is probably more scope for further use of compliant development.

The Hon. RICK COLLESS: That was going to be my next question: What is the potential for expanding exempt and compliant development codes into more industrial or agricultural-type developments rather than just housing?

Mr JENNION: To be honest, that is not really in our area of expertise; ours is pretty much purely residential. We have been supportive of the regional compliant development. To give you a stereotypical example, we are talking about rural lots, larger lots. Why would you need a DA for a silo as long as it meets compliant development and is not against a road? Those sorts of things are a bit of a no-brainer and could easily be pushed through. We have been very supportive of anything that makes it easier in regional locations outside of our remit of housing.

Mr LOVEDAY: Normally a residential development in a regional area will not need the same sorts of boundary setbacks, will not need to be so close to the boundary because it will have more land and can have more generous setbacks, and the height issues may not be problematic in a regional area where neighbours are further away. We would encourage the department to look at ways of making compliant development more attractive in regional areas.

The Hon. RICK COLLESS: Mr Jennion, I think you alluded to land availability in regional centres. Is it constrained by the time taken to do appropriate rezonings if required? What are the constraints to that land becoming available for housing?

Mr JENNION: Rezoning is always the chestnut for resourcing from councils and where they see that heading, even if they support it. There is also a whole range of other issues. Biodiversity is always one that pops up from our membership; maybe vegetation in particular, and what you can and cannot do. I understand there is a review of that, at the moment, at a State level that I am sure will address those issues. Infrastructure is another common one—how far away infrastructure is and what is needed. It tends to be traditionally the water and sewerage element, the headworks-type element that tends to be quite costly. A recent example is we were very supportive of Muswellbrook Shire Council when sewerage works there were upgraded. We are talking about infrastructure, if I have this correct, that was close to 60 years old and very much needed to be upgraded for newer facilities. The recent development on the back of the mining boom in that area was the catalyst that allowed the council to spread the cost across new dwellings coming on board.

The Hon. RICK COLLESS: There is a lot of new housing in regional areas. Is it essentially first home buyers or upgraders who are buying new houses? I guess it is a mixture.

Mr JENNION: It is across the market. Our proportions in the Hunter are not dissimilar from what is happening in capital cities—the ratio of new dwellings. You have a range of buyers, obviously. First home buyers sometimes look at existing stock and new dwellings are triggered by the person moving out of that home into a new project and looking for their second or third dwelling. It is not any particular market, but we are always supportive of elements that the State Government has brought along over the years, particularly the First Home Owner Grant.

The CHAIR: Thank you for the helpful information you have given us today. You did not take any questions on notice, did you?

Mr JENNION: No.

(The witnesses withdrew)

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STEPHEN MURRAY, Executive Director, Regions, Department of Planning and Environment, on former oath

BRETT WHITWORTH, Executive Director, Local Planning Liaison, Department of Planning and Environment, affirmed and examined

The CHAIR: We have a fine submission from you but would you like to make a short opening statement?

Mr MURRAY: I would like to thank the inquiry for the opportunity to come back and answer any questions. Mr Whitworth has a statement to make on his behalf.

Mr WHITWORTH: When we presented our submission to this inquiry we argued that regional New South Wales was different, which meant that the planning system needed to be flexible to accommodate these differences. This is a challenge that we think can be achieved through a collaborative approach, particularly with local councils. My role as Executive Director, Local Planning Liaison, is a newly created position since we presented at the inquiry. Ostensibly it is about assisting councils going through the merger processes to have a single point of contact within the department on difficult issues to resolve. It is also a position we are using to go out and work with councils on some of the bigger structural and more strategic challenges that they face with the planning system and working with our policy teams, our assessment teams and our regional teams to identify and resolve issues. It is in that frame that I am here today.

I am also happy to quickly talk about some of the things that we have been doing since the inquiry and when we made our submission. There has been a lot of work within the Department of Planning and Environment. We have exhibited draft regional plans for the Hunter, the Central Coast, the Central West Orana, the Riverina-Murray and the South Eastern and Tablelands as well as the North Coast. We have repealed 16 State Environmental Planning Policies, or SEPPs, which I think is quite a good feat. We have either removed them completely from the planning framework or we put them into local environmental plans. A particular example is how we have moved to protect the dark sky around the Siding Spring Observatory at Coonabarabran by including those provisions and controls in the local environmental plans where they are more appreciable and understandable to the community.

We have exhibited a new inland code for exempt and complying development, which has for the first time diagrams to help the layperson actually understand what it is that they need to prepare in terms of a complying development application. We have released new guidelines on wind farm assessments. We have commenced the implementation of the E zones review process. We have launched the New South Wales planning portal, which is making it easier for both councils and people working in the planning system to transact electronically with what is on exhibition in their local area or to submit development applications or to understand planning controls. We have also released guidelines to assist those councils that have either gone through the merger process or are going through the merger process with trying to set out the actions that they need to look at and undertake within the first week, the first month, the first three months and after those three months. We will keep continuing to build on that work but we are also very interested in what the inquiry will recommend to assist us to finetune the workload that we have ahead of us.

The CHAIR: I think that is a pretty good list. The Committee is very grateful for that work. We have had some commentary on some of those issues which I am sure members will raise with you in a moment. I would be interested in other items that might be on your agenda that you might be thinking about or that we may have heard about. You do not need to answer that straightaway but I think it would be quite interesting for us to hear from the department about the ongoing agenda.

