

REPORT ON PROCEEDINGS BEFORE

**PORTFOLIO COMMITTEE NO. 7 - PLANNING AND
ENVIRONMENT**

WARNERVALE AIRPORT (RESTRICTIONS) REPEAL BILL 2020

At Macquarie Room, Parliament House, Sydney, on Friday 30 October 2020

CORRECTED

The Committee met at 10:30 a.m.

PRESENT

Ms Cate Faehrmann (Chair)

Ms Abigail Boyd
The Hon. Mark Buttigieg
The Hon. Ben Franklin
The Hon. Shayne Mallard
The Hon. Taylor Martin
The Hon. Mark Pearson (Deputy Chair)

PRESENT VIA VIDEOCONFERENCE

The Hon. Penny Sharpe

The CHAIR: Welcome to the public hearing for Portfolio Committee No. 7, inquiry into the Warnervale Airport (Restrictions) Repeal Bill 2020. The inquiry has been established to consider the merits of the bill, examining issues surrounding the airport's operation from both sides of the debate. Before I commence, I acknowledge the Gadigal people who are the traditional custodians of this land. I also pay respect to the Elders past and present of the Eora nation and extend that respect to other First Nations people present. Today we will hear from a range of witnesses including the licensee of Warnervale Airport, local councils, community groups, aviation interests and the New South Wales Government. Today's hearing is being broadcast live via the Parliament's website. A transcript of today's hearing will be placed on the Committee's website when it becomes available.

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 would also remind media representatives that you must take responsibility for what you publish about the Committee's proceedings. It is important to remember that parliamentary privilege does not apply to what witnesses may say outside of their evidence at the hearing, so I urge witnesses to be careful about any comments they may make to the media or to others after they complete your evidence, as such comments would not be protected by parliamentary privilege if another person decided to take an action for defamation. The guidelines for the broadcast of proceedings are available from the secretariat. All witnesses have a right to procedural fairness according to the procedural fairness resolution adopted by the House in 2018.

The Committee has resolved that there be no questions on notice for this hearing. However, witnesses may be asked to provide further information of their evidence in a supplementary submission. Committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of parliamentary privilege. I therefore request that witnesses focus on the issues raised by the inquiry terms of reference and avoid naming individuals unnecessarily. To aid the audibility of this hearing I remind Committee members and witnesses to speak into the microphones. The room is fitted with induction loops compatible with hearing aid systems that have telecoil receivers. In addition, several seats have been reserved near the loudspeakers for people in the public gallery who have hearing difficulties.

JANINE MCKENZIE, Unit Manager, Business Enterprise, Central Coast Council, affirmed and examined

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

Ms McKENZIE: Thank you for inviting council to provide evidence in this hearing. I offer the apologies of the council CEO and executive for being unable to attend today; the current issues facing council have required their undivided attention. My role as manager, business enterprise, is to manage the day-to-day operations at the Warnervale aircraft landing area [ALA] along with other business enterprises of council. I have been responsible for the airfield since February 2019, just under two years. I will endeavour to answer the questions you ask to the best of my ability and experience, but I want to point out that I do not have a legal or aviation background. I am a generalist business manager with a masters in business administration and a CPA accounting qualification.

Warnervale Airport has been in existence since the 1970s. It would be fair to say that through that time there has been a variety of strategic objectives and policies with respect to the airfield. Ever since a concept plan for a general aviation hub was presented to the current council in November 2017 and rejected council has not had a policy or strategic direction on the future of the airfield site. For most of its life the airfield was operated by the Central Coast Aero Club, but in 2015 the former Wyong council took over the operations of the airfield. The aero club continue to have a non-exclusive access to the airfield through a license deed with the council. Around the same time council undertook works on the runway. At that time the then Wyong Shire Council was of the view that these works were essential maintenance works and did not constitute an extension to the runway.

This was important because if the runway was extended it would trigger part 2 of the Warnervale Airport (Restrictions) Act 1996, which we often refer to as the WAR Act. These restrictions include the implementation of a curfew and a limit on the number of daily movements, that is take-offs and landings. In July 2019, after further review and consideration, the Central Coast Council formed the opinion that part 2 of the WAR Act had probably been triggered and from that time on council implemented procedures to comply with section 5 of the curfew and section 6, the number of movements. Compliance with section 6 was achieved through a requirement that pilots seek prior permission to land or take off at the airport with a minimum 24-hour notice, that we refer to as a 24-hour PPR. Through the 24-hour PPR council has been able to comply with section 6 of the WAR Act and not cause or permit more than 88 take-offs or landings in a day.

However, only approximately 10 per cent of the movements seek prior permission from council. In October 2019 then Minister for Planning and Public Spaces, Rob Stokes, wrote to Council advising of the intention to review the WAR Act and seeking council support for the process. Council provided any information and documentation sought by the reviewers and hosted the public forum at the Wyong Civic Centre. Council did not provide a submission to the review. On 10 August 2020, after the review was completed and the report made public council noted the review recommendations, noting the repeal of the Act, recommendation one of the report and the subject of the hearing today was a matter for the State Government. In response to recommendation 2, which recommends that council clarifies its policy on the airfield's future, council resolved: Reaffirming that the airport is classified and operates as an aircraft landing area; that Central Coast airport be officially renamed as the Warnervale aircraft landing area to remove any doubt; the maximum length of any runway existing or proposed at the Warnervale ALA is 1,200 metres; and, no approval is provided by council for any extension.

The maintenance works are permitted to continue current operations, however, no works are permitted to expand the operation of the ALA. The council actively seeks to generate employment opportunities on lands adjacent to the landing strip with a focus on the health, food, waste, renewable energy and manufacturing sectors. Council also resolved to conduct a council workshop by the end of November 2020 to discuss options regarding the license with the Central Coast Aero Club, which will expire in August 2021, and the management and operations of the Warnervale ALA. This workshop has yet to be conducted.

Ms ABIGAIL BOYD: Can I take you back? There were two reviews. There was the 2017 review into the Act and my understanding was that came back and said it would be beneficial to amend the Act to allow the numbers of aircraft to continue, is that correct?

Ms McKENZIE: I am not as familiar with the 2017 review of the Act. It was only made public when this report was provided. Prior to that council did not have any knowledge of the submission. I understand that the recommendations were to continue the WAR Act.

Ms ABIGAIL BOYD: Then there was the 2019 Act, and council did not put in a submission to that review?

Ms McKENZIE: That is correct.

Ms ABIGAIL BOYD: Why was that?

Ms McKENZIE: At the time I think it had to do with the timeframes of being able to provide that and there were a number of resolutions that needed to go through council, which made it additionally difficult to produce within the timeframe.

Ms ABIGAIL BOYD: When council resolved to support the continuance of the WAR Act in its current state, which I believe was November 2017?

Ms McKENZIE: That is correct, yes.

Ms ABIGAIL BOYD: Was that in knowledge of the supposed triggering of the restrictions in the Act? Did they already know that there was a triggering of that Act which would lead to the restrictions and the need for pre-notification at that time?

Ms McKENZIE: I cannot speak to what the councils knew at the time, but I could say that council did not make the statement or decide that they had probably triggered part 2 of the WAR Act until July 2019. So sometime after that resolution was made.

Ms ABIGAIL BOYD: In terms of the restrictions being in place where council was actively monitoring the number of flights, that has only been since June 2019?

Ms McKENZIE: That is correct, yes, July 2019.

Ms ABIGAIL BOYD: Has council considered at any point the amendments that could be made to the Act to remove that restriction? Have there been any resolutions of council?

Ms McKENZIE: Aside from the ones I have just raised through the opening statement, I do not believe there have been, no.

The Hon. TAYLOR MARTIN: Thank you for your time here this morning, Ms McKenzie. You mentioned in your opening statement that under part 2 the Act was triggered. For the benefit of the members here and anyone reading *Hansard* later, would you be able to expand on what it was exactly that led to the Act being triggered?

Ms McKENZIE: Well, the Act states that if the runway is viewed as extended that would trigger part 2 of the WAR Act, and council determined in July 2019 that that had probably occurred.

The Hon. TAYLOR MARTIN: How did that come about?

Ms McKENZIE: I understand there was a number of considerations through resolutions and discussions within council and I am sure there was advice sought also.

The Hon. TAYLOR MARTIN: The previous Wyong Shire Council?

Ms McKENZIE: No, I believe it is the current Central Coast Council.

The Hon. TAYLOR MARTIN: And what are the implications of that? What has happened?

Ms McKENZIE: Well, the two main implications of that was the two sections of the Act that then came into force, which one was a curfew. That is from 10.00 p.m. to 6.30 a.m. The second one was the limit on the number of daily movements. The airport operator cannot cause or permit more than 88 take-offs or landings per day.

The Hon. TAYLOR MARTIN: I know you alluded to this in your opening statement, but at the present moment with the current council what is its future plan for the landing area?

Ms McKENZIE: There is no current resolved future strategic direction or policy of council. There is a resolution to undertake a workshop, which has not been completed, obviously.

The Hon. TAYLOR MARTIN: Should any future council wish to expand further, what might be some of the constraints on doing such a thing? Let's face it: This is the whole impetus for having the Act that was brought in just under 25 years ago, stopping future development. What are some of the impediments to doing such a thing?

Ms McKENZIE: I think that the WAR Act review report actually does provide some commentary on what those kind of impediments would be. From my knowledge there are some physical constraints. At the southern end of the airfield there is the Porters Creek Wetland, which is a wetland under the State Environmental Planning Policy [SEPP] Coastal Management (2018). On the northern end it is bounded by Sparks Road. There

is quite a main road that runs across the northern end. In terms of runway extension, they are physical limitations to what could be done there.

The Hon. TAYLOR MARTIN: In terms of any future council, in reality the only real development, so to speak, that could be undertaken is really a few more hangars perhaps, or something of the sort. The landing strip physically cannot get any bigger because of what you just put forward. We cannot go south into the Porters Creek Wetland. We cannot go north, because there is a main road and environmental zone.

Ms McKENZIE: I am not a lawyer or a planner.

The Hon. TAYLOR MARTIN: Okay, that is fair enough.

Ms McKENZIE: So I cannot really state on exactly what can and cannot be done under those. I am just aware that there is the Porters Creek Wetland at the southern end, and I think that any future direction would be a matter for the council to determine. There are requirements for them to undertake those activities lawfully and go through significant consultation with the community as well.

The Hon. MARK BUTTIGIEG: Are there other Acts that would preclude them from going into those areas, like the Porters Creek Wetland, for example?

Ms McKENZIE: I understand that the Porters Creek Wetland is covered by the broader biodiversity conservation regime, but I could not speak, that is not my area of expertise so I could not really speak on exactly what that would mean or what those Acts are.

Ms ABIGAIL BOYD: And if the Act was amended so that instead of referring to the runway as it was at the time of the Act, but instead was updated to refer to the dimensions of the runway right now, those restrictions would then lift, we would not have the curfew or the number of flights. From council's perspective that would then alleviate you of that role. Is that correct? Is that something that council has looked at?

Ms McKENZIE: If the requirements under section 5 and section 6 of the Act were lifted, then we would consider what that would mean in terms of operating the airport and whether we would need to continue with say, for example, the 24-hour prior permission required [PPR].

The Hon. TAYLOR MARTIN: What additional resources have been required from Central Coast Council since the triggering of the Act?

Ms McKENZIE: I do not know if there have been additional resources per se. There are additional procedures and processes that the staff at the airport need to undertake to administer the 24-hour PPR. That has been predominantly absorbed within the resources that we have currently.

The Hon. TAYLOR MARTIN: Can I ask while you are here for any information on what council's position is in relation to renewing the licence for the aero club. What kind of certainty does the aero club have currently from the council?

Ms McKENZIE: At this point there has been no determination or resolution in terms of the licence deed with the aero club, and as I stated in the opening statement, there is a workshop to look at that. But there has been no determination yet.

The Hon. SHAYNE MALLARD: Is the airstrip a profitable business arm of the council?

Ms McKENZIE: No, it is not. It makes some revenue, but the costs outstrip the revenue made.

The Hon. SHAYNE MALLARD: Do you have a figure, or could you take it on notice?

Ms McKENZIE: Yes, I can give you, I have to refer—

The Hon. SHAYNE MALLARD: Annual turnover and the loss it makes?

Ms McKENZIE: Yes, just give me two seconds.

The Hon. SHAYNE MALLARD: What the capital allocation is as well?

Ms McKENZIE: For example, in 2019—these are obviously draft numbers because the financials are currently still in draft—the operating income at the airport was approximately \$47,000, and the operating expenses, the direct operating expenses, not including overhead allocation, was \$536,000. There was a net deficit of about \$490,000 last year, similarly budgeted this year.

The Hon. SHAYNE MALLARD: Does that \$536,000 include a capital component?

Ms McKENZIE: No, that is operating. In terms of capital, there is not a lot of asset infrastructure at the airfield. It is predominantly a runway, fencing and grassland. The infrastructure, if you have ever been there, that

you see there is actually owned and on the aero club's land, and not on council's land. There is a small site office that is leased. There has not been any capital expenditure since 2017 as there was a resolution of November 2017 that said that all works were to be suspended. So that has been the case since that time.

The Hon. SHAYNE MALLARD: Nearly a \$500,000 operating loss.

Ms McKENZIE: That is correct.

The Hon. SHAYNE MALLARD: That must be of great concern to the council, particularly in the current environment.

Ms McKENZIE: I cannot really speak to that, in terms of the council or the view. It is an operating loss.

The Hon. MARK BUTTIGIEG: Do you envisage that jets will be able to take off and land if the Act is repealed?

Ms McKENZIE: I do not have an aviation background, but as I understand it, the current length of the runway and the limitations of the site would mean that that would not be possible.

The Hon. MARK BUTTIGIEG: You would have to lengthen the runway and that would be subject to those restrictions that you pointed out before.

Ms McKENZIE: Yes. You would have to lengthen the runway, but I think there are elements that would need to be considered as well. I think the WAR Act review report indicates that there would be some consideration around the limitations of air space in that area as well, which would be a constraining factor.

The Hon. TAYLOR MARTIN: The trees too.

Ms McKENZIE: The trees too.

Ms ABIGAIL BOYD: Are you aware of a development application that was approved by Wyong Shire Council in, I believe it was around 1993, 1994? You are already shaking your head.

Ms McKENZIE: No, I am not aware of the development application, no. But I am aware that all works and development of the site were suspended with the council resolution of 2017.

Ms ABIGAIL BOYD: So are you saying that anything that was an actively approved development application in relation to the runway from 1994 was surrendered or—

Ms McKENZIE: I do not know how that process works, but it has not been acted on or pursued since 2017, since that resolution of council.

The Hon. SHAYNE MALLARD: What was that application?

Ms ABIGAIL BOYD: Apparently there was an application to extend the runway to 1800 metres approved in 1994 and it is still active.