Mr WHITWORTH: Certainly. The ongoing agenda I suppose will be evolving around a couple of themes. There is the discussion about the legislative update. Our policy teams have been out across New South Wales talking to councils and stakeholders about the legislative update process. There is the implementation of the biodiversity reviews. Whilst the Department of Planning and Environment is a peripheral part of that process there will still be some work for us in the implementation of that. There is also the ongoing work that we have to finalise those regional plans that we have on exhibition and then, more importantly, turn to the implementation of those plans. One of the challenges for us is to make the existing system that we have work efficiently and effectively and look at the processes and procedures that we have, particularly things like planning proposals and how we deal with that. That is something that my colleague has been working very hard on in terms of how the regional teams are structuring themselves.

Mr MURRAY: We continue to work with our regional teams to actually improve service delivery not only to the councils but the community as well because it is a product of it. For instance, we run our teams on a

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number of benchmarks. I have just collected some of the information in regard to the regions that could give an idea. I have not got the paper with me at the moment, but basically we set a benchmark of trying to issue our gateway determinations. When councils ask us can they start to rezone land we have a benchmark within which we would like to turn that around. The department's benchmark is 85 per cent in less than 25 days and the regions are achieving around 90 per cent.

Based on our statistics we are also trying to give back as much decision-making to the local communities. In the last financial year we delegated the ability for a council to make the plans back around 69 to 70 per cent of the time. We are really trying to have the teams focus on that. It is assisting councils where possible, but say for instance if we get into the western parts of New South Wales where councils are a lot smaller and quite often have a staff member who is responsible for a huge range of work it is to ensure that not only do we assist them but where possible also help develop capability for those staff members and guide them and provide assistance.

Also the broader thing is continuing on with looking at the review of the State Environmental Planning Policies. As Mr Whitworth expressed, 16 have been repealed or moved into environmental planning instruments, council's planning controls. The department is continuing to do that. Also important is finalising the draft regional plans that are out there. That takes a lot of work with councils because in the end the idea is for councils to reflect those and develop their local controls to get the regional outcome. It is also working with councils and the community about implementing those plans and assisting. It is not just saying, "Here's a plan. This is what the Government thinks should happen in your region." It is working closely with those stakeholders and asking how do we do this? How do we move forward? How do we help build the regional economy, improve housing choice in our regions, improve our environment and improve economic development?

The Hon. MICK VEITCH: Have you had an opportunity to look at the testimony we have taken as we have travelled around the State to date?

Mr WHITWORTH: We have had a brief review of some of the issues that have been coming out. I understand that strategic planning and the importance of infrastructure issues, the standard instrument, the way in which regional teams and councils work together—these have all been some of the things that have been raised.

The Hon. MICK VEITCH: There has been some evidence around the implementation of the draft regional plans and also key performance indicator management. There is a public accountability measure of some achievables that people can go and look at to make sure that they are working. Can you address that?

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

The Hon. MICK VEITCH: The obvious question then is: how are you going to make information available so that the committee does know?

Mr MURRAY: Our intention would be to publish a report on the department's website.

The Hon. MICK VEITCH: Via the website?

Mr MURRAY: Yes.

The CHAIR: We have had some specific suggestions that the plans are deficient as they have targets as distinct from objectives. The question was whether there would be sufficient transparency and accountability in checking progress against targets and then publication of that. Perhaps you can address that.

Mr MURRAY: Part of that is a number of the plans have land and housing monitors. There is a program already running in the Illawarra, there is a program running on the North Coast, the Hunter has had a program running and we have introduced a program into the New England north-west. For instance, when people say, "What's happening in terms of dwellings? How many dwellings are being created?" or "How many lots are being subdivided?", the department is working with local government to actually produce that information and make that publicly available. The targets within the plans for how many dwellings we might

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

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

The Hon. MICK VEITCH: Mr Whitworth, in your opening statement you mentioned wind farms and their guidelines. Are the guidelines still draft guidelines? Have they actually been enforced yet?

Mr WHITWORTH: They are draft guidelines. They have been re-released for community consultation following a lot of work. I am not a part of the policy area that has been working on that, and if you have got any questions I am happy to take those on notice.

The Hon. MICK VEITCH: I am just interested in your comments. When were they re-released? Was it just recently?

Mr WHITWORTH: Just recently, yes.

The Hon. MICK VEITCH: We have heard testimony about other jurisdictions and how they manage major developments in regions. In Queensland they have one go-to person in the bureaucracy who navigates the development through all the different departments. We heard in testimony this morning that in Victoria they have like a flying squad of experts from within the bureaucracy who will go out to the regions, particularly to the smaller regional councils that may not have that expertise. In light of that testimony, I think it is only fair that you be provided with an opportunity to explain how it works in New South Wales and whether there are some positives from other jurisdictions that we could use in the way we do it.

Mr MURRAY: In terms of this concept of flying squads, the department used this concept for a while, particularly when we were going through the phase of all the councils writing their new standard local environmental plans. We had resources within Sydney that would assist the regional teams and, where required, would go out and talk to the councils. We also use another model within the regions: if there is a high-work area in a region, we actually will allocate work to other people. Given the great things about technology today, it does not necessarily mean you need to go out, but if we need expertise to go out within the department, we can arrange that. In terms of someone to shepherd you through—

The Hon. MICK VEITCH: To navigate it.

Mr MURRAY: If you like, navigate or shepherd you through the government processes, I can speak from an experience where the Premier and Cabinet's regional leadership group was looking at a model of trying to set up someone through that group as a go-to person who could actually help direct traffic. It is something that we could probably talk to industry about, because basically most of the issues you would probably get around that would be around the economic development—"How do I do that?"—and always within the regions we work closely. There are contacts established because the Government runs what is called a regional leadership group, which is key agencies or clusters that talk regularly about issues. Plus we have what is called a regional managers network that works in different places, and that brings all the key leaders from government agencies together. We also bring in the regional development groups and at times the general managers, and it creates those connections. Quite often industry will come to us and say, "We've got someone looking at this. Who should we talk to? Who are the right people?", and we help them and do the guiding on that.

The Hon. NATASHA MACLAREN-JONES: Can I ask a question in relation to flying squads? You said they have been operational for quite some time. Do you have any examples of where they have been used? None of the witnesses who have appeared have talked about the flying squads in New South Wales.

Mr MURRAY: That depends on how you do it. For instance, on the North Coast when we had a number of councils doing their local environmental plans, we brought up legal people, because it was drafting a

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legal instrument, and we brought up the policy people. We do not have a unit in the department called the flying squad; we just use staff when we need staff. They came up at three or four different times. Certain councils would come in, and we would talk to them and work with them. I am not sure whether Mr Whitworth has examples from elsewhere.

Mr WHITWORTH: I think, as Mr Murray was saying, the flying squad concept really was about the preparation of these local environmental plans. If people are raising with you a flying squad to look at big development applications, there are a couple of different perspectives, I suppose, that we can bring to that from the New South Wales planning system. One is that in order to ensure consistency and transparency of assessment, the very large development applications are determined by the joint regional planning panels, which seems to be a model that initially was resisted by councils but now seems to be quite well embraced because they can see that there both is an improvement in the time frame and there is an increase in the rigour of the assessment process. There are less disputes about whether the merits of a development are suitable. If there is a concern that some of these applications are too big for councils to deal with, and that is creating a problem, then the options that we can explore are things like using the joint organisations of councils so that you can get some sharing of resources across councils as well.

One other thing I should mention, if there is a concern about shepherding applications through the State Government process, we have been looking at a concept that is called a one-stop shop. It probably will not manifest in that way, but using the e-planning portal so that if a State agency has a concurrence role or some sort of referral process for a development application, we will use the planning portal as a way of managing that and ensuring that we keep an eye on the time frames of the State agencies, and if there is an escalation we will look at how we can resolve that escalation for individual applications using the role that the secretary of planning and environment will have, or we can start getting a better understanding as to whether there are systemic issues. I do not want to pick on an agency. If there is an agency that has lots of referrals and those referrals come back with similar commentary to councils and they are always late, then we need to work with that agency about what its referral processes are seeking to achieve.

The CHAIR: If I can interrupt, there is a bit of blurring in this space.

Mr WHITWORTH: Yes.

The CHAIR: There is the one-stop shop where somebody from the central agency assists getting through the various different agencies that have got a role, that is probably not the department of planning space, it is probably an Industry or Premier and Cabinet, or something like that, or you might have a view on where it should be.

Mr WHITWORTH: It is seen as a planning space and using the planning portal as a way of implementing it and to monitor and keep tabs.

The CHAIR: That is good to hear. Then there is what you were just talking about, helping local councils with their local environmental plans [LEPs], helping the local community with the regional plans, input and consultation and all that sort of stuff. Again, there is a flying squad idea or a one-stop shop idea, whatever it is. I am not sure if that is department of planning.

Mr MURRAY: In respect of those issues about the LEPs and the regional plans, that is why we have dedicated regional teams, so we have a team based in Grafton and a sub office in Tamworth, a team based in Dubbo, a team based in Wollongong and a sub office in Queanbeyan, a team based in the Hunter—based in Newcastle—and a sub office on the Central Coast. We have dedicated staff because we think it is important that you need staff at the coalface so they can have the interactions. That is in respect of the LEP work or the regional plan work, but I think Mr Whitworth was saying that we would have to investigate this concept in respect of people who could assist with major development assessment and raise the idea of the joint organisation model that is being looked at where you could look at pulling the resources across that, using that and working with that.

The CHAIR: That is the third big area, which is dealing with individual development applications. We heard evidence this morning that there had been a process in the past where the applicants or the council, for that matter, could make a request to the director-general to provide assistance, which was a reactive thing, whereas we were looking at a more proactive process. We had an example this morning of a significant development where the proponent got a knockback at first because when they went to the planning panel, they had not complied and did not know what they had done, and the council also did not know what they should have done.

The Hon. MICK VEITCH: It was 200-odd jobs.

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Mr MURRAY: Okay.

The CHAIR: That is one that we need a bit of guidance and help on as well.

Mr WHITWORTH: Certainly. What was probably raised with you this morning was the project managers. There was a period of time when the department employed a number of project managers and they had a number of particular clients. What we would like to do and as part of my role as well is to see how we can look, maybe not for the individual development applications but some of those systemic issues, if they assist, what can be done to unblock them and to take a bit of a case management approach using the resources of the regional teams, our policy teams and our assessment teams. We already have case managers from the Department of Premier and Cabinet who are embedded in the department for major development applications, so at the State significant development process, so it would be an evolution of that.