The Hon. MARK PEARSON: Obviously this is a controversial issue and we are trying to get our head around why. What do you think are the concerns by the people who are opposed to the repealing of the Act or part of the Act? What is your understanding of those stakeholders' concerns or fears, imagined or not?

Ms McKENZIE: We get a lot of customer and councillor requests for information around the operation of the airfield and the airfield itself. I think that there are a lot of questions about decisions that were made in the past with respect to the airfield.

The Hon. MARK PEARSON: So is there a distrust of the council and the decisions it may make in the future?

Ms McKENZIE: From those requests that we get, there are definitely those who state that they question and distrust previous statements and decisions of council, but obviously I am recipient to those who are interested parties who write to council and I could not speak to the broader population.

The Hon. MARK PEARSON: If the Act, or part thereof, were repealed, could there be any development applications that could harm the environment?

Ms McKENZIE: I do not know if I can answer that question. I imagine any development application would need to comply with the Environmental Planning and Assessment Act as well as the biodiversity conservation regime, so within the parameters that any development application would need to be made. I am not an environmental scientist so I could not tell you what harms or does not harm the environment.

The Hon. MARK PEARSON: You have a few courses to do after this inquiry.

Ms McKENZIE: I do.

Ms ABIGAIL BOYD: If the Act was repealed and council was required to put in place a business plan for how it was going to manage the ALA, what sort of resources would be required by council in terms of staffing and money?

Ms McKENZIE: I think there would definitely need to be time and attention and with respect to that cost, whether that is using internal capability or external capability I would not say, that would be really a matter to determine with the current operational requirements of council, but yes, to develop a plan does require a group of suitably qualified and capable people to spend some time to work out what the future is and, as the workshop would be part of that, work council through what those options are.

Ms ABIGAIL BOYD: If instead the Act was just amended to refer to the runway length as it currently is, thereby removing the restrictions, the curfew and the number of planes, what sort of imposition would that put on council in terms of resources?

Ms McKENZIE: I think that the removal of the requirement to administer the daily limit as per section 6 of the Act would reduce some of the administrative burden around the airfield. There are other operational requirements that would not come into play. For example, at the moment pilots are required to email their requests for landings and take-offs 24 hours in advance, so there would not be a need to continue that process, which would reduce the administration of the airfield. Whether there still would need to be consideration of the future use and strategic direction of the airfield, that would be a matter for council to determine, but potentially likely.

Ms ABIGAIL BOYD: Would it be fair to say that if, instead of repealing the entire Act, we were just to make the amendment to fix the current situation to allow the aero club and the airport to run as it currently does, that would reduce, as opposed to increase, the burden on the council?

Ms McKENZIE: If council were no longer required to administer the daily take-offs and landings then that would reduce the administrative burden on council of managing the airfield, yes.

The Hon. MARK BUTTIGIEG: If I were a resident there I would want to know, if these restrictions were being lifted as a result of the repeal of the Act, what input or purchase or effectiveness I am going to have via my council over further development, ensuring that the amenity of the area does not deteriorate to the point where people are tearing their hair out because of noise and extra development. Have there been any discussions about how that would operate and what are the mechanisms that council would institute so that residents had a real say over those sorts of things?

Ms McKENZIE: Not at this stage, no, there has been no discussion in council or with council on that. I would imagine that any future development of the site would be required to comply or would have to comply with the planning proposal process and there is community consultation that is required as part of that process, so at a minimum I think the community could expect that.

The Hon. MARK BUTTIGIEG: But nothing specifically to cater or compensate for what was an overarching protection of the Act? Would it be fair to say that there would be a degree of concern regarding that? I would imagine a lot of people would probably be thinking that, if the Act was put in place to afford that protection, what is going to replace it or how are we going to have a say over it other than your regular planning instruments and other Acts, or has council already made a case to the residents that those pre-existing Acts and other instruments will be enough protection, because it sounds to me like the sort of thing you would want to have dialogue about with residents.

Ms McKENZIE: Council has not made a case, but I understand that the Warnervale Airport Restrictions Act—or I read in the Warnervale Airport Restrictions Act—that that is where the case has been made. The WAR Act itself does not provide additional protection.

The Hon. TAYLOR MARTIN: Are you aware of any representations made by the council to any member of Parliament or government body in relation to the backstop in the repeal Act, around the two- or three-year proposed backstop?

Ms McKENZIE: You mean the two or three years?

The Hon. TAYLOR MARTIN: Yes.

Ms McKENZIE: No, I am not aware of any.

The CHAIR: I think we can stop this session early, which is fantastic. All of the questions have been answered. Thank you so much for appearing before today's hearing, Ms McKenzie; that was very useful.

Ms McKENZIE: Thank you.

(The witness withdrew.)

ANDREW SMITH, Director, Central Coast Aero Club, affirmed and examined

MICHAEL ALLEN, Director, Central Coast Aero Club, sworn and examined

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

Mr SMITH: Yes, I would like to, thank you. Madam Chair, Deputy Chair, members of the Legislative Council and ladies and gentlemen in the gallery, my name is Andrew Smith and I am the president of the Central Coast Aero Club. I really appreciate the opportunity to speak here today. The Aero Club has been a fixture of the Central Coast for nearly 50 years, having cleared the site initially, built the runway and managed the site safely and effectively for the former Wyong Council since the early 1970s. We have been training the next generation of pilots and engineers for most of that time and we are the only professional aviation providers between Sydney and Newcastle, serving as both a community-minded aviation club and a professional flight training organisation for the 340,000 residents of the Central Coast as well as northern parts of Sydney, Lake Macquarie and southern parts of Newcastle.

The Warnervale Airport (Restrictions) Act, in our view, is unnecessary and unfair. Originally put in place due to concerns of unrestricted jet transport operations, it has since been proven that those concerns have been more or less spurious. There is manifold environmental and geographic constraints which already limit the site, and my colleague Michael Allen will speak to those further. I would like to concentrate on that workability of the Act for the current operators at the airport. Part 2 of the Act specifies a limit of 88 movements. The Act defines a movement as a take off or a landing. At the time the Act was enacted the Aero Club on its own was performing over 300 movements per day regularly.

There has never been any evidence of community dissatisfaction with the kinds of operations performed by the Aero Club and the frequency of those operations historically or indeed in the present day. If we were forced to adhere to this 88 movement cap, we would most likely be forced to close or at the very least probably let go of two-thirds to three-quarters of our staff—and that is probably at a time when we do not want to be adding to the jobless queues, quite frankly. On a busy day we can reach those 88 movements within two hours of starting for the day. Once that movement cap has been reached, the only operations permitted are aircraft that are in an emergency. The following operations are not considered emergency flights: Rural Fire Service and Parks and Wildlife positioning and refuelling flights; police air wing operations; air ambulance patient transfer flights—things of that nature are captured and would not be able to operate. The airfield would be completely more or less sterilised from use on many days.

The Warnervale Airport (Restrictions) Act is simply not required. The fear the community had in the mid-90s never materialised. It was an understandable fear—nobody wants to see jet transport aircraft flying over their back fences at two o'clock in the morning—but the airport has remained small and low-impact throughout that entire period. This will remain for reasons my colleague will speak to. The Act is replicating other legislation; it should really go. The movement cap within the Act is arbitrary and, as I pointed out, it is manifestly unfair and unworkable. I implore the members to vote to remove this piece of unneeded legislation. Thank you.

The CHAIR: Thank you very much. Mr Allen, do you have a statement as well?

Mr ALLEN: I have got a separate statement—as a lawyer, you cannot resist the opportunity. Chair, Deputy Chair, members of the Council and those in the gallery, thanks for this opportunity to speak to you today. I just want to quote something to you: "The Act provides no unique protection that is not provided more effectively by other legislation." I think the key things there are it is not unique—it is unique but does not particularly provide any unique protection—and it is not effective in the protections that it has. I will go through that in a moment. That is a quote from the Goldberg Fiegehen report.

So where do the protections lie? There have been some questions about this area this morning. It is in the Environmental Planning and Assessment Act controllers, i.e. the planning that surrounds the airfield. I just wanted to speak to it more easily and, so that you could understand it more easily, hand out these diagrams or maps if I could, please. I have taken these off the council online mapping app available on the web. It shows the airport and Andrew mentioned the topographical constraints that would be on an expansion. To the south, i.e. the bottom of the map, we have the Porters Creek Wetlands. We are keen supporters of the Porters Creek Wetlands and we do not seek to extend the runway, but putting that aside at the moment, if the runway were to be extended, it would in the vernacular have to be built into what is a swamp. The Porters Creek Wetlands is a very difficult area; the last place you would want to extend a runway.

To the north, physically, we have the main arterial road that brings traffic into the whole area off the M1, which is the intersection you can see at the top left-hand corner, and that road would have to be relocated or it

would have to be tunnelled under the runway like the Sydney Airport tunnel. Further to the north we have private land, so those parcels of land you can see squared to the north, including the building, would all have to presumably be resumed and just terms compensation paid for them. It is a heck of a job to do—just to even physically expand this airport—but if you go to the next map, you can see something which I think is quite instructive, and unfortunately not enough has been made of this in the inquiries and nothing has been made of it, of course, by the airport opponents. In the middle of the map is a blue-grey area—"IN1". That is the airport, effectively, and some small parcels of land to the east.

The CHAIR: Just to clarify, are you talking about map two?

Mr ALLEN: Map two, sorry. Yes. If you want to go straight over to map three, that is my poor rendition of overlaying one against the other. My skills either did not go to doing that online or it was not available online, so it is not entirely accurate but it is generally accurate in terms of showing where the runway is, which is the red line, and the current fenced boundary of the airport is "Area A", which is the council-owned land. Quite often it is confused with "Parcel B", which is our land. We own all of the buildings on the site. We provide all of the facilities, all of the toilets and everything else. Council simply owns the strip of tar, which is "A", and some of the taxiways. The rest of it is just grassland. So you can see that the airport itself, and indeed our land, is surrounded by environmental conservation land.

To the north, it has a strip of SP2 special purpose land—in this case a major local road. Regardless of what happened under the Act, even if the Minister gave permission to extend the runway out to the 18 metres after carrying out the noise assessment and the other reviews required under the Act, in my view this cannot by law happen, because those zoning controls are prohibited. The council cannot give consent, the court cannot give consent and, as far as I am aware, the Minister—even with his powers—cannot give consent. It will require either a change to the zoning law, or an overriding State environmental plan, not at the airport but on the surrounding land. So there are significant controls in place. Planning law looks after the airport, its surrounds and the population far better than this Act does. It befuddles me why this has not been brought out and focused on more readily.

If you look at the last page, you can see what the E2 zone means. In paragraphs 2 and 3 of this clause, permitted without consent—nothing. Permitted with consent—ecotourism and environmental facilities, environmental protection and flood mitigation works, and oyster aquaculture et cetera, et cetera. Nothing there even goes close to describing an airport, but everything else is permitted. So these are substantial protections. In order to change them, whoever wants to change them has to chart the course of the Environmental Planning and Assessment Act. That is why airports in places like Cessnock, Lake Macquarie, Casino—where I was born—Lismore and all the local airports, of which there are hundreds in both the State and around the country rely on the same protections. I think that all those airports that I just mentioned, as far as I know, are zoned SP2. But they are zoned, and in order to change the zoning the processes have to be run through.

If we examine the Act's protections, they are in fact very poor compared with the environmental protections. The Minister can change the cap overnight simply by dropping a notice in the gazette. The Minister can change the curfew hours in the same way. The Minister could change the runway length, and he only has to go through a process of noise control via an assessment and a review. Under the Act he can, but under this he cannot. I am not sure why we are seeking to retain this rather beat up old car when we have got a Rolls Royce sitting in the driveway. It just does not do the job. It is unique for a reason—there is no need for it. All the other communities around the States with these sorts of airports have not seen the need for this. That is why this Act is not replicated anywhere else in this country, except for Sydney Airport. But we will not equate our Warnervale Airport to Sydney Airport.

There are genuine concerns around this—or there were in the 1990s. They still exist to this day. Unfortunately, when the Act was about to be reviewed we saw people running around handing out bright red bill cards that screamed about jets. They had pictures of A320s and 747s, and all sorts of fanciful things. They asked people to stop the repeal of the Act because they said otherwise this is what they will get. It was just a load of rubbish. Those concerns are still there, and the way to address them is to tell people about these controls—the same controls that are there for everybody else in the rest of the country. I am not belittling the community concerns by any means at all—they are genuine and they need to be dealt with—but it is simply an information campaign.

Someone asked a question, I think it was Ms Boyd, about the development application [DA] that was possibly granted in 1993 to extend the runway. DAs in this State—and I am not a planning expert, although I have been dealing with property law for 40 years—expire after five years, unless there has been substantial commencement of them. Looking around the airport, there is no substantial commencement of any runway extension works. In fact, it is the last thing that we want to portray to the community. So as far as I am aware there

is no existing DA that applies to that site, or to the land to the north or south, that is related to the airport. Certainly from our point of view, and that of those who are with us, there is no proposal to extend the runway. The current use of the airport is probably the best, most symbiotic use you could get next to a wetlands. Ninety-five per cent of the council-owned airport is grass. When the wetlands flood, the water comes up, goes into the grass and then back again. The industrial estate next door does far more damage to the wetlands, with its water running off all those paved areas where trucks have been going backwards and forwards, spilling oil and rubber on the roads. It is a no-brainer to leave the airport there and take this silly Act away. Thank you.

The CHAIR: Thank you so much, Mr Allen. And thank you so much for those maps, they are incredibly useful.

Ms ABIGAIL BOYD: Thank you for presenting to us and for your submission, which was lovely and succinct. Mr Allen, when you talk about those other protections and the zoning, obviously things can be rezoned.

Mr ALLEN: Yes.

Ms ABIGAIL BOYD: So that is a nice statement of where we are now but it is not necessarily guaranteed in the future, correct?

Mr ALLEN: That is correct. Things have to be rezoned, but you have to go through the process. If there is a rezoning in the normal way, that is usually started by council and the Government still has to approve it. In the case of the protections, it is simply a matter for the Minister sitting in his office one day to change most of the things under the Act. That cannot happen with rezoning.

Ms ABIGAIL BOYD: Is there anything in the Act that erodes the protections under the other legislation?

Mr ALLEN: Nothing erodes it. It is simply a poor representation of some of the protections that are there. The Act itself is arcane, poorly drafted, difficult to interpret and expensive to monitor. It has done nothing effectively in the time since it commenced.

Ms ABIGAIL BOYD: But it does not hinder the operation of the other protections under the other Acts?

Mr ALLEN: No, it does not.

Ms ABIGAIL BOYD: I must admit that I am confused by some aspects of your submission. There seems to be a broad agreement that the unfortunate triggering of the Act—whether or not we agree that there was a triggering is another matter—but there seems to be general agreement that whatever has happened after that should be fixed. I understand that the first review into the WAR Act recommended that that limit be scrapped. What I am unclear of is why you want the rest of the Act scrapped, other than purely from an academic perspective. What practical impact would it have on you above and beyond the curfew and the number of flights?