The Hon. ERNEST WONG: You already have this central agency; that is already in place. Did you say you had a central agency?

Mr WHITWORTH: For development assessment or the State agencies that—

The Hon. ERNEST WONG: The State agency would be for the strategic planning or for the assessment? I am a bit confused about the function of this kind of agent which was supposed to be a facilitator of the whole process and how that would be different from the JRPP, which is the joint organisation to assess that particular application. Is that something that has already been in your mind, or a model that you are able to suggest to the Committee and how that would function?

Mr WHITWORTH: You have individual applications and an assessment authority, someone who needs to take the responsibility to critically scrutinise applications, make sure that their assessment is transparent and robust so that the community has confidence that those applications are appropriate. That is the role that the JRPPs, with the assistance of councils, are playing. Then, are there systemic issues? Is there a particular agency that is dawdling in respect of its referral processes and responding to councils, or is there a particular policy issue that is making it difficult to determine major development proposals? Those are the sorts of issues that the department wants to put onto its agenda to resolve. Part of my role is to make sure that I can feed those issues that are coming out of councils and community into our policy teams and our assessment teams. Then I suppose there is the third element, which is a person who works directly with the proponents and helps them to shepherd their applications through the process. That is probably getting into an area which is a little bit difficult for the Department of Planning and Environment as a regulatory authority, and that may be something for perhaps Industry or if it is a very large development that has implications for a number of applications in a region, then maybe Premier and Cabinet. For example, the Grafton jail being reopened. Premier and Cabinet have taken a role to say there is not just this individual application, there is a raft of others and we need to have a consistent approach in how we are dealing with those.

The Hon. MICK VEITCH: We have heard some testimony in other inquiries as well as this inquiry about Aboriginal land claims and when land has been granted to a local lands council that it usually comes encumbered with a range of instruments and they would say—

The Hon. RICK COLLESS: Restrictions.

The Hon. MICK VEITCH: —restrictions and hindrances. I know Mr Green will ask you about an Aboriginal State Environment Planning Policy [SEPP] or a respective SEPP about this, but from the perspective of planning, what work do you do with Aboriginal land councils in working through that once they have been granted a land claim?

Mr WHITWORTH: There are a couple of things. I will let Mr Murray talk about where we stand in respect of the Aboriginal land councils, but I would like to flag some work that we have identified in respect of actions in our regional plans. It probably does not necessarily go to the structural process of the land claim and how those are identified because I do not really want to deal with that. Aboriginal land councils have a number of different parcels of land available. In some cases they have a multitude of sites. It is about helping them progress through the planning process. In some cases it is a case of saying how do we work with the land council so that they understand what are the planning and environmental constraints that exist on these sites, and enable them to pick the best sites to focus on. Rather than chasing a hundred different zebras, they can focus on a particular site and determine whether it has the best opportunity. We have identified that as part of the regional plans. There are examples of solutions brokerage processes under the OCHRE program—in particular with the Eden Local Aboriginal Land Council—where we have been part of an interagency response. We have worked with that land council to help it understand what sorts of lands it has at its disposal and what are the best sites for it to target.

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The CHAIR: The other aspect of that is the concern that a lot of the land for which Aboriginal land councils can apply has already been zoned as environmental space, largely because it has not been owned by any active participants at the time of the zoning. Do you have a view on that?

Mr MURRAY: So much land has been claimed and is under claim in New South Wales that it is not possible to speak generally. In most instances the zoning that is applied is not reflective of the landowner. It is reflective of the attributes of the land. Part of the process, as Mr Whitworth just explained, is to work with the land councils to say, "What is worth unlocking? Let us put the effort there, instead of trying to do everything." Even if you were to zone it, the development application might fall over because of its bushfire risk or because it is a high-value environmental area or because of other issues that cannot be addressed. I imagine there are instances where land is looked at and found suitable for rezoning. In other cases the zoning that has been applied reflects the attributes of the land. When the department reviews instruments, it is not about the land ownership; it is about what the land is suitable for and what is its future best use.

The CHAIR: Thank you very much.

The Hon. PAUL GREEN: This is a very good breakdown. Who determines the attributes of the land?

The Hon. RICK COLLESS: And what are the attributes of the land?

Mr MURRAY: The council determines it when it begins the zoning process. Council needs to justify why it is applying that zone.

The Hon. PAUL GREEN: Who else might be involved?

Mr MURRAY: Other agencies will comment. For instance, when a council drafts an environmental planning scheme and gets to the point of wanting to exhibit the proposed zones it sends them out for community consultation. Through that, agencies will make comments. Also, the council will be aware of information that may be available—or an agency may provide it with information—about acid sulphate soils, high-value biodiversity, whether flora or fauna, and ecologically endangered communities. There is a whole range of information. Councils will have flood mapping, based on a study. A range of information goes into the process. Councils then make an assessment based on that and ascribe a zone.

The Hon. PAUL GREEN: Mr Murray, I am very familiar with the process. It was a leading question. The fact is, if we dispossess the nation's people of their land, we also dispossess them of the value of that land because we have judged what their land is worth and what its attributes are. That is my point. An Aboriginal community may not place the same values on land. It may say it is low value or high value, and that might contradict what we say. The inquiry has been asking whether we should give the land back and, when we do, whether it should be given without the encumbrance of all the attributes that agencies, the department and the Government have placed on it. Should we encumber land with attributes or should we allow people to be autonomous and ascribe their own value to the land? We know that land has cultural and historical meaning. Where communities do not value land in the same way, should they be able to develop it, to give them economic benefits, and to allow them to become self-reliant, successful and part of the fruitful nation that many of them dream of?

Mr WHITWORTH: It certainly sounds a most interesting proposal. If the Committee came to the Government with that, we would consider it very carefully.

The Hon. PAUL GREEN: Good.

Mr WHITWORTH: We cannot make commitments on behalf of the Government.

The Hon. PAUL GREEN: I understand that.

Mr WHITWORTH: You are talking about the importance that Aboriginal communities ascribe to land and the care and protection of that land. We have given the Committee a planning response. We have also recognised that communities have expressed concern about the imposition of E zones, whether on Aboriginal land or other land. Work has been done on the North Coast to understand and create validation criteria as part of that process. We would be keen to see what the Committee recommends.

The Hon. MICK VEITCH: This is valuable testimony. It also relates to at least two other inquiries, one of which Mr Green is the chair. Would you gentlemen have any problem with the Committee using your testimony today as part of the other inquiries?

The Hon. PAUL GREEN: The Crown lands inquiry.

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The Hon. MICK VEITCH: And the inquiry looking at the economic development of Aboriginal land.

The CHAIR: You might as well say yes.

The Hon. MICK VEITCH: I want to make sure that it is okay.

Mr WHITWORTH: The difficulty is that we are not experts on Crown land; we are not experts on Aboriginal land.

The CHAIR: I know, but you have been identified now. If we need to get you back to appear in front of another committee we will do so. You are doing such a good job.

The Hon. MICK VEITCH: This is public information anyway.

The Hon. PAUL GREEN: Many Aboriginal communities say that they want to be self-reliant and get on with the job. They acknowledge that they may not have all the skills. Say a land claim is being settled and the community has ascribed attributes to the land and wants to make an economic benefit from it. Could there be an Aboriginal State environmental planning policy [SEPP] to fast-track and provide a critical pathway to that process rather than it being hindered by other processes?

Mr WHITWORTH: It is difficult for us to say whether there should or should not be. We have learned a number of things from dealing with different Aboriginal land councils. Darkinjung is a particularly good example of a land council that has taken the approach of focusing on specific sites. It has an interesting story to tell about the challenges in doing that. Some of the other Aboriginal land councils that we have dealt with came with a smorgasbord of sites and did not know which one to start with. Often it is not the environmental constraints that are creating the problem for them; it is the question of which is the best site for them to start developing. Looking at it purely from a developer's perspective, it is about what is flat, what is well serviced and what is the least cost to develop. They are the areas that we need to focus on. We need to assist land councils in coordinating their effort, rather than saying that they can develop any piece of land.

The Hon. PAUL GREEN: I understand that. The Committee has heard evidence that the State only ever hands over high-value conservation land, rather than land with a high possibility of economic benefit.

The Hon. MICK VEITCH: As one witness said, goat tracks.

The Hon. PAUL GREEN: That is right. The Housing Industry Association [HIA] gave evidence this morning that the increased operation of private certifiers in regional areas should be encouraged. Do you have a comment on whether that would be helpful?

Mr MURRAY: Having private certifiers in regional areas is helpful. A challenge is the market reality the further west you go, and the volume of work involved. The department is aware of this issue, particularly because there are people who wish to avail themselves of that service. The opportunity exists to use private certifiers versus council services in those areas. It is part of the planning system. One can use council services or, for certain development, use the principal certifying authority and a range of other things. With dwellings it is pretty straightforward, but as soon as you get into different classes of building, with fire safety standards and so on, you need specialised people. It is something we have looked at. We have looked at options for education that the department could provide, through our exempt and complying codes, to assist communities to get that.

The Hon. PAUL GREEN: Are you getting feedback that there are a lot of rogue operators?

Mr WHITWORTH: Any rogue operator is a problem and we are getting feedback that there are some rogue operators.

The Hon. PAUL GREEN: In the metropolitan area or in regional areas?

Mr WHITWORTH: It depends on the nature of the area. There is concern in those high growth areas in which certifiers are operating. But in some cases councils are competing with certifiers. In regard to certification, it is probably much more of a concern to rural and regional councils that the building surveyors they are currently employing are starting to progress to retirement age and they are looking around for people to replace them. Whilst it might sound prosaic, looking at the employment and the education opportunities to get people in regional areas qualified as building surveyors—whether they are a private certifier or a council certifier—is a very important issue for the future of the operation of the planning system.

The Hon. PAUL GREEN: Your inland code looks pretty efficient and good. Do you have any proposals or is there something in the works for a coastal code?

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Mr MURRAY: When we looked at the inland code, one of the things was to see how it worked and get a response. While there is not a decision, if it works, one of the things we would like to see is a code for those parts of the State that are not covered. That was the response to the inland code. Local government and landowners said, "That is great for high-density or a regional city or the metropolitan area, but we need to get on with farm sheds, silos and bigger cattle yards, because that is part of life out here." Appropriately, there are issues on the coast for which there could be different requirements. Some councils—and this is going back to your certifying question—actually guarantee a level of service that is better than a private certifier. On some parts of the New South Wales coast there are not a lot of private certifiers because the councils have said, "We will give you this level of service." But the same thing applies. Once we have seen how this works, there should be review and the types of things that occur in the coastal and hinterland areas, this side of the range, should be looked into. It should have some greater flexibility that reflects those areas.