Mr ALLEN: As it exists at the moment, when the Act was triggered—and that is if it was triggered. I think that council's extensive legal advice was that it was probably triggered, and that is because there was no definition of existing runway in the Act. No-one new exactly what the existing runway length was. The fact is it clobbered us the hardest because we had been operating above 88 movements for years. Relying on information that we got from staff at the time when the Act was brought in, those movement caps were already being exceeded. So it was an existential moment when it started to limit us. Does it improve our position to take these limits, caps and the curfew away? Even the curfew is not something that we are terribly worried about, but the caps are. Yes, it does. There is no doubt about that. But I do not understand why we want to keep a piece of legislation on the books that does not regulate as effectively as something that is already there.

Ms ABIGAIL BOYD: Beyond the limits and the curfew—let us assume that was separately fixed as an amendment—what are you looking for from a total repeal of the Act that would impact on you in a tangible way?

Mr ALLEN: Simply, my understanding is that what is currently before the Committee and the Legislative Council is a repeal or no repeal of the Act. It would be a different proposition and we would respond to it differently if there was simply only an amendment of the Act on the cards. I am not going to say that, no, that does not help us. It does. Certainly it takes away that existential threat. That is what really alarmed us in the first place.

Ms ABIGAIL BOYD: Let me clarify for you then, because this Committee is reviewing the terms of this particular bill and it is within our power to recommend amendments to the bill. That currently has two parts. One of them is to repeal. It is also possible for the Upper House of Parliament to amend the bill and send it back to the Lower House. These are all live options, which is why I am trying to get to the bottom of why you prefer an entire repeal as opposed to just fixing these bits that are currently hindering your operations.

Mr ALLEN: I suppose we just do not know what is coming next. We would rather deal with one piece of legislation on this, which is—I think appropriately—the planning law. Look, again we simply want to see the thing tidied up. We simply want to see the cap removed. There is no doubt about that. The easiest and the most appealing way for us is to get rid of the Act because it does not do anything that the legislation does not do.

Ms ABIGAIL BOYD: If the cap and the curfew were removed—so the restrictions on numbers and the curfew—and if that was the amendment, do you agree that that would then address a lot of those concerns, as you have flagged in your opening statement, from community who for whatever reason believe that this is opening the door to an expansion?

Mr ALLEN: I think in terms of addressing the community's concerns—if I can take that bit first. That should be done by explaining to the community what the planning law does. I am not sure what the purpose of having the Act in place is when all it does is, if we are talking now about an amended version, prevent an extension of the runway beyond 1,800 metres. That is already prevented more effectively than it is under the Act. I do not see the point of retaining it quite frankly. It is just an anachronism.

Ms ABIGAIL BOYD: If the Act were repealed, my understanding is that then the Central Coast Council would become a regulator as well as owner of that land in a way that it is not now. Is that your understanding too?

Mr ALLEN: Council could at the moment request an extension of the runway. The Minister would then go through the process. That extension might be granted, except that this prevents it. The council has more constraints on it. Indeed, anybody wanting to do anything with the airport has more constraints on them through these instruments than through the Act. That is really our point.

Ms ABIGAIL BOYD: Can you understand that the community might take some comfort in additional levels of protection?

Mr ALLEN: Perhaps. But I think if all the Act does is lock the runway in at 1,800 metres, which is what its current final limit is, again I do not see the need for it. If the community is properly educated on this plan—

Ms ABIGAIL BOYD: But from the perspective of your operations, it would not make a tangible difference.

Mr ALLEN: It does not make a tangible difference to us.

The Hon. BEN FRANKLIN: Did you say that this is literally the only airport in the country which has its own Act apart from Sydney airport?

Mr ALLEN: Correct.

The Hon. BEN FRANKLIN: That seems to me to be insane, I have to say

Mr ALLEN: Respectfully, in my view it is insane. Other communities have problems with airports—we all know that—particularly around noise and expansion in residential areas. If these concerns were agitated by other communities, they would be calling for these Acts. We would have them all over the place. They just do not exist. It is an anachronism and something that, I don't know, just fell out of the box. It is just a really strange piece of legislation.

The Hon. BEN FRANKLIN: That is because the other legislative and regulatory measures that are already in place already deal with the issues that otherwise would need to be addressed.

Mr ALLEN: Correct. I mean, there is an issue around whether or not the airport could be rezoned as an airport and to put limitations in there that keep it at general aviation levels.

The Hon. TAYLOR MARTIN: Just be clear, that is because at the moment it is an aircraft landing area.

Mr ALLEN: It is an ALA. You are correct, Mr Martin, it is. But most of the airports around the country are ALAs, I think. Mr Smith knows this better than I do

Mr SMITH: It is somewhere in the region of 2,500-odd ALAs to about 600 licensed airfields.

Mr ALLEN: Our opponents have attempted to make something of the fact that it is an ALA. Well, there is nothing to it. It is just a question of what level of regulation from the Civil Aviation Safety Authority [CASA] applies.

Ms ABIGAIL BOYD: You refer to those who are in favour of retaining the WAR Act as your opponents. Why do you frame it in that way?

Mr ALLEN: Because their starting position has been to close the airport. They have morphed slightly now. I acknowledge that. But their starting position has always been to close the airport.

Ms ABIGAIL BOYD: I see.

The Hon. MARK PEARSON: Is it written anywhere that their starting position is to close the airport? Is there any evidence of that?

Mr ALLEN: If you track back through some of the more vocal opponents of the airfield—and they have gone from different organisations through the community environment network to other locations—their starting position was closure of the airport

The Hon. MARK PEARSON: If this Act were repealed, does that make it easier for there to be an application to amend or, through the other legislations, to do things to the airport which there are concerns about, like extending the runway or causing harm to the environment? Is it easier to get an application to make such a development if this Act does not exist?

Mr ALLEN: I do not think it is any easier or any more difficult. As I said, at the moment the runway can be extended 1,800 metres, but that puts it into the environmental zone whichever way you try and cut it.

The Hon. MARK PEARSON: What about the east and west of the runway?

Mr ALLEN: That would mean a whole new runway that would have to be constructed east and west. This is the best runway from the point of view of orientation so, in other words, for flying conditions. East and west would put us almost directly into the residential areas on the east, something which we would never support.

Mr SMITH: And there is the big Woolworths distribution centre—

Mr ALLEN: On the left.

Mr SMITH: There is a huge established distribution centre which would have to go if the airport was extended. Plus I think there is E2 land to the west as well. So it is still the same problem.

Mr ALLEN: Yes, there is. We are surrounded by it.

The Hon. MARK PEARSON: Are there any other advantages to the council or to any other body in lifting the cap for either the flights or the curfew? Are there any other advantages apart from the financial advantage of keeping the airport going?

Mr ALLEN: Any other advantages if the Act is changed or repealed?

The Hon. MARK PEARSON: That is right. Apart from the capping.

Mr ALLEN: I think that at the moment it simply relieves council of the significant burden of trying to administer it. In fact, almost the impossibility of trying to administer 88 caps—I mean how do you do that? Do you have somebody sitting there counting them or radio calls which may or may not come through?

The Hon. SHAYNE MALLARD: Email the day before, we were told.

Mr SMITH: In 24 hours.

Mr ALLEN: It is just impossible to do accurately. It is costly and council's response to try and monitor it is, quite appropriately, to put in place this 24-hour notice provision, which basically kills the airport. I mean, people learning to fly do not necessarily give it 24 hours' notice. The weather improves; something fell over with not going to lunch at their mother-in-law's or their father-in-law's. They would like to go flying instead. Those things happen on short notice. It makes it impossible to use the airport effectively for its current use.

Ms ABIGAIL BOYD: If the Act was repealed, the council then would have additional powers compared to what it has now, or no?

Mr ALLEN: No, I do not think it does have additional powers because the real constraining collar on this is the environmental controls. It just means that council does have to go through another step—a step which is far easier than doing anything under those environmental controls.

Ms ABIGAIL BOYD: As owner of the ALA at the moment, is council restricted in relation to the way it runs or oversees the operations there in any way that, if the Act was repealed, it would not? Would it be freer?

Mr SMITH: I can answer. I think the nature of the runway and the designation of the airport is the real restriction there, so the length and width of the runway really limits the types of operations and aircraft that can use the airfield.

Ms ABIGAIL BOYD: In your view, is the current Act holding back council from, if not making a revenue then at least breaking even on the airport?

Mr SMITH: Part of what we have put to council from the aero club is that we ran and managed the site for them up to 2015—the first 30 to 40 years that it ran for—at no cost to council. We have offered to do that again and that would probably save them in the order of half a million dollars a year. That would get it close to cost-neutral for them again. I think the answer is that they can better make use of the existing operators to help them with that problem.

Ms ABIGAIL BOYD: Can you explain how they would do that with the Act being removed? What extra power does it give them?

Mr SMITH: There is no extra power, I guess. Whether the Act is there or not, they can still make use of the aero club to help them with the management of the site to reduce costs.

Ms ABIGAIL BOYD: What revenue, then, is the council specifically getting at the moment? It presumably gets a licence fee from yourselves?

Mr SMITH: Yes, it gets a utilisation fee. There is a fee that goes back to council for our fleet of aircraft using the runway.

Ms ABIGAIL BOYD: Is that a fee per vehicle?

Mr SMITH: That is per aircraft, yes. That is right. We pay a fee per year for each aircraft. Club members pay for each landing that they do and itinerant aircraft also pay a fee back to council.

Ms ABIGAIL BOYD: So if the cap is removed on the number of flights then that could increase that revenue for them because the number of aircraft would increase the amount of fees.

Mr SMITH: That is correct, if the numbers increased. Yes.

Ms ABIGAIL BOYD: But that would not be from the repeal of the entire Act. That would be from lifting the restrictions.

Mr SMITH: That section would be to do with the movement cap, yes.

The Hon. SHAYNE MALLARD: Am I right to understand that you were operating outside the cap until this was brought to your attention?

Mr SMITH: The movement cap?

The Hon. SHAYNE MALLARD: Yes.

Mr SMITH: Yes, on busy days we routinely do 300 to 400 movements in one day.

The Hon. SHAYNE MALLARD: Right, and that is training? Touch-and-go and—

Mr SMITH: Yes, the bulk of what we do is flight training. The most important part of a student's journey to their licence is learning to land the aircraft so we spend a lot of time doing what are called circuits. We take off, do a lap and land and we do what are called touch-and-goes. A touch-and-go is where we touch down, accelerate and get airborne again without exiting the runway.

The Hon. SHAYNE MALLARD: And they are counted as a movement.

Mr SMITH: That is counted as two movements, actually, because it is both a landing and a take-off. We can do 10 of those in one hour in one of our training aircraft, so that is 20 movements per hour. We often have three to four in the air at a time. If we start at 7.30 a.m., we can hit the 88 movements by 9.30 in the morning.

The Hon. SHAYNE MALLARD: So you were unknowingly operating outside the control. What was the community response to that?

Mr SMITH: The community response has been fine, as far as we can see. There have been no historic or present levels of anxiety about the types of operations that we conduct.

The Hon. SHAYNE MALLARD: But no complaints to the council from the community that you were breaking the Act?

Mr SMITH: No, we have been remarkably complaint-free. We have historically self-managed our flight paths to try to keep the residents happy as well.

The Hon. SHAYNE MALLARD: Yes, I can see that.

Mr SMITH: We routinely avoid any residential areas. The types of operations that we conduct are very low impact and low noise, and the length and width of the runway preclude any larger aircraft from using it. With the environmental constraints that Mr Allen was talking about in place, that runway cannot really extend much beyond what it currently is: around 1,196 metres. That is a severe limitation on the aircraft types that can get in there. The smaller the aircraft, the quieter it is. We do not have any issues with the community currently. With the zoning the way it is and the environmental constraints, I cannot see that we will moving forwards.

The Hon. MARK BUTTIGIEG: I am interested to explore this. Generally, your submission is basically that you have these pre-existing creatures of the planning Act and the environmental protection Act that together will more than allay the concerns that residents might have. I think it is fair to say that there would be a lot of scepticism over the tension between those two departments. There have been recent examples of that with land clearing and the koala SEPP. I am not sure that the average citizen of New South Wales would be as benign about that working, perhaps, as you have put here today. I suppose the point that you are making, though, is that in any case the pre-existing Act does not add any value to compensate for the tension between those two Acts. Is that essentially the position?

Mr ALLEN: I think that is correct. The central proposition around the planning law is that the way it operates in the main is that it requires two levels of government to make a change to it. That is the benefit that the community sees and wants. There is a real process to go through, including the gateway process, to make changes—consultation and so on. If the community wanted to change the zoning around this airport, it could do so. It does not want to do so and we do not want it to do so. There is just no case for it at the moment. If somebody like council or some other proponent wanted to extend the runway then they would have to run that gauntlet, which is much more substantial than the one under the existing Act. I just want to make one clarification to Mr Mallard's point. I think Mr Smith was answering the question about complaints around our operational levels. It is correct that we just do not know of any. However, there were one or two complaints about us breaching the Act by known anti-airport personnel.

The Hon. TAYLOR MARTIN: Yes. We are hearing from Laurie Eyes later on.

The CHAIR: Order!

The Hon. TAYLOR MARTIN: I have been very happy to hear what Mr Allen and Mr Smith have had to say. Thank you for your time this morning. I think it is very important, particularly given the level of debate locally, that we finally bring it to a head. Reading through all of the submissions, the particular line came up a few times that the Act has served its purpose. My understanding is that in the mid-nineties the Act was brought about by the then member for Wyong because the then Wyong Shire Council, which was effectively run by Labor councillors, had a proposal to turn the ALA at Warnervale into the largest freight hub in the southern hemisphere. Is that your understanding of the impetus of this?

Mr ALLEN: Correct.

Mr SMITH: I think that was almost a quote from the *Hansard*, actually. I think the *Express* at the time quoted somebody from council saying just that.

The Hon. TAYLOR MARTIN: 25 years ago the Act effectively came into being because you had the proponent, the owner, the council and I do not believe I am wrong in saying possibly the consent authority at the time as well.

Mr ALLEN: Yes, I think that is right. I think the zoning was different at the time. The airport had a different zoning and the land around it had a different zoning. The zoning at the moment is consistent with the government-modelled zoning under the Act, which I think all councils in New South Wales have adopted. My understanding is that this zoning was not in place in 1996. There were statements by the proponents of that airport extension that there would be 24-hour jets running in and out of the place. There was a real, genuine concern by the community that this was going to happen and there was understandably a reaction to it. Those circumstances are gone. There are better protections in place that were not in place at that time. The whole thing really is just odious. It just does not serve any purpose anymore.

The Hon. TAYLOR MARTIN: So effectively the Act has served its purpose but now that it has been retained past its use-by date, the local aero club and the flight school are caught up in an Act that was intended to stop the largest freight hub and jet aircraft. That is no longer a threat. I think that anyone who has any idea of how the Central Coast Council has operated lately knows that there is no expansion being planned. This current iteration of council has in fact purposefully sabotaged the operation of the airport by allowing the trees that line the northern end of the runway to keep growing, which presents a safety danger. Is that something that is more of a recent development over the past few years, which has not been there previously?

Mr SMITH: The trees were historically kept trimmed to just above the height of the transmission lines. It is important that they are not below the transmission lines because you cannot see the transmission lines, but that keeps them well below the recommended Civil Aviation Safety Authority approach and departure gradients to the runway. No-one in council seems to have any records of when the trimming was done. I would say it was probably over the last 15 years or so they have been left to grow, possibly longer. It is becoming an ever-growing problem, pardon the pun. The trees are getting higher and higher. They are now up to about 8 per cent, I think, and they are meant to be around 3.3 per cent gradient. The Aero Club are aware of the risk and we self-manage our operations. With that in mind our concern—I know this is outside the scope of the Act review—is with itinerant aircraft, who are not as aware of the risk. We have had very strong discussions with council to get that process underway. We have been assured that it is getting closer but we keep getting assured. It has not happened yet, so we are hopeful that the trees will be attended to shortly.

The Hon. TAYLOR MARTIN: A lot of the criticism of the aircraft landing area [ALA] itself in even having it there is this possibility that in the future there maybe jet aircraft landing there. Would you be able to add a bit more information to allay people's concerns, because they have been scare campaigns time and time again? Is it possible that a jet aircraft that lands at airports in other States or airports in our own State to land at Warnervale?

Mr SMITH: No. I do not have the numbers in front of me but if you look at the *CASA Manual of Standards* for jet transport operations the airline aircraft that need the least amount of runway length in Australia is the Airbus A320. It is a little bit over 2,200 metres is what they quote as being the minimum runway distance allowable. These aircraft to land at shorter runways—Maroochydore being one until recently until they upgraded the runway at somewhere between 1,800 and 1,900 metres but they had severe constraints on those operations. So, the captain had to do the landing. They could not land with any more than, I think it is about, 7 knots of crosswind. I will have to double-check that figure but it is somewhere well below the aircraft's ability. The runway is not feasible beyond what it is at the moment. If you could relocate Sparks Road and do a huge amount of work you might be able to extend it slightly. None of us want that. The Aero Club does not want that and that still would not get the jets in there. To get over 1,800 metres you would have to remove an entire hill to the north, which is at 300 or 400 feet. I cannot imagine the amount of earthworks that would be required for that. It is just not feasible.

The Hon. TAYLOR MARTIN: What about from the southern end, then?

Mr SMITH: At the southern end you would have two put a runway right out into the middle of Porters Creek Wetland. I cannot imagine what sort of stabilisation would be required to do that. It would ruin a lot of the wetland that. None of us want that either. We are all environmentally minded. We want the wetland to stay there. If I could just say short of the runway being completely closed a huge airport there is the second-worst thing for the Aero Club. We do not want a huge airport there, either. It works fine as it is. It is a light general aviation airport. The residents are happy with the way it is. The surrounding environmental zoning, et cetera, will keep it that way and this Act just serves no obvious purpose.

The Hon. TAYLOR MARTIN: To make the fears that people have had for a long time and who have said there will be jet aircraft there, to make their fears come true you would need a council, the owner and the proponent to want to verge into Porters Creek Wetland, extend the runway, possibly even redo the whole runway to be thicker—would that be right—to land a jet?

Mr SMITH: Much thicker and much wider. It is 11 metres wide at the moment. Small turboprop aircraft requires a minimum of 18 metres wide and these larger jets need 45 metres.

The Hon. TAYLOR MARTIN: Right. So the whole runway would need to be rebuilt and re-tarred and everything, and extended into Porters Creek Wetland.

Mr SMITH: Well and truly.

The Hon. TAYLOR MARTIN: So you would need a council that wanted that to happen. You need a consent authority to sign off on that happening. You would have to get through the Land and Environment Court because surely someone would challenge it. That would not be cheap. I know the Newcastle Airport is looking at redoing their runway and that cost goes well into the hundreds of millions of dollars. So, effectively, it is not happening. There will not be any jets at the Warnervale ALA.

Mr SMITH: That would be my opinion too.

The Hon. TAYLOR MARTIN: Right. I just want to talk about the environmentals a bit more because Porters Creek Wetland is quite a sensitive area. There have been plans that come up from time to time. I know that around 2010 the then Wyong Shire Council were actually looking at selling off the Warnervale ALA and subdividing it into industrial land. Michael Allen actually alluded to this earlier in his evidence. In my view,

having the ALA there as effectively a big patch of grass with a small runway in the middle of it actually environmentally sounds quite good compared to what could be done with that land should be it subdivided, tarred over and having concrete and Colourbond sheds all over it with run-off. Would you be able to allude a little bit more to what the Aero Club and the flight school and anyone operating there as to what precautions they take to ensure that there is not any environmental damage, any run-off from fuel or oil or anything of the sort? What kind of precautions are taken at the moment?

Mr SMITH: I could probably answer that one, I guess. We have the Environment Protection Authority [EPA] required legislation that is adhered to with our fuel site, et cetera. All the oil storage areas have bund walls around them, as does the fuel site. The aircraft themselves—the pollutants from aircraft when they are operating, quite frankly are not even a drop in the ocean compared to motor vehicle pollution. It is just extremely low impact. If you looked at the site, as I think Michael Allen said before, it would have to be somewhere in the region of 80 to 90 per cent greenfield grassed areas. The Aero Club does not really contribute to any pollution of that area.

The Hon. TAYLOR MARTIN: What about the licence renewal? How is that looking? Does the club have certainty?

Mr SMITH: At this stage we have not had the discussions we want to have with council. They were looking to progress and then I think we all know about the financial issues they are having at the moment and that has sort of swamped them at the moment so we are quite keen to progress those discussions as well.

Mr ALLEN: We had a meeting with the mayor and the CEO some month or six weeks ago. It was very positive, working towards putting an agreement together. We talked about a memorandum of understanding for that purpose. We have a council resolution on the books to expedite the agreement with the Aero Club. So the relationship with council is as good as it has ever been. We are working with them and, as we said, we would work with them to protect environmental areas around the airport, which is something we want. It is perfectly consistent for the use that we have for that piece of land.

Ms ABIGAIL BOYD: Following up on the Hon. Taylor Martin's questions on all of the different things. I think we can all agree that it is not economically feasible, environmentally feasible and does not seem to be something the community would want to have, an expanded airport. However, if we had people within council who did want to expand the airport, would it not be easier for them if they did not have this Act than if they did have the Act?

Mr ALLEN: I do not think so. I think the steps below, they environmental steps, are far easier to accomplish than this. They would have to change the environmental zoning. To do that, they need the Government's approval. Now, if they have got the Government's approval to do that, it is going to be very easy to get the Government's approval, I would suggest, to get an extension of the runway under the Act. You have either got the Government on board, whoever the Government is that of the day, or you do not.

Ms ABIGAIL BOYD: It is another step, is it not, in the process?

Mr ALLEN: It is another step, but it is very much a minor one in terms of the process. Like I said, the big guns here for protection are the environmental zone. They are right around the airport.

The Hon. SHAYNE MALLARD: Let us be clear: The E2 zoning prohibits—

Mr ALLEN: It prohibits it.

The Hon. SHAYNE MALLARD: —airport use.

Ms ABIGAIL BOYD: The current—

Mr ALLEN: The last page of my mapping tells you it is prohibited.

The Hon. SHAYNE MALLARD: Yes, narrow.

Ms ABIGAIL BOYD: We talked before about this DA consent for an 1,800-metre long runway. You familiar with that, the details of that?

Mr ALLEN: I do not know that one. Look, I presume there is some sort of consent either being sought or given in relation to the proposal of the 24-hour jets, but as the law stands such a consent would have expired long ago.

Ms ABIGAIL BOYD: I understand that this one is actually still active, but I guess I am more interested in where that extra 600 metres of runway would go.

Mr ALLEN: I do not see how the consent can be active, because the law says it cannot be. It would have to have some, which are not obvious, works having been done to commence the consent and we do not know of any works, certainly no physical works, that would fall into that category that we are aware of.

Ms ABIGAIL BOYD: That is not consistent with the advice I am getting from a planning lawyer but I understand that that is something you are also familiar with. But neither of us know, correct?

Mr ALLEN: I think that is correct.

Ms ABIGAIL BOYD: I do not have it in front of me and you do not have it in front of you so we do not know.

Mr ALLEN: Yes.

Ms ABIGAIL BOYD: If we were to widen the runway rather than just lengthening it, would that allow additional types of craft to land?

Mr ALLEN: Not really. It is the length.

Mr SMITH: You would need both widening and lengthening, widening the current runway at 1,196. You might get some slightly larger piston-powered aircraft the same as we operate but a little bit bigger. I am trying to think of any types. There might be one or two aircraft types it would allow. It would make almost no difference. But to get the turbo prop aircraft and then eventually if you wanted to get to jets, which will not happen, you would need widening and lengthening, absolutely.

Ms ABIGAIL BOYD: But if you widened you could conceivably get some additional craft. There would be some that would fit in that category, being able to land on the same length of runway.

Mr SMITH: I am trying to think if you just widened it what—the definitions are tricky here because the runway itself is actually 45 metres wide. The runway goes out to the gable markers. It is just that the central 11 metres is sealed. Currently the entire runway is actually 45 metres wide. You are allowed to land on the grassed areas either side. A lot of ALAs are all-grass runways. It is just that ours happens to have a central section that is sealed, that is all. It currently is 45 metres anyway. So you could talk about possibly widening the sealed component of that runway. I cannot think of any aircraft off the top of my head that would be currently stopped from operating there but may be able to operate if you had extra sealed area, if you like.

Ms ABIGAIL BOYD: Thank you.

The CHAIR: Thank you so much for appearing before today's inquiry. That is the end of our questions for you.

Mr SMITH: Thank you.

Mr ALLEN: Thank you.

(The witnesses withdrew.)

AMY REGADO, Chief Development Planner, Lake Macquarie City Council, affirmed and examined

DAN HUGHES, Government Relations and Policy Advisor, Lake Macquarie City Council, sworn and examined

The CHAIR: We welcome our next witnesses. Would either of you like to begin with an opening statement?

Mr HUGHES: I do have a short opening statement. Thank you for the opportunity to speak at today's hearing into the Warnervale Airport (Restrictions) Repeal Bill 2020. Let me begin by reaffirming what was stated in our submission: Council staff will not comment on the commercial activities of the Warnervale Airport. We do not feel that it is appropriate to do so as we do not have the expertise in the management of airports. Regardless, we feel that the key issue to tackle here today is the issue of repealing the Warnervale Airport (Restrictions) Act itself. Lake Macquarie City Council has long advocated for the strengthening of the existing legislation governing Warnervale Airport but this position is based on protecting the rights and interests of those affected by the airport's operations, which we believe includes the rights and interests of residents and businesses in Lake Macquarie City, particularly those in the Morisset and Wyee catchments.

We recognise that repealing the Act does not necessarily mean that the rights and interests of those affected by the airport's operations will be ignored. We understand that the layering of Federal aviation instruments, State planning instruments and local environmental plans used for other airports could also be used to apply to Warnervale, thus providing the adequate framework to protect those very rights. As such our position is pretty simple: Regardless of whether the Act remains or is repealed we would like to see protections extended to Lake Macquarie. We must ensure that these protections are in place now, regardless of any future plans for the airport, which will ensure appropriate consultation mechanisms are in place for anyone impacted by the airport's growth, irrespective of the local government boundary.

The CHAIR: Thank you so much. Ms Regado, do you have a statement as well or was that for both?

Ms REGADO: No, that is for both.

The CHAIR: Wonderful. I will open up for questions.

Ms ABIGAIL BOYD: Thank you both for coming along and for your submission, which again was mercifully concise. My questions are more around if we amend the Act instead of repealing the entire thing. You mention in your submission and in your opening statement that it would be beneficial if the Lake Macquarie council was also considered in the consultation process. Can you talk us through Lake Macquarie's interest in the airport and the impact on the community in your area?

Mr HUGHES: Yes. Thank you for the question. I think it is—I have my notes here—as far back as 2012 there has been an interest in the operations of Warnervale Airport for residents and businesses within Lake Macquarie. As we have heard in previous statements as well as in other submissions it is a divisive issue for the community and there are very divergent views on it. Our position as council staff is to try to encourage that consultation occur. As we know with previous plans for the airport and expansion we gave Morisset as an example—it is just 15 kilometres away.

So it is the opportunity that potentially if there is an expanded airport maybe they need to be but the likelihood is not a part of that dialogue. That is where the commercial side comes into it. As we know, it is very expensive to make and build airports. Whether it is feasible to ever occur but on the chance that it might, it is about making sure that those protections are there. And it could be positive or negative for those people. An airport can attract business. It can support other businesses around the area. We are a regional community so you cannot deny that there may be advantages to growth in airports but on the flipside of that same coin there can be a lot of other disadvantages.

Ms ABIGAIL BOYD: Is the process of consultation provided under the Act, whether or not extended, above and beyond what you would get under other legislation if there was to be some sort of expansion of the airport?

Mr HUGHES: At the moment the legislation only requires consultation for roughly 7.5 kilometres. That covers a little part of the Wyee catchment and some parts of the Lake Macquarie boundary but does not place the obligation on speaking to Lake Macquarie council, for example, just to be able to facilitate community engagement. So that is our key thing—unless, Ms Regado, you have anything more to add.

Ms REGADO: No.

The Hon. MARK BUTTIGIEG: Can I ask a quick follow-up? In the event that there was an expansion, has council done an estimation of how many current and potentially future residents might be affected?

Mr HUGHES: The expansion is all on a hypothesis of what is the expansion exactly. We do not know. They are decisions for other people to make and spend money on how much they want to expand. We did some basic modelling around looking at the Morisset-Wyee catchment and, say, by 2036 you are looking at a population of roughly 35,000 people in that area. There are roughly 15,500 dwellings. Currently for 2019 there are about 4,000 in those areas. We do not know what the jobs market will be like in that area in 2036. We are seeing a lot of investment in Morisset and Wyee at the moment so a lot of it really comes down to we cannot hypothesise exactly who will be impacted. It might be that they will never be impacted at all.

The Hon. MARK BUTTIGIEG: We heard from evidence this morning that the current Act under question to be repealed is really just an academic anachronism. It does not really add any extra value, given the pre-existing protections—

The Hon. MARK PEARSON: Can you get a bit closer to the microphone?