The Hon. PAUL GREEN: Thank you.

The Hon. RICK COLLESS: Thank you, gents, for coming in again. On the issue of land zoning and land planning or whatever we would like to call it, we have to get to a stage at which land is assessed as being fit for a particular purpose. How we arrive at that decision is part of the issue that we are looking at. A lot of the land that has been zoned in past years has not necessarily been zoned in any way other than saying it is close to town, therefore it can be subdivided. There are plenty of examples in regional areas of high-value agricultural land being zoned for subdivision and particularly for rural residential subdivision on, for example, expansive clay soils which are not necessarily good for building on. How do we get to the stage of being able to categorically say that this land is fit for purpose for rural residential, irrigated agriculture, industrial agriculture or heavy industrial—all those sorts of things? What process should we be going through to get to that end?

Mr WHITWORTH: You are either starting with the towns and working out or you are starting with the agriculture and working in. Each of the regional plans talks about agriculture but they talk about it in slightly different ways, reflecting that agriculture is different in different regions. For example, the Central West and Orana and the Riverina Murray plans are based on a very comprehensive agricultural land study that has come at agriculture in a different way by saying, "You have to study agriculture in terms of soils and the climate but also in terms of the industries and how they group together and the value chain of agriculture." It has therefore said we can start mapping those important agricultural lands and working with the Department of Primary Industries to do that work. It mirrors the work that had been done on the North Coast for many years—

Mr MURRAY: We mapped regionally significant farmland.

Mr WHITWORTH: Once we understand those important areas and the important corridors, we are then able to ask what areas are left and whether they are suitable for some sort of rural residential activity. Then we will look at how to manage the impacts of rural residential activity. Is it too far away from town? Is it close enough to town? How do you manage the onsite effluent disposal, the provision of services, the creation of communities and so on? Then every time you want to rezone land for development the regional plan will tell you you need to work out whether it is agricultural land. If it is, then you should not. If it is not, does it have some value that makes it suitable for some other use? Is it well located for industrial use, for example? And you keep working your way through that process.

We have been trying to encourage councils to look at that through their local environmental plans, but local environmental plans are effectively "at this point in time" statutory controls with a map and clauses. What we want to get councils thinking about is how their areas are going to grow and change over time, the strategic planning and the strategic intent that they want and linking that back to their community strategic planning that they need to do as councils working to the community. That is where the role of these joint organisations also comes together, because they can start knitting together some important stories not just about that place but about the region and where that place fits into the region. They can put that into their strategic plan. That then guides and directs people to say, "That area has always been identified for agriculture so we will not try to develop that, but this area has some potential for development as rural residential."

The Hon. RICK COLLESS: Let us use the example of industrial agriculture—feedlots, poultry sheds et cetera. Is there an opportunity for getting to the stage within the zoning system at which we can say that this area of land is fit for purpose for a particular industry, therefore when an application comes in for a development on that particular zoned land there would be an accelerated approval process so that you could bypass some of the other restrictions that may be applied if they were to apply for that development outside that zone?

Mr WHITWORTH: That is a challenge. For example, the Bomen industrial estate outside Wagga is an area that has been contemplated for heavy industrial development for some time. It has evolved from the location of the abattoir and the saleyards but also the location of the rail line close by and looks to have potential for an intermodal terminal as well. The Olympic Highway is also right next to it so it is a magic combination of

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all these things coming together. Yet there are still issues that you need to consider. There are the growing areas of Wagga such as Boorooma and Estella. If you have very heavy containers being clunked around at night, the noise might travel. These are some of those things about which you can say clearly the intent is to have heavy industrial agricultural industry in this area but sometimes it is about making sure that in the operation of those developments we understand how they will operate and how they can be managed so that we do not end up forcing them out and so that we can build in controls that do not need to be retrofitted later.

The Hon. RICK COLLESS: I guess what we would like to see is a less onerous approval process, given that quite often these large developments have a lot of jobs attached to them, which is really important, especially for smaller rural communities. We want to make sure that things progress as quickly as practically possible in order to get those jobs online.

Mr MURRAY: If a council has done enough strategic planning and clearly identified an area, that takes a lot out of it because the council has normally considered access and a whole range of things. But as Mr Whitworth said, until you know the impacts of that particular industry it is hard, so they should go through the strategic test and the assessment. The thing is, as you said, councils having enough foresight to look at it. The hard thing is quite often that industry does not respond to that. They say, "That land has a higher value because you have identified it for this. We would like to try elsewhere." It is a two-way thing—councils and proponents working early with relevant agencies.

There are examples where people do that out there and actually do the talking and the work up front and they get, not quicker approvals, the approval part may happen quicker but I do not want to say it is a quicker process. It is a smoother process because they have been up front and said, "We want to do X, Y, Z" and they are told how they need to respond and because all the information is there, it can move through. So I think that some of it can be good education, both to councils, to government agencies and to the industry people, saying, "The earlier you talk, the more you identify your issues, the easier and smoother the pathway forward."