The Hon. MARK BUTTIGIEG: —sorry—engendered in the planning Acts and the environmental protection Acts. Is it your view that if this thing is pulled then those two pieces of government protections would come into play and afford the same level of protection as what is currently in place?

Mr HUGHES: I will refer that question to my colleague, who certainly has more experience in the planning, but that it is probably a passage of time situation is what we have had. We have had legislation brought in to deal with something at a time when all of the planning frameworks are much more mature. They are evolving. Even just on the relationship front, a part of my role is how we collaborate between local governments across boundaries and agencies to have that informed discussion, which as we noted in our submission, I think a big part of this is education and awareness of exactly what can and cannot, so it is not just views but it is actually an educated view. In the sense of the legislation's application, now it is two different time frames is what we are talking about. Ms Regado has more information.

Ms REGADO: Thank you for the question. As I understand the layering of the Federal aviation legislation and State policy and local policy as well is that there would be consultation built into that. But it is, as Mr Hughes said, not clear or does not provide that certainty around local government boundaries and ensuring that the protection of the rights in those adjoining local government areas are protected.

The Hon. MARK BUTTIGIEG: In terms of that gap or that vagueness about that coverage and those boundaries, does the current Act offer any value in that respect?

Ms REGADO: As Mr Hughes has said, the Act currently includes that seven and a half kilometre provision, so that is a current protection.

The Hon. MARK BUTTIGIEG: Right, okay.

The Hon. TAYLOR MARTIN: It is a really interesting situation we have here because there is the airport in Lake Macquarie which is not too far away from the airport at Warnervale that we are discussing. Do you happen to know of any widespread consistent complaints about aircraft noise from your own airport?

Mr HUGHES: Not specifically, but just to clarify, it is not our own airport in the sense of Lake Macquarie council. We do not own it. It is a privately run airport. I would say you would have to refer that question on the number of complaints that they may receive from residents or the like. But there are mechanisms in place for consultation and they are a pretty open partner in engaging with council so I would say the relationship is good enough.

The Hon. TAYLOR MARTIN: What about in terms of development or overdevelopment? Are there any community groups, so to speak, that consistently campaign against any hypothetical expansion of the airport at Lake Macquarie?

Mr HUGHES: Not to my knowledge, no.

Ms REGADO: And not to my knowledge either.

The Hon. TAYLOR MARTIN: Have there been any proposed development applications or anything of the sort the Lake Macquarie Airport?

Ms REGADO: Recently we have had approvals granted for the Lake Macquarie airport for some hangars on the site. It is not to impact their operations. It is the actual built form on the site.

The Hon. TAYLOR MARTIN: That is interesting. It is a really particular scenario we have. It is really not far away from Warnervale. However, Warnervale has this Act that we are looking at here which precludes movements. I am just really fascinated that we have such a situation. Is the council concerned at all with the operation of the airport? Given it is different that the council do not own it or operate it themselves, have there been any issues or blowback from the community to the council in regards to how Lake Macquarie operate their airport?

Mr HUGHES: Not in my recent memory has anything come up about the airport or opposing the airport. I certainly know we have issues with some erosion in Swansea Channel around Pelican Foreshore which connects through to the airport in that there is a sense of trying to make sure that there is some stabilisation there for the channel, the community and the airport there. But I would not say, to my knowledge, anything coming to oppose the airport, its operations or anything like that.

The Hon. TAYLOR MARTIN: Ms Regado, you are the chief development planner. Hypothetically, what would happen if the operators of the airport wanted to expand? I suppose they would have to come to the council and put forward their plans?

Ms REGADO: To clarify, your hypothetical question is about Lake Macquarie Airport?

The Hon. TAYLOR MARTIN: Yes.

Ms REGADO: They would be subject to a planning approval pathway and, depending upon their expansion, it depends on what level of legislation that would trigger.

The Hon. TAYLOR MARTIN: How much community consultation would be required in that sort of a process?

Ms REGADO: Again, it would depend upon which planning pathway they travel down, whether it be local or State, and what consultation mechanisms it relies upon, but I expect there will be consultation mechanisms in each of those levels.

The Hon. TAYLOR MARTIN: Quite a significant level of community consultation for a project like that?

Ms REGADO: You would expect the consultation would be in consultation with the amount of the impacts. So, the broader notification for large, as an example, noise impacts or smaller notification if it is a new shed on the site, for example.

The Hon. TAYLOR MARTIN: Alright, understood.

The Hon. MARK PEARSON: Has the council taken into consideration what the community view or concerns might be if those caps were removed? That is, the number of flights coming in and out and the curfew? Has the council turned its mind at all as to whether there might be any community concerns about those factors if the bill were repealed or amended?

Mr HUGHES: I am happy to answer that question. We have not had a great deal of—certainly through my desk or anything like that—community concerns about the cap limit. Most of the concerns really relate to the airport growth and expansion. The key thing is we have not had a great deal of community engagement concern about the flight cap. Certainly, there has been interest expressed. We certainly have people within Central Coast and the area, who are long advocates of the airport, opposing things, raise concerns. But staff's position in looking at the flight cap limit for us—the previous limit we were not getting any issues raised with us. Removing that limit seems to indicate that it will just go back to the exact way it wants to operate. Our concern relates again to that hypothesis of if it wants to expand larger, as we heard, it is quite difficult, that those protections are there on the just in case, which is why we also think there is that community education piece around exactly what is feasible with that site is quite valuable, but as far as the flight cap limit there has been no real concern about that.

The Hon. SHAYNE MALLARD: Ms Regado, you are familiar with the map we have been supplied by Aero Club of the zoning map around the airstrip?

Ms REGADO: I have not actually seen that.

The Hon. SHAYNE MALLARD: Okay, I will get that sent over to you. Nonetheless, constraints around E2 to constrain the expansion of it. You are the first planning person we have had before us. How hard is it? It is a prohibited use now. An airport expanding into E2 is prohibited on the prohibited uses, so how would you go around expanding the airport with that E2 zoning prohibiting expansion? Would they have to make an application to rezone?

Ms REGADO: That is a very challenging question to answer, obviously, because also it does fall in the Central Coast Council local government area which has a different suite of planning documents. I apologise but probably on the fly it is not something I would be able to give you great advice on. But on the face value obviously environmental zonings as a concept—

The Hon. SHAYNE MALLARD: I am in the Blue Mountains council area. Half of my property is E2 and you cannot touch it. It is a very strict control to the environment.

Ms REGADO: Yes. That is the thing. As a concept, the environmental zone, which is statewide, is zoned for that purpose unique to the site circumstance whether it be ecology or some other special unique circumstance. So, on the face value, yes. It could be challenging but probably, as you might know, the planning system is complex and unique and each circumstance is considered on its merits. I would not say it is impossible but I also would not say it is possible at this early stage. Sorry it is not a clear and straight response.

The Hon. SHAYNE MALLARD: A rezoning like that would require the council first of all to say it is prepared to. Hypothetically, you have to accept that application. I think that is the law. You would have to assess it, exhibit, bring it back, go to the Minister—there are a whole lot of triggers there.

Ms REGADO: Yes. If a rezoning or a planning proposal is lodged in any local government area there is a process and reporting, exhibition, consultation and sign off through Ministers.

The Hon. SHAYNE MALLARD: And a whole heap of reports: environmental reports, hydrology and things like that, koalas.

Ms REGADO: Yes, that is right.

The CHAIR: Fantastic. You have answered everybody's questions very thoroughly and succinctly. Thank you very much for coming in today.

(The witnesses withdrew.)

(Luncheon adjournment)

JOHN CODRINGTON, President, Your Central Coast Airport Association Inc., sworn and examined

BEN MORGAN, Chief Executive Officer, Aircraft Owners and Pilots Association of Australia, sworn and examined

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

Mr CODRINGTON: My opening statement is that I direct you to my submission and I stand by my submission as it is.

The CHAIR: Thank you, that submission has been received by all members. Mr Morgan, would you care to make an opening statement?

Mr MORGAN: Yes, thank you, Madam Chair, for the opportunity to come here and address this inquiry. As the chief executive of the Aircraft Owners and Pilots Association of Australia it is my responsibility to represent general aviation and recreational aviation participants nationally. There are aircraft owners, pilots, aviation businesses, flight schools, charter companies and a multitude of aviation businesses spanning various sectors across the industry and I am here today to affirm our industry's support of the submissions that have been made along with affirming the support of what is now probably two decades of submissions that have been made in support of the Central Coast and Warnervale Airport. I would like to start by making the comment that it is our association's view that the Warnervale Airport (Restrictions) Act has no place. I would agree and concur with the comments that have been made that the Act has served its purpose and that purpose is now long past.

The only purpose for the Act is that it continues to be used as an impediment and in many ways it is used by the council as a backstop to avoid and defer any progress or movement forward at the airport site for Australia's recreational and general aviation industry. I would like to stress very clearly, there has been a lot of debate about this already today, there is no future for the Central Coast airport to be operating jets. I will say it again, there is no future for jet operations at Warnervale Airport for the reasons that have been clearly discussed and the restrictions of the airport site itself. It would be a logical outcome that its proximity to Sydney, that is, much closer to Sydney than Newcastle means that the economics of operating that airport from an airline perspective would not exist.

We only need to defer to other airport sites like Wollongong, which struggle to retain airline operators to such a point that they subsidise those operations by a significant degree, which makes them entirely economically unfeasible. The Central Coast/Warnervale Airport has a future and that future is a very strong and bright future, but it is a future that is being denied it right now, and that is a future for light and recreational general aviation. What that means is small aeroplanes being used in the flight training industry, small aeroplanes being used by private business owners, aircraft maintenance and of course education. I want to stress a few of these points today because I have sat in the gallery and listened to the presentations that have been given today and I am struck by one word that I keep hearing repeated and that is the concept of "community". That this Act is in some way representing a community.

I do not mean to be disrespectful, but I just wonder what community that may be. The Central Coast comprises of 320,000 residents and though I do not have an exact number I think the anti-airport lobby might comprise of a handful of people. There are 320,000 people on the Central Coast to which this airport is actually quite important. And, what we know and something I have been quite vocal about in attending many council meetings, I have almost lost count of the number of council meetings I have gone to, the community have no idea what is going on with this airport. The community do not know because the aviation industry has no idea what is going on with this airport. This has been an airport that has been dealt with in secrecy. Everything has been dealt with behind closed doors. There is no strategic plan, there is no direction, there is no idea as to what is happening with it.

I do not think when we talk about the community that the community even has an idea as to what this Act does or what the purpose of the Act might have been. But, more concerning, of the 320,000 people there are about 50,000 young people, high school students and university aged students on the Central Coast that as a consequence of having an airport that has no future, no strategy, no direction and an airport that has been denied the opportunity to expand in a sensible, manageable and logical fashion, are denied any involvement in an aviation and aerospace future. I can appreciate and understand the anti-airport lobby's argument that they do not want a jet airport in their backyard, but I would also encourage the Government to look at the people who are doing the complaining. They are not at an age in their life where they are worried about employment. They own their homes.

They are secure, they have enjoyed a career, they have had all the benefits of a society and a government system that has supported them to have a job and trade. Now we want to continue an Act and legislation that

effectively is serving to deny young people an opportunity to participate. The Central Coast has some of the highest youth unemployment in the country. The Central Coast has some of the highest youth drug addiction in the country. What we know is to lift people from these problems we provide education, we provide meaningful gainful employment and the aviation and aerospace sectors can be doing exactly that—technical high skilled jobs. In my work I travel around the country and I talk to councils from one end of Australia to another on these exact issues and I use one example and it is the example I go back to time and time again because it shows the ignorance of what actually goes on. That is, councils do not understand the value that airports provide, and it is natural, they are not equipped to manage these airports.

These airports are thrust on them by the Federal Government under the aerodrome local ownership plan transfers. The Federal Government dumped these airports into their responsibility with no avenue of funding and as a consequence of that they are being poorly managed. We had a situation not long ago where one of the world's number one electric car companies, a company that is responding to the environmental challenges that are facing the world and that we all accept is a direction we need to go to make the air clean, to make the planet more responsible. This company was trying to locate themselves to an airport where the council's management of the airport made their access to the airport nearly impossible. They took all of their electric car testing and relocated it to an airport that appreciated and understood what they were doing. That airport now enjoys having a direct line of communication with one of the world's biggest electric car development countries. The economic contribution provided in that region is not substantial.

This is an airport that has a powerful and meaningful value to the Central Coast. It has a direct and meaningful value to the future, future parliamentarians, future corporate industry leaders, future leaders of the aviation industry, future pilots, maintainers, and I think that we owe it to them to ensure that we address this issue. And to speak to the direct issue of the repeal of the Act, it is our opinion that the Act serves no purpose. There are already appropriate controls in place that will enable any potential development of the site to be dealt with through a normal process. To leave this piece of legislation is to accept that we are just simply allowing excess red tape for the sake of allowing red tape. It was my understanding that the New South Wales Government, like all other State governments, have made a commitment towards removing red tape where possible and where necessary, and this would be a fantastic place to start because, again, the controls are already in place, the airport site precludes it from being able to be used for jet traffic, and you have a Central Coast in dire need of gainful employment, opportunity and a future. I am happy to take questions.

Ms ABIGAIL BOYD: Thank you both for coming here and giving your evidence today. Mr Morgan, you were here in the gallery during the morning session and you would have heard the Central Coast Aero Club talking about how their main concerns here are in relation to the current restrictions on their operations. They did not talk about expansion. It is interesting that you have mentioned expansion. What is the expansion that you are talking about?

Mr MORGAN: Right now at the site the airport is unable to allow, effectively, new general aviation maintenance businesses, businesses that employ apprentices, businesses that are providing youth an access to gain those technical skills and trades. You cannot allow that because it would encourage a higher frequency of use of the site, of which the Act is precluding. The Act also is providing the impetus for council to automatically reject any notion that the airport will have any level of development, because again they hide behind it. I know that you could probably argue, "Mr Morgan, that is anecdotal." Well, I can tell you I have stood before this council, the Central Coast Council, time and time again, and they are hiding behind it. They are using this Act as a way of rejecting any application or encouragement towards allowing that site to be used in a broader sense. And a broader sense would be that I come to this place with my colleagues. We are currently working between the New South Wales Government and TAFE trying to create opportunities for TAFE to become more deeply involved in providing technical aviation trade jobs and so on and so forth for training.

Would it not be wonderful if we could establish a TAFE training facility at Warnervale Airport and start giving those 50,000 youth on the Central Coast access to be able to do these courses, courses that right now are not available to anybody on the Central Coast? I used to live on the Central Coast. I had to move from the Central Coast because there is no aviation future there, there is nothing. We have got a fantastic flight school, but the flight school is handcuffed. I think in the time that the flight school has been running it has been able to deliver 5,000 young people a licence, 5,000 young people a start in the commercial aviation career. Who knows, we all may have sat on an airliner with one of those students now sitting up front as a commercial pilot. But we should be doing more. The Central Coast needs to be providing a greater level of training and education, but we cannot currently do it with the Act in place.

Ms ABIGAIL BOYD: For you, when we talk about the difference between just amending the Act to reflect the status quo to allow the increased number of flights and the curfew to be lifted based on the current runway size, if we talk about that being one option, that amendment only, versus actually repealing the entire Act.

For you repealing the entire Act makes a tangible difference because it opens up more opportunities for expansion. Is that correct?

Mr MORGAN: Well, it is going to remove the current impediments that stop the council automatically rejecting any application to bring forward an opportunity for a light general aviation or recreational aviation business to establish itself at the site. I do not believe that an amendment to the Act which simply says, we will adjust the threshold of movements. That does not seem to be a reasonable approach. If we took this level of thinking we would be introducing individual Acts of legislation on just about everything that we currently have protections and controls for, creating further red tape and unnecessary impost for the community and for the Government.

Ms ABIGAIL BOYD: But in terms of the particular tangible impact of this legislation, putting to one side whether or not from an administrative perspective how we feel the Government should or should not run its legislation, from a tangible perspective the difference for you between simply amending to repealing the entire Act is that there will be more opportunities for expansion that way?

Mr MORGAN: I feel that the last 25 years or 30 years of history of the management of this site and the period of time for which the Act has been in place should signify and ring significant alarm bells that what the Act has effectively done is it has pulled the handbrake on all aviation activity on the Central Coast, and whilst the population has increased, whilst the number of young people has increased, we have not increased their access to technical trades within the aviation industry and their access to the aviation industry. Again, I would question is the purpose of the Act to deny the youth of the Central Coast access to gainful and meaningful employment in aviation?

Ms ABIGAIL BOYD: I am sure, and I know that there are a lot of different arguments about how we create jobs on the coast. But in terms of the particular repeal of this Act, can I just clarify that it is your understanding that if the entire Act is repealed it will be easier for development and expansion at the site?

Mr MORGAN: I would draw your attention to the fact that this is a council that had invested significant money, half a million dollars, into a business prospectus for the site that showed that there was a billion dollars or so of economic contribution and opportunity on the Central Coast to create jobs, technical trade jobs—

Ms ABIGAIL BOYD: But yes or no—

Mr MORGAN: —and a future for young people on the Central Coast, and as a consequence of this Act that proposal, that study has been buried in a drawer and has never been seen by the people of the Central Coast—

Ms ABIGAIL BOYD: Mr Morgan—

Mr MORGAN: —it has never been put up for public consultation, and so therefore the Act has served to stop that benefit for the community.

The Hon. MARK PEARSON: Mr Morgan, I think you need to answer.

Ms ABIGAIL BOYD: Yes.

The Hon. BEN FRANKLIN: He did. He said this Act is to stop that development for the community. I do not know how it could have been more clear.

The CHAIR: Order! Ms Boyd will continue her question.

Ms ABIGAIL BOYD: Mr Morgan, I do not want to cut across you or to stop you, but I would ask that you respond directly to the particular question I am asking you. Yes or no, will it be—

The Hon. BEN FRANKLIN: Point of order—

Mr MORGAN: The Act has—

The CHAIR: A point of order has been taken.

Mr MORGAN: —stopped development on the Central Coast.

The CHAIR: Excuse me, Mr Morgan, a point of order has been taken.

The Hon. BEN FRANKLIN: My point of order is that the witness does not have to answer yes or no. The witness is directly answering the question, which is totally appropriate.

Ms ABIGAIL BOYD: To the point of order—

The Hon. BEN FRANKLIN: You might want to tell him that he must answer with one word, but that is just ridiculous.

The Hon. MARK BUTTIGIEG: To the point of order—

The CHAIR: I will hear Ms Boyd first.

Ms ABIGAIL BOYD: No, you go, Mr Buttigieg.

The Hon. MARK BUTTIGIEG: With all due respect, the answer was more a statement about the benefits of economic growth and job creation, rather than a direct answer to the question.

The CHAIR: Thank you. The witness is entitled to answer the question as the witness sees fit. Ms Boyd can continue with her questions.

Ms ABIGAIL BOYD: Thank you for that, because when we hear about community opposition—however we define "community"—we hear that people are concerned that it is going to lead to development of the airfield, or the ALA. Contrary to what we heard this morning from the Central Coast Aero Club, you are saying to us that repealing the Act will allow an easier mechanism for development and expansion?

Mr MORGAN: No, I do not believe it is a case of making is easy or difficult. I think it is a case of sending a very clear message that the people of the Central Coast should not be denied an opportunity if they see that that opportunity is something they want to pursue to have businesses locate themselves to the Central Coast and participate in aviation. Again, I would question the Government's intention here. Is it the Government's intention that you are seeking to deny the Central Coast an opportunity to participate in aviation? Is that the purpose of this Act?

Ms ABIGAIL BOYD: When you talk about the Government's intention and what the community thinks, why do you think that the Warnervale Airport is not part of the Central Coast Regional Plan 2036, it is not part of the Central Coast Regional Transport Strategy and it is not part of the Central Coast Regional Tourism Strategy?

Mr MORGAN: My broad response to that would be that this is an airport that remains in significant question. My experience in dealing with the Central Coast Council is that the council has shown a determined propensity towards a direction to close this airport down. They have taken measures to make the airport unsafe and they have refused to maintain the airport site. I do not believe—and I do not believe it would be accepted by the broader aviation community—that this is a council that has shown any interest in this airport being located on the Central Coast. Again I question the argument whether the community is in support of that outcome. I am not aware of any broad community engagement that has informed the people of the Central Coast of both the benefits and any negatives that the airport may have and I cannot see that there is a mandate that exists towards restricting the airport or closing the airport.

The Hon. TAYLOR MARTIN: I would not mind picking up on that last question, which was a great question, as to why the Warnervale ALA does not fit into or appear in the 2036 regional plan. Is it because there is actually no feasibility for the airport to be overdeveloped into a regional passenger airport, into a transport hub? It is not feasible and it is not planned for. Neither the council nor the State Government has put that forward. In reality, everybody we have heard from this morning has said that the ALA needs certainty to continue doing what it is doing.

Mr MORGAN: Obviously I think it is as clear as daylight. For those who are not involved in the aviation industry it probably may complicate it a little bit further, but again I would reiterate and say that the ability for the Central Coast airport to be used as an RPT airport is vastly uncertain given the restrictions of the size of the airport site, the fact that there is not an accessible amount of land to expand the runway to and there is no intention by the aviation industry to seek to interfere with the wetlands. Those constraints, along with the local zoning and planning constraints, preclude this airport from being used in that capacity, so this is an airport that our national aviation industry recognises is a light recreational and general aviation airport.

There is a huge opportunity economically for the Central Coast airport to be used in the appropriate context and all environmental planning controls can be maintained within that framework successfully, as is being done at other airports around the country, and I would like to stress this. Warnervale is not unique—it is one of thousands of airports around Australia—yet it is unique in that it is the only one that has an Act that sits across the top of it, and again I would question what is the purpose of this Act? If the only purpose is to create an additional layer of red tape that is not required because the planning and zoning controls are already in place, why is it required?

The Hon. TAYLOR MARTIN: My understanding is that it was to stop overdevelopment that was proposed in the mid-1990s and that purpose has been served. Does that align with your understanding?

Mr MORGAN: That has been served. The purpose of the Act has been served. It now no longer provides any purpose.

The Hon. TAYLOR MARTIN: For the benefit of Hansard, would you mind elaborating on what the abbreviation RPT means?

Mr MORGAN: Regular public transport, so being used by scheduled airlines.

The Hon. TAYLOR MARTIN: Earlier in your evidence you spoke about further development. That was teased out in a lot of questioning from The Greens earlier. Would you be able to define exactly what it is that you picture when you talk about further development because I have consulted with the local aero club, other pilots and even students—I think we have one in the audience, Mr Matt Douglass is here as a young Central Coast resident and current student of the air club—and the feedback is consistently that it is effectively just about a few more hangars and very small light development.

Mr MORGAN: Again, I guess the definition of "light recreational and general aviation" is exactly that. They are small hangars, small maintenance operations, support and supply line businesses that help those maintenance businesses service and maintain those aeroplanes, supply line businesses that help support those flight training organisations. More importantly, as the national body, we would like to see a commitment on the Central Coast to enable organisations such as TAFE, universities and schools to become more involved so that the people and the youth of the Central Coast have access to skilled and technical training.

The Hon. TAYLOR MARTIN: The Act itself does not say that you are not allowed to build any more hangars, but the Act does go to the heart of the matter, which is about movements per day.

Mr MORGAN: Exactly.

The Hon. TAYLOR MARTIN: Without certainty, no-one is going to invest in the DA process and actual physical building and future maintenance of any hangars or anything of that sort.

Mr MORGAN: Yes.

The Hon. TAYLOR MARTIN: So that is the nub of what we are talking about.

Mr MORGAN: That is right, and it also needs to be made clear that the council has been able to rely on this Act to justify its objection. I can only say that, from my experience in attending council meetings and trying to understand what their objections are, their objections purely seem to be the political ideologies of the various councillors. They do not seem to be taking into consideration the genuine needs of the 330,000 people of the Central Coast and the 50,000 youth that deserve to have access to a gateway to enable them to gain a technical trade or a licence to participate in this industry. Again, our industry is very frustrated by this. We do not understand why this is happening. The Central Coast could be a major player in Australia's aerospace future and there are going to be some significant developments in the next 25 years that will incorporate eVTOL, vertical take-off and landing, air taxis and Uber. Why would New South Wales not want to secure itself to be a leader in high-technology electronics engineering design? These are aerospace and aviation activities that still need, in some cases, to be based in an airport but actually do not involve noisy aircraft.

Ms ABIGAIL BOYD: Could I clarify your point there? You talked before about how there is nothing in the Act stopping more small hangars being established on the site. If the Act was amended to refer to the current length and width of the airport, there would be no restrictions on the number of flights and no curfew restrictions, so why could the hangars not be developed with that Act still in place?

Mr MORGAN: I would answer that by asking the question: If this is such a sensible approach, why is there no Act governing Wollongong? Why is there no Act governing—

Ms ABIGAIL BOYD: I am asking, though, about Warnervale Airport.

Mr MORGAN: But that is at the heart of the issue. We seem to be making an excuse for this. With all respect, it sounds like an excuse. There are no Acts over the top of individual airports because local planning controls and zoning effectively serve to deal with that. Why is it that Warnervale-Central Coast is so unique? Why are we not having these problems at other airport locations? I would raise this question, and I would encourage you to really start asking yourselves: Why are we having this problem specifically at the Central Coast? Why is this not happening everywhere else?

The CHAIR: We are out of time.

Ms ABIGAIL BOYD: Could I ask just one more question?

The CHAIR: Yes, last question.

Ms ABIGAIL BOYD: In *The Australian* in 2016 you said that general aviation is in catastrophic decline. Do you still stand by that statement?

Mr MORGAN: Broadly, across Australia, general aviation is facing the challenges of over-regulation by the Civil Aviation Safety Authority and this over-regulation is causing large increases in the impost of operating general aviation businesses. There has been an effort by CASA to reform its regulations across the past 30 years that has been contentious with industry because in many respects what happens is that it results in excessive red tape and excessive regulation, in many cases duplicates of regulation, and all of this has conspired to create an environment where general aviation has declined and, unfortunately, last year the Bureau of Infrastructure and Transport Research Economics released its statistics and out of a national fleet of approximately 8,500 VH registered general aviation aeroplanes, 3,336 of these aircraft are laid up, unused. So, yes, there is decline, but whilst there is decline in general aviation businesses there are areas of general aviation which are stable and in some cases are experiencing growth.

What we have also seen is that COVID-19 has created a new sphere of opportunity for the aviation industry in which we have thousands of airline pilots who are still seeking to remain involved in aviation and, for them to do so, they have to retrain in general aviation, that is go to flight schools like the Central Coast aero club, and to reaffirm instructor ratings and their various approvals and so forth. Whilst there is decline, and that decline is demonstrably provable, we are seeing some green shoots as a consequence of a new opportunity that we never saw previously.

The CHAIR: Thank you very much, Mr Morgan and Mr Codrington, that is the end of this session. Thank you very much for appearing.

(The witnesses withdrew.)

LAURIE EYES, President, Central Coast Airport Resistance Group, affirmed and examined

The CHAIR: Mr Eyes, do you have an opening statement?

Mr EYES: I do have two documents I would like distributed to the members of the Committee and I would like tabled, please. I have got twelve copies of each. Thank you very much for the opportunity to establish certainty on the length, width, weight capacity, noise, environmental and financial impact of the Warnervale aeroplane landing area. The Central Coast Airport Resistance Group [CCARG] opposes the repeal of the Warnervale Airport (Restrictions) Act. The Act is still required for its curfew to prevent the construction of the 1993-approved 1,800-metre runway and to protect the community from a much larger planned, but unjustified, airport.

Now that the only valid objection to the Act—the 88 movement limit—has been removed, the repeal of the Act simply clears the way for council to pursue the master planned airport, stage two of which has, in effect, a 1,500-metre runway penetrating the wetland and requiring the destruction or decapitation of every tree north and south of the runway for many hundreds of metres. However, the CCARG are realistic regarding the Act. Therefore, we propose a SEPP that retains the Warnervale ALA as it is currently so it can continue its role servicing the Aero Club and other users. Our submission suggests that the bill be amended as follows:

Repeal of Warnervale Airport (Restrictions) Act 1996 No 57.

The Warnervale Airport (Restrictions) Act 1996 is repealed, to be replaced by a SEPP stating:

Warnervale Airport will remain an Aeroplane Landing Area under CASA CAAP-92-(1) with a 1196m long x 10m wide runway and all development and any physical environmental impacts contained within the existing 31 ha fenced site.

The Act review found:

... the inherent limitations of the site should be highlighted for all stakeholders, noting that many stakeholders are still of the impression that expansion of the airport is feasible when it is in actuality highly constrained by both its physical characteristics and legislative requirements.

Essentially the review reinforces the proposed SEPP as being a realistic opportunity and constraint. The community cannot afford the cost of, and are tired of, the constant expansion plans, grandiose claims for an 1,800-metre regional jet airport, an aerotropolis, an aerospace centre, an aviation hub, an aircraft factory and the exaggerated job and benefit claims. For example, the 5,000 jobs claimed by council staff for Warnervale when their own master plan consultant Deloitte Access Economics says there is the potential for 109 jobs from a 1,200-metre \$270-million airport and 116 jobs from an 1,800-metre \$396-million airport. Our submission details further real job figures from independent research and other airports.