The Hon. RICK COLLESS: I go back to the issue of exempt and complying development codes. How far do you think it is feasible to take those codes, in terms of the size of the development? Obviously for things like building granny flats and houses and doing renovations and that sort of thing it is relatively simple. But is there an opportunity for applying those sorts of codes to more intensive-type developments?

Mr WHITWORTH: They actually are now. So I dealt with Wollongong council where they were very pleasantly surprised to find that they could—I cannot remember the size of the development, but I think it was a concrete plant in Port Kembla, so it was nearly \$100 million-worth of development. They could approve it in seven days as complying development under the Three Ports element of the major development SEPP. So these sorts of opportunities do exist. But, as Mr Murray says, there is a lot of work that has to be done up front, so that there is confidence that you can understand that these are the operating parameters you can work within. We have always said that complying development has a lot of potential if one has done the work up front.

The CHAIR: We have had some positive feedback on the complying development for inland New South Wales paper. I do not know where we are up to on a code there. The second thing on that, there have been suggestions that there needs to be a similar sort of exercise for coastal regions.

Mr MURRAY: I think Mr Green raised that. The department can look at it. As it goes through, it has a program of what we are working on and it has been talked about when we did the inland code.

Mr WHITWORTH: With the inland code, we exhibited it from March to May and we had 48 submissions which is quite good for that size. Now we are moving to translate the code into the legal written document. What will be groundbreaking is that the drafting of legal instruments can be quite dry but this is the first time we are pushing to say that diagrams need to be in the legal instrument. So, once Parliamentary Counsel recovers and gets back to their feet, then we will be in a position to keep moving with that and hopefully that will then come out with some of the other forms of complying as we review and look at them as well. Because that is something that we get a consistent message about, that we would encourage people to use complying but it just looks complicated with all those legal instruments, standards and controls. If we can start to give them diagrams and get them into an ePlanning environment, it will be much easier for people.

The CHAIR: You are doing well.

Mr WHITWORTH: Thank you.

The Hon. RICK COLLESS: Mr Veitch raised the issue with you before about the flying squad model. I seem to recall a few years ago that when there was a large development proposed in regional areas, they would organise a focus group meeting where all the relevant government departments would come together. I do not know that that still exists to the same extent it did a few years ago.

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The Hon. MICK VEITCH: I can remember, in local government, very early on, having those.

Mr WHITWORTH: There are still planning focus meetings held for certain large-scale developments. In fact, I think it is something that our assessment people encourage as part of the issue, in that they used to be called the Director's Requirements for Environmental Impact Statements. They are now the Secretary's Environmental Assessment Requirements [SEAR]. As part of the preparation for that you will often see that there are planning focus meetings. For local things we have tried to proceduralise a lot of the information because it would quite often be the same agencies coming along and saying, "Make sure you look at that policy and that policy." We do not need everyone in a room to make sure that they all look at that policy and that policy. So we can put a lot of that into procedural elements. But if it is about having the ability to say, "If you are going to put a very big development in that location then you have to be aware of these sorts of concerns", then that process is very much encouraged and it helps to get the proponent aware of the issues that they need to put into their environmental assessment.

The Hon. RICK COLLESS: Is there an opportunity to formalise that concept a little more and should there be a single person at the head of that focus group that would be the liaison person with the proponent? Just to avoid the proponent having to go around a range of different organisations all the time, chasing information when they are slow getting it back?

Mr MURRAY: I think it might depend upon the scale of the development to do that, and the resources involved to do that. That was one of the things with some of the case managers that Mr Whitworth talked about before, was to unblock that. To formalise it, we have to be careful that we do not create a system for the sake of a system. One thing our directors in the regions are encouraged to do, even for smaller things, is where needed on the issues they work on, is to be the person who can help on a rezoning matter or something like that, who can foster the contacts between councils and the agencies. We have an example of a very large land release on the North Coast where the two proponents are concerned about the timeliness of the response from government agencies, obviously because there is a large investment that sits behind it. The Deputy Secretary of Planning Services and I have met with them and asked the director of that region to become the conduit to follow up and if agencies are not responding, to do that. While we do not have a formal system, we charge our directors in the region to be a conduit and a broker because we are there to help local communities, to help councils but also it is sometimes good to say, "I can pull everyone in, I can have a conversation and understand what the real issue is." Sometimes it can be a translation issue. What they are really asking for is that and not all this over here. So, whilst not formalised, that is one of the things our directors in the regions are charged to do and do exceptionally well.

The Hon. RICK COLLESS: Something that has come up before during this inquiry has been the way section 94 contributions are levied on major developments and whether or not it would be preferable to see a voluntary planning agreement put in place for those bigger developments, rather than just making a contribution to section 94. Have you got any comments on that as a proposal?

Mr WHITWORTH: The issue of development contributions and how they are managed has been an ongoing issue for successive governments. Unfortunately, I seem to have been involved with a lot of those conversations as well. But I think the idea about codifying the use of voluntary planning agreements, particularly coming out of those voluntary planning agreements used for mining projects or wind farm projects, is something that the department is very attuned to and it is something that has been discussed. We may even have guidelines that we are working on in that space. So the development contributions area covers a multitude of different councils, different issues, and it is something that the Government continues to look at.

The Hon. RICK COLLESS: Are you aware of the Dubbo Infrastructure and Services Impact Model? When we were at the Dubbo hearing, the Dubbo City Council gave evidence about this model they have prepared that leads to, essentially, voluntary agreements. It is called the Dubbo Infrastructure and Services Impact Model. Are you aware of that or of how it operates?