We believe certainty for all stakeholders would be achieved by the New South Wales State Government implementing the SEPP over the Warnervale ALA. This instrument would support the ALA but limit it to 1,196 metres by 10 metres, which exists at the moment, with no environmental impacts allowed outside the 31-hectare fenced site; consistent with the Aero Club president's publicly stated commitments for the site and the environment. It is a win-win. The SEPP would ensure that despite the ongoing catastrophic decline in general aviation and the imminent arrival of eVTOL electric aircraft that do not need pilots or airports, this ALA has certainty. The SEPP would also enable the sale of industrial and aviation development sites on the western and eastern sides of the runway, thereby offsetting the cost of maintaining the ALA, gaining rates and capital gain income for our broke council, generating up to 400 new industrial jobs for our community, and kickstarting the long-delayed Wyong Employment Zone. To quote Minister for planning Rob Stokes on 14 October 2020 in the second reading debate of the Warnervale Airport (Restrictions) Repeal Bill:

I am happy to confirm that should council not complete the necessary actions and the Act repeals itself within the allotted time, the Government will put a State environmental planning policy over the land and the State will remain the consent authority until the council can get its act together. We will not let this go on half baked.

As the Minister is prepared to go to a SEPP in the future, we ask that he take the step to the SEPP now and the Warnervale Airport fiasco is finally fully baked and finished for good. We believe the proposed SEPP would provide certainty for the community living around the ALA, certainty for the wider Central Coast and Lake Macquarie communities and certainty for the Aero Club and the environment.

Ms ABIGAIL BOYD: Thank you very much for your very detailed submission. We spoke a lot today about the difference between keeping the status quo, effectively changing the Act to allow what is currently the case at Warnervale Airport—having the curfew and the limits on flights removed—versus having the entire Act repealed, and what tangible difference that would actually make in practice. Can you tell us what you think the tangible difference would be?

Mr EYES: Could you repeat that? You are asking about keeping the Act as is, or—

Ms ABIGAIL BOYD: I am asking about the difference between simply amending the Act to remove the restrictions versus repealing the entire Act. If we repealed the entire Act, what additional powers would the council have? What are we scared of happening in that case?

Mr EYES: Well, the stage two—that would be an ideal solution, if what you are suggesting is to retain the Act but to remove the 88-movement limit, although I would like to see the curfew stay. That would be perfect. If the Act goes and the council enacts the master plan, even stage two of the master plan is effectively for a 1,500-metre runway, and it penetrates the wetland to the south. It would change—and that is for a 30-metre wide and 1,200-metre long runway, but it is actually 1,500.

The Hon. TAYLOR MARTIN: Can I just clarify, is this the stage two plan that has been kept confidential by the council?

Mr EYES: There are no confidential plans. Everything is on their website. Are you talking about the 2017 master plan?

The Hon. TAYLOR MARTIN: I am talking about what the council have put together but kept confidential, about which no councillors were allowed to discuss or disseminate.

Mr EYES: I know nothing about anything that is confidential. All I know is that you can go on the council's website and have a look at that master plan. Stage two of that master plan is this 1,500-metre runway that penetrates the wetland.

Ms ABIGAIL BOYD: So are you saying that there is a master plan, or a proposal to extend, that under the current Act it would be harder for them to get approval for?

Mr EYES: It would be very much more difficult, because they are not allowed to extend the runway beyond 1,200 metres without getting specific approval from the Minister. The Minister under the Act appoints an individual to undertake environmental reviews of an environmental impact statement et cetera and an independent noise study. But most importantly, the Minister goes out to everyone within 7½ kilometres of the airport and asks for their opinion on the proposal. It is a legislated thing to go out and get the community's opinions.

Ms ABIGAIL BOYD: So there is an extra process of consultation that you would not get through the other approvals.

Mr EYES: That is right, so that would go. To put it bluntly, this review of the Act is all about doing away with it so that those expansion plans can proceed. With the Act in place, it is very difficult for them.

Ms ABIGAIL BOYD: This development application that was approved around 1993 or 1994 was for an 1,800-metre runway?

Mr EYES: Yes. Stage one was 1,200 metres and stage two was 1,800 metres.

Ms ABIGAIL BOYD: Did that extend south through the wetlands?

Mr EYES: It extended south around one kilometre into the wetland.

Ms ABIGAIL BOYD: Is that development application still active?

Mr EYES: As far as I know it is, because I think in 1998 the council spent \$360,000 building an apron on the existing taxiway with a view to making a substantial start on the development, so therefore kept the consent alive.

Ms ABIGAIL BOYD: Why did the Wyong Shire Council extend the runway that little bit in 2015?

Mr EYES: It was so that they could fly in larger aircraft. In 2015 when they did that, they also signed an agreement with Amphibian Aerospace Industries, the amphibious aerospace international company, who were going to refurbish Grumman Albatross junk aircraft that they had bought second-hand from around the world. They were going to fit them out with new avionics and turboprop engines. Those planes weigh 8,800 kilograms dry, but Warnervale ALA is only built for 5,700 kilograms, which is the ALA limit. So they needed a new runway to accommodate those aircraft. They built the runway and signed the deal with the company to build the aircraft.

Ms ABIGAIL BOYD: And that is the company that turned out not be a United States company but actually a shell company, with a director that was in Melbourne.

Mr EYES: Who had actually never built an aircraft at all. They also upgraded the strength of the runway. It went from 5,700 kilograms capacity to 12,000 kilograms capacity at the same time. This was a brand new runway but done without a DA and without the knowledge of councillors.

Ms ABIGAIL BOYD: We have heard today about the anti-airport lobby—

Mr EYES: That would have to be us, would it not?

Ms ABIGAIL BOYD: I assume that is referring to you. Are you anti-airport or anti-airport expansion?

Mr EYES: We are anti-airport expansion. I was president of the original Central Coast Airport Action Group for eight years. I was there when the Act was drawn up with Paul Crittenden, so I know exactly what happened and I know why it happened. We agreed that all we wanted to do was to limit the size of Warnervale's runway to what it was, which was 970 metres. The movement restriction was put in as a disincentive for them to make the runway bigger. They had a path, and they still have a path, within the Act where they can apply for the removal of the 88-movement cap. If you look at the Act, they just apply for a 1,200-metre runway, get that approved and then apply to the Minister under the terms of the Act to have the 88-movement limit varied. So the path is there, it was always there, and there was never a need to repeal that part of the Act had the council gone about the task in the proper manner.

The Hon. TAYLOR MARTIN: I interrupted my colleague's line of questioning earlier to ask you about the confidential plan from the council. Did you say that you know nothing of it? Was that your answer earlier in this hearing?

Mr EYES: I know of a confidential plan from 2015. But since then, the plan that was put to the council in November 2017 is a public document, and has always been on the council's website. It has been there in the business paper, but more recently it has been there on another proactive document release site that they have as well.

The Hon. TAYLOR MARTIN: Does the website centralcoastairportresistancegroup.com belong to yourself or your group?

Mr EYES: Yes.

The Hon. TAYLOR MARTIN: Why on that website does it say:

Since Central Coast Councillors rejected the exhibition of the Central Coast Airport Master Plan and stopped airport development and expenditure on 27 November 2017, Councillor Greg Best has mounted five failed rescission motions.

Mr EYES: He has.

The Hon. TAYLOR MARTIN: That is effectively what I am talking about right there: that Councillor Best and others have tried to get that private confidential information made public.

Mr EYES: No, you are wrong. What they have tried to do is to have that information put on public exhibition for public comment in an official capacity.

The Hon. TAYLOR MARTIN: But it is confidential.

Mr EYES: It is not confidential.

The Hon. TAYLOR MARTIN: It has not been disseminated.

Mr EYES: It is not confidential, it sits there on the council's website for anyone to see. I might add that in the master plan, one of the consultants has gone through the process by which the council can proceed to build this bigger airport. That exhibition is actually mentioned in a nine-stage process, and it says that that exhibition holds no statutory status. In other words, it is a complete waste of time. If you go and exhibit in this fashion, it is really just a PR exercise to gauge public opinion. You still have to go through the gateway process and the proper planning process after that. Why would you not reject it as a council?

The Hon. TAYLOR MARTIN: That is right. There is a huge planning process that they are about to—

Mr EYES: But it is not a secret document and it is not a confidential document. You could go on your phone and find it right now.

The Hon. TAYLOR MARTIN: When was it made public?

Mr EYES: It was made public on the day that it was produced. The day that it was given to councillors was the day that everyone had access to it.

The Hon. TAYLOR MARTIN: I am sorry, but we will have to agree to disagree. I have engaged with stakeholders on this issue for years. I believe that you may have seen that document because of your relationship with councillors, yet many members of the public have tried and failed to get hold of it. Ratepayers' money to the tune of \$450,000 has been spent on that document only for it to be made confidential.

Mr EYES: I was looking at it two days ago on the council's website. What's more, if you went to the council meeting when that item came up, the business papers were there for everyone to pick up with part of the master plan in it—probably about 50 per cent of the master plan. I have got a copy.

The CHAIR: Perhaps for the purposes of the Committee, can I please ask—not to take it on notice—if you could provide the link of the page where you found that just so we can continue with questions?

Mr EYES: If you go into the minutes of council and go back to 27 November 2017, you will see it is all there.

The CHAIR: Maybe you can show us that.

The Hon. MARK BUTTIGIEG: I think, Mr Eyes, you might be able to clarify it. I think there is a qualitative confusion here between public exhibition and making something public. What you are saying is that it is public by virtue of the fact that it is on the website, but it may not have been put out to public exhibition.

Mr EYES: No, it was not put out to public exhibition. Correct.

The Hon. TAYLOR MARTIN: Mate, it was not there. I can tell you right now that for years there has been a document at the cost of \$450,000 that the council made confidential.

The CHAIR: Order!

The Hon. PENNY SHARPE: I have got a couple of quick questions and want to check a couple of things. Mr Eyes, your position today is that the Act should not be repealed. What is your comment in relation to this being a very unusual situation and that there is no other airport that is dealt with in this way? How do you justify continuing this very unusual arrangement?

Mr EYES: I would say that this is a very unusual situation that demands this unusual Act. It demands this unusual Act because we are dealing with a council that has a systemic problem with honesty—council staff. That is a major issue. They withhold information from councillors. They mislead councillors. You have only got to go to—

The Hon. PENNY SHARPE: Sorry, Mr Eyes—

Mr EYES: It is a very unusual situation.

The Hon. PENNY SHARPE: Your submission to us today is essentially that you do not trust council or the councillors.

Mr EYES: No, I trust the councillors.

The Hon. PENNY SHARPE: That is quite a separate issue to whether an Act should be repealed not.

Mr EYES: I do trust the councillors.

The CHAIR: Order! I remind members and witnesses before we go any further in relation to adverse mention that this is not a hearing. We are not intended to make a forum for people to make adverse reflections about others under the protection of parliamentary privilege. I know you have not made mention of a particular person, but I also do not think it would be hard to work that out. If you could please hold off from calling, as you suggested, certain people who work for certain organisations dishonest, that would be appreciated.

The Hon. PENNY SHARPE: I was not seeking adverse mention. I was actually about to make the same point myself. I am particularly interested in the protection of Porters Creek and the wetlands there. Given that environmental laws and wetlands have changed somewhat since this Act came into force, do you believe there is a gap in terms of protection for the site?

Mr EYES: I would agree with you. The issue is though that the community or people who want to protect the environment are constantly on the back foot with this thing. Council—and I mean staff—are very proactive in pursuing the airport and pursuing the environmental side and so forth without due care. We need the extra level of protection that is in the Act to basically pre-empt council's efforts to undertake actions and then address the actions later. For example, if I could just add that when they extended the runway in 2015, they damaged wetland vegetation and the Department of Planning, Industry and Environment took action against the council for undertaking that damage. They fined them \$3,000 or \$3,500 and asked them to rehabilitate the land. The council did not pay the fine for years, as far as I know. Eventually, they started to rehabilitate the land. It took years. That is the issue. The damage comes first and then, if they get forced to, they will address it. We do not want that to happen. That is not the way things are supposed to happen. You are supposed to be upfront with these things and address the issue in the public domain before you do the damage and get approval.

The Hon. PENNY SHARPE: You would agree that the environmental laws protecting wetlands have changed somewhat since what happened several years ago.

Mr EYES: I am sorry, but I am not across the legislation well enough to comment on that.

The Hon. MARK PEARSON: Mr Eyes, what we are trying to grapple with is why the Parliament would want to intervene with an Act to deal with what may or may not be a council issue where there are other avenues and vehicles that can address those concerns—just like they do in every other council without the Parliament intervening and passing an Act for one specific airport in one specific council area. It is very odd and unusual. It may have served a purpose at the time. Why would we be interested in doing it in this situation where there are other vehicles or other avenues to deal with the council concerns that you refer to?

Mr EYES: As I said before and at risk of saying the wrong thing, council staff cannot be trusted and this is not a one-off. This is, with the airport, a constant.

The Hon. MARK PEARSON: Are you saying that every council staff—

The CHAIR: Order! I do not encourage adverse mention.

Mr EYES: I am not saying every council staff—

The Hon. MARK PEARSON: Chair, I am talking more generally. Are you saying that, no matter which council staff comes and goes from the relevant council, that they will always be corrupt?

The CHAIR: Order!

Mr EYES: I am not saying anything about corruption. I am just saying that they cannot be trusted by the community. It is a systemic problem in the council. Somehow or other—I don't know why—this culture has been passed on year in year out. Just to hark back to the Act itself, as I said, I was there at the time. It was brought down to stop council bulldozing the wetland. We were told that the bulldozers were ready to go in six weeks. They were going to cut a 150-metre swathe the middle of the wetland and the only way to stop them was to get that legislation up. That is how it came about.

The Hon. PENNY SHARPE: This actually goes to that issue. My understanding about when the Act first came into being was that, yes, council owned and operated and also was able to make its own approvals in relation to any changes. Again, the planning system has changed considerably now. Council would not be in a position to approve its own DAs. They would have to go to independent planning panels that require much more rigorous assessment, particularly in relation to the environment. Do you accept that that change has been significant in recent years?

Mr EYES: I do accept that there has been an improvement, yes. There certainly has; however, we have an instance at the moment where we have this supposed safety issue with an ecologically endangered community north of the runway, which is a fake issue, I have to say, because the aircrafts that are being used only need 576 metres of runway and they have at least 700 available. Taking out those trees allows night flying and night training at Warnervale, which is not allowed at the moment as an ALA. If you change the nature of operations at the airport, particularly to night flying, you should put in a DA. They do not intend to put in a DA. They are handling it internally. I have asked them in writing a number of times to put in a DA. We have had no response. As far as I know, they do not intend to. That is just the latest example of the way council goes about things. They do not do it in a proper manner.

Ms ABIGAIL BOYD: Because the Central Coast arguably enjoys the benefit of this extra protection under this particular Act, which that is unusual in that other areas do not have it, do you believe that that in itself is a reason to repeal the Act?

Mr EYES: Not at all. As I said before, this is a special circumstance for a special piece of legislation. By the way, I told you how it came about but you are talking about repealing something that exists. You are talking about repealing something that people have depended on in building their homes and building their futures around that airport. They have depended on that Act to protect them from this large airport that council have constantly come up with. There is every reason to retain it. We are saying okay, give them unlimited movements. That is fine. But otherwise keep it as it is and keep the Act as it is to give the community the certainty that they deserve for their futures. The community has as much right as the 190 pilots that use Warnervale, or perhaps more. That Act is what they have depended on to protect them for the last 25 years. They have built their futures on the strength of that Act.

The Hon. TAYLOR MARTIN: Mr Eyes, I must say—and we have met before on this issue—

Mr EYES: We have. Can I just say that I thank you for the time that you gave me a year or so ago.

The Hon. TAYLOR MARTIN: That is my pleasure, Mr Eyes. I must say as well that the submission that you have put forward is actually a credit to you. It is very well documented, as I know from the documents that we went over that day. But I have to say, Mr Eyes, I expected much more from you here this afternoon. You have gone to attack the motivations of the pilots in the aero club, saying that they will or will not put in a DA to fly at night. I have heard none of that before. I have heard none of that from them. We took evidence from them earlier today and they simply want to be able to land when they have students. There are students here today who are learning to fly and they are unable to do so because of the actions of this council. And with the tree line—

The CHAIR: Order, Mr Martin. Is there a question here? It certainly sounds like you are badgering the witness, so could you just get to your question rather than criticising the witness's attendance, please.

The Hon. TAYLOR MARTIN: I will jump straight to the question, seeing as we are constrained by time. The upper House itself has put together an online questionnaire that took evidence from 442 individual participants, of which 83.26 per cent of the community were supportive of repealing the Act. Why is the community wrong and why are you right?

Mr EYES: Can we just talk about the community before we start? The Central Coast community, by way of a strategic plan last year and the year before, were given the opportunity to express what they wanted for the Central Coast in the next 10 years. Despite 7,400 people taking part in that, there was no support for an airport on the Central Coast. You talk about repealing the Act. Lake Macquarie City Council want to keep the Act. Lake Macquarie MP Greg Piper wants to keep the Act. That is 200,000 people that they represent. David Harris wants to keep the Act. David Mehan wants to keep the Act.

The Hon. TAYLOR MARTIN: They did not vote to keep the Act when it passed the lower House recently.

The CHAIR: Order! I remind the member that witnesses must be treated with courtesy at all times.

The Hon. MARK BUTTIGIEG: I just want to clarify the nature of this public document, Mr Eyes, because there seems to be a bit of controversy over this. I am looking at the website now, dated 27 November 2017:

Item 3.8: Report to Council—Draft Central Coast Aviation Hub Concept Plan—Proposed Public Consultation at page 301 of the 27 November 2017 Business Paper and three enclosures.

It then has "The Central Coast Aviation Hub Concept Plan Planning Summary—Presentation is Attachment 1". Is that the document that you are referring to?

Mr EYES: That is it. All of those 500 pages that that \$450,000 master plan comprise are there as attachments to the business paper. That is one location and there is another under proactively released documents. Those have been there since that date.

The CHAIR: Okay. Thank you very much for appearing before today's hearing, Mr Eyes.

Mr EYES: Thank you very much to all of you for the opportunity. I do appreciate it.

(The witness withdrew.)

(Short adjournment)

PETER FIEGEHEN, Co-Author, 2020 Independent Review into Warnervale Airport (Restrictions) Act, sworn and examined

ABIGAIL GOLDBERG, Co-Author, 2020 Independent Review into Warnervale Airport (Restrictions) Act, affirmed and examined

The CHAIR: Thank you both so much for attending today's hearing. Would either or both of you like to make a short opening statement?

Ms GOLDBERG: I am happy to make an opening statement but what I was simply going to do was introduce ourselves, and that is already included in our submission. I can do it if you want, or if you want to take the submission as read then that is fine too.

The CHAIR: It is completely up to you.

Ms GOLDBERG: Okay, then I will introduce the review team. We were a combined review team consisting of Peter Fiegehen and myself. The reason for the combination is the different skills that each of us contributed to the review. Both Peter and I are experienced, independent review leaders and participants. We both undertake very many reviews for Government, for different agencies and for different sectors. My particular expertise is in infrastructure, urban planning, governance and executive management. I have qualifications in urban and regional planning, urban design and business administration. I am also a fellow of both the Planning Institute of Australia and the Australian Institute of Company Directors and have extensive review experience for agencies including Infrastructure NSW, New South Wales Treasury, New South Wales EPA and School Infrastructure NSW. In addition to my work as a reviewer, I am currently Chair of the Sydney Central City Planning Panel and Chair of local planning panels for the City of Ryde and Willoughby City Council as well as an alternate Chair for the City of Sydney. In this capacity, I regularly oversee public meetings and decision-making relating to a wide range of city shaping and regionally significant development matters.

Mr Fiegehen, on the other hand, has a 47-year career in aviation and executive management. In aviation, he has qualifications and experience as a pilot, accident investigator, air traffic controller, aircraft engineer, aviation search-and-rescue mission coordinator and risk and safety manager. He has held these positions in Government and the Royal Australian Air Force. He has also held the position of group general manager for operations, regulatory compliance and safety for 21 airports with the national Airports Corporation. He has also held senior positions with major global aviation technology corporations as a CEO, head of business strategy, and capture and bid manager for aviation systems and equipment.

We have provided our report, *A Review of the Warnervale Airport (Restrictions) Act 1996*, which is dated April 2020 as our submission. The report is comprehensive and it is robust. The review team was tasked with considering legislative amendments required to facilitate the operations of the airport in a manner consistent with that prior to when flight movement restrictions were triggered. The threshold issue that required to be investigated with appropriate recommendations made was set out as whether the Act remains relevant and necessary. Mr Fiegehen and I adopted an approach to the review which combined a standard New South Wales Government review methodology as applied by agencies ranging from Treasury to Infrastructure NSW and EPA with elements of an aviation and air safety review. Emphasis was placed on providing opportunities for community and stakeholder engagement in a transparent, secure and supportive manner.

As such we included a number of key steps in our approach. We started off with a background research, verification and validation process. We went into a process then of seeking public submissions, which were invited by public advertisement with written submissions received, reviewed and analysed. We also held a public meeting, which was notified by public advertisement, with verbal submissions received, reviewed and analysed and we then prepared a response to the terms of reference, including recommendations, which is in the format of the review itself that you have received.

In summary, we received 939 unique stakeholder and community inputs, 908 of which were from the general community, seven were from elected officials, one was from an ex-politician, six were from aviation groups, one was from a community group, two were from environment groups, one was from local government offices, one was from the business group and one was from a property development industry group. The overall outcome of the submissions indicated that approximately 75 per cent of submitters supported the Act being repealed while 25 per cent of submitters were in favour of retention of the Act. Mr Fiegehen and I are present to respond to any questions related to our review.

Ms ABIGAIL BOYD: Thank you very much for your detailed submissions and your appearance here today. I will ask a couple of preliminary questions. Can you clarify that there was no submission from the Central Coast Council to your review? Is that correct?

Ms GOLDBERG: No. There was no submission from council.

Ms ABIGAIL BOYD: What was council's involvement in the review?

Ms GOLDBERG: Council, I would say, enabled the review so they assisted us in doing the site visits that we needed to do. They assisted us in the setting up and the running and operation of the public meeting and they hosted a public meeting in council chambers. They provided some secretariat support for that public meeting and they also met with us prior to the public meeting—not immediately prior, but in the time prior to the public meeting—to give some background on the airport, on the situation related to the airport, and the legislation as they understood it. So we had a meeting with them.

Ms ABIGAIL BOYD: Did they recommend your appointment to the review, do you know?

Ms GOLDBERG: I have no idea.

Ms ABIGAIL BOYD: I guess my big question is that we have the 2019 review.

Ms GOLDBERG: Yes.

Ms ABIGAIL BOYD: Prior to that we had the 2017 review of the Act.

Ms GOLDBERG: Yes.

Ms ABIGAIL BOYD: Why did they come up with different conclusions?

Ms GOLDBERG: I think the terms of reference of each review are actually quite different and the approach taken to the reviews is quite different. The 2017 review is done by a consultancy who took the approach—they were an urban planning consultancy and they took the approach of an urban planning review and that is kind of the lens that they looked at it through. They had terms of reference which are different to the terms of reference that were provided to us. Our terms of reference invited our review to extrapolate from the basis that they concluded on and to look specifically from the position of combining an aviation perspective with an infrastructure prospective, and then the terms of reference were stated explicitly, as I said, to consider whether or not the Act was still in the words "relevant and necessary", in the words of a terms of reference.

Ms ABIGAIL BOYD: The 2017 review, did that follow the same terms of reference as the review terms prescribed in the Act—

Ms GOLDBERG: No.

Ms ABIGAIL BOYD: —for the previous review?

Ms GOLDBERG: No. They had different terms of reference.

Ms ABIGAIL BOYD: Do they consider whether the policy objectives of the Act was still valid?

Ms GOLDBERG: I would have to look back and check and see. I do not recall to that level of detail but Mr Fiegehen may recall to that level of detail.

Mr FIEGEHEN: I think the intent was exactly to look at similar if not the same terms of reference as we had, but they were not explicitly stated as such. But certainly they did look at whether or not the Act should be repealed or not in our view.

Ms ABIGAIL BOYD: Did you consider alternatives to repealing the whole Act?

Ms GOLDBERG: Absolutely.

Ms ABIGAIL BOYD: Was there a second-best option?

Ms GOLDBERG: Yes. That is included—

Ms ABIGAIL BOYD: How did you weigh that up?

Ms GOLDBERG: It is noted in our recommendations and we do say specifically that if the Act may not be repealed, or could not be repealed in the short term, that we recommend changes to particular areas of the Act. That is then detailed in our recommendations. I will find that page reference for you.

The Hon. BEN FRANKLIN: It is page 10 of your recommendations.

Ms GOLDBERG: Page 10 in our summary.

The Hon. BEN FRANKLIN: Yes.

Ms GOLDBERG: Yes. Thank you. It does say:

1.1 Interim action if the Act cannot immediately be repealed

If for any reason the Act cannot be immediately repealed, Section 6 of Part 2 of the Act, 'Restriction on aircraft movements', relating to the limit on daily take offs and landings should be suspended as soon as possible, as this section is administratively ineffective, and cannot feasibly be physically enforced.

So that is kind of an interim step.

Ms ABIGAIL BOYD: So in that context, when you say it cannot be feasibly enforced, do you mean because of the current restrictions having been triggered?

Ms GOLDBERG: No. It cannot be monitored effectively.

Ms ABIGAIL BOYD: Right.

Ms GOLDBERG: The wording specifically is "cannot feasibly be physically enforced". It cannot be physically monitored, effectively, what the aircraft movements are.

The Hon. BEN FRANKLIN: Is that because people are landing and taking off all the time, right?

Ms GOLDBERG: Yes, they do, especially when they travel.

The Hon. BEN FRANKLIN: We just heard evidence that they would hit their 88 movements within the first two hours because of the constant—

The Hon. SHAYNE MALLARD: Touch and go.

The Hon. BEN FRANKLIN: —touching down and taking off.

Mr FIEGEHEN: Exactly. So, there are two parts. There is the Aero Club, which does touch and go, so flying training, and then there is what we call itinerant aircraft, who would fly in and out of Warnervale and the obligation or difficulty in maintaining a count is just ridiculous. It is too hard. If you are not there, standing at the end of the runway all day—24 hours—you are not going to be able to work that out.

Ms ABIGAIL BOYD: We heard earlier that that restriction was really in there as a disincentive to extend the runway. Is that your understanding?

Ms GOLDBERG: It is absolutely not clear.

Ms ABIGAIL BOYD: Okay.

Ms GOLDBERG: So, there is no objective stated within the Act. You know, the purpose of the Act is not explicit. The background to the Act is not explicit, so it is almost impossible to answer that question.

Ms ABIGAIL BOYD: So even if we amended the Act to refer to the current length of the runway so that the restrictions were not currently in place, if there was an extension of the runway in the future, is it your submission that it would still be administratively difficult to manage that restriction?

Ms GOLDBERG: It is a complex question because, that runway, where would you extend it to? How would you extend it? There is no physical space to extend the runway. Are you talking about the length of the runway or the number of landings? All of these things have to come into play.

Ms ABIGAIL BOYD: No, just the length of the runway and the width of the runway.

Mr FIEGEHEN: Right. Can I talk to this?

Ms GOLDBERG: Sure.

Mr FIEGEHEN: The interrelationships are really quite complex and really quite interesting in relation to Warnervale. Warnervale has extant controls and restrictions over types and numbers of aircraft that can operate at that aerodrome without the Act, and those include width of the runway, length of the runway, the CASA requirements for the aircraft landing area, but also in terms of what I would state as flow control. Only a certain number of aircraft can fit in a circuit area and land on a runway at one time. There is a maximum number of aircraft that can ever use that airport at any one moment in time anyway. And you can only do left circuits, which is another restriction. I heard a comment earlier. I was driving in today and I listened to proceedings.

The Hon. SHAYNE MALLARD: You poor man.

Mr FIEGEHEN: No, it was very interesting. Fundamentally there are quite a few misunderstandings with what can and cannot be done at Warnervale aircraft landing area—and I am really pleased they have changed the name of it from "airport" to "ALA". And they are both legislatively bound but physically bound. Understanding that an aircraft needs a certain distance to land and take off is only a part of the equation.

Ms ABIGAIL BOYD: On that basis then, if there is no anticipated need to lengthen the runway, could we not then just amend the Act to refer to the current length of the runway and then the restrictions would not apply?

Mr FIEGEHEN: I think we will both answer this. I will go first if you do not mind, Ms Goldberg. The first part is there are so many things in this Act which are irrelevant. There is duplicated legislation. There are duplicated rules and procedures. To put things in the Act for aircraft operators, pilots, those pilots would never know there is an Act on a particular aerodrome. Because I think I researched 739 airports. None had legislation. And there are more than 739, because ALAs are not required to register, so there are more than that. If I am flying from one airport to another I would normally look up into the *En Route Supplement Australia* [ERSA] or other documents. I would never go looking for an Act. So if there is something in that Act that restricts or controls my operation I would never know about it. In that regard, the operational side, there is no point having an Act. All of the other controls on the size, the operations, the type of aircraft, day-night, are all within current extant legislation. Do we want to confuse the issue by duplicating legislation?

Ms ABIGAIL BOYD: The question is: Other than the restrictions on flight numbers and curfew, what is it restricting in this Act? What would repealing the Act suddenly allow to happen that would not happen otherwise?

Ms GOLDBERG: Realistically it actually does not allow anything to happen that cannot already happen through application, because you are still required to go through the environmental planning process and you still have to address a whole raft of legislation.

Ms ABIGAIL BOYD: I appreciate that but we have just heard