Mr MURRAY: I have had some exposure to it because we looked at using it for other things across New England. I have not got the details and we could go back and get some, but my understanding is that it is a model that is as good as the inputs you put into it, like any model. Unless you have got really good, sound data, it does not. I think our director in the region did some work on a mining task force that was running out in western New South Wales.

The Hon. RICK COLLESS: Another issue that has come up during this inquiry, and quite a bit with me individually, is about initial block sizes, particularly where high-value crops are an emerging industry—a good example being the blueberries on the North Coast. What has been done in that space to try to rationalise some of those issues that are developing, particularly in relation to high-value crops?

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Mr MURRAY: The department in 2009 put out the Rural Land State Environmental Planning Policy in response to this issue of minimum lot sizes in rural areas. Basically it is open to a council to actually go through and change the minimum lot sizes, as long as they go through and look at a range of considerations. One of those is the agricultural industry and its changing nature. So there is flexibility in that. Also under that State Environmental Planning Policy we brought in—it is not called it but it is kind of like a little farm adjustment policy. So where a farmer says, "I need an extra X hectares of land" and if he couldn't do it under the standard in the planning scheme, as long as it is for primary production purposes he can create that subdivision, carve it off and add it to his land. The example I often use is that of a farmer who says, "I am ready to retire" and his neighbour has always coveted the paddock down the bottom but it is not subdivision standard, so these provisions have been brought in to enable—

The Hon. RICK COLLESS: That is an aggregation rather than a subdivision, is it not?

Mr MURRAY: But the other thing is if council wishes to subdivide for agriculture they can actually go out and do the work and say, "We now have a changing nature here." So on the North Coast we have blueberries and, by way of example, say 10 hectares is a good size but the subdivision standard is 40, they could go into that blueberry growing area and do a planning scheme and say, "Yep, we will permit that."

The CHAIR: That is already possible?

Mr MURRAY: They can, they just go through a change to their planning rules—this is coming back to this issue of good strategic planning. Living on the North Coast—I actually live in the middle of the blueberry area—I am quite aware of the proliferation of that industry. It has grown quite a lot.

Mr WHITWORTH: We also have the example of Yass Valley, which has recently changed its planning controls to reflect the fact that it is very difficult in the grazing industry to achieve ongoing return for many of the farms and with the growing pressure coming out of Canberra they have looked for ways in which they can use a lot averaging methodology. They have been given delegation to do that local planning themselves because they did a lot of work to justify why the change was necessary against our rural planning principles. That change was given legal effect last Friday.

The Hon. MICK VEITCH: Canberra is the largest suburb of Yass.

Mr WHITWORTH: Maybe Queanbeyan as well.

The CHAIR: Obviously a lot of good work needs to be publicised more. The regional planning process is going to be implemented through amendments to local environmental plans. Are we still going to be restricted to the standard local environmental plans in this process or will there be scope for true regional differences in the new local environmental plans?

Mr MURRAY: As we said in our submission, the department is always happy to amend the standard local environmental plan. We do work at a local level where we have developed a lot of local clauses that actually reflect the needs of those councils that are not contrary to the standard local environmental plans. We continue to look at the issues that are raised and where possible we try to accommodate it through drafting. The standard local environmental plan will be looked at in the future to actually look at amendments, but we do try to accommodate local provisions to achieve those outcomes.

The CHAIR: We have had a fair bit of commentary about consultation but it has been a little bit confused. There has been commentary about consultation on regional plans and those sorts of things that has been critical of it being too organised, not enough time, et cetera; then there has been commentary on consultation, basically government projects where UrbanGrowth is involved and that sort of thing, which you cannot do anything about; and consultation on individual projects. Is work going on in terms of that whole consultation space, particularly about local environmental plans and local development applications?

Mr WHITWORTH: This is an area where we can always do better in working with councils, working with the community to ensure that they better understand what is going on in their neighbourhood. It is unfortunately not something that has a magic bullet fix. When the Government came out with the white paper proposal a number of years ago it was, "We will consult up front" and everyone said, "Then we won't be able to be engaged at the back end of the process." We worked very hard during a number of the regional planning processes to try and understand, get out—I personally helped people get coffee at a Corrimal spring fair on a spring day to try and encourage them to fill in a survey. Again, it is the reach that we get to people. I suppose looking at technology, looking at social media—I saw a note the other day that our Facebook page now has 12,000 followers. That does not sound impressive when you think about some of the broader elements but if that is people who are following us and are liking the things that we are putting out there, that is quite a broad reach, and Twitter and so on. In some cases it is about looking at how we better explain and target our consultation

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processes. In terms of development applications, it is important to set a regulatory minimum but also to talk to councils and say, "How are you thinking differently about engaging with those sorts of people who do not necessarily read the local newspapers?" Those are ongoing challenges for us that we will continue to look at. I think as part of the legislative update, for example, the Minister wanted individuals to start to take on some of the burden of that consultation with their neighbours by saying, "I am contemplating doing a development, I want to tell you what it is." Some of those are ideas that are being explored.

The CHAIR: Thank you for appearing before the Committee today. Good work is obviously going on in the department. I note that you were not asked to take any questions on notice.

Mr MURRAY: We greatly appreciate it.

(The witnesses withdrew)

(The Committee adjourned at 2.37 p.m.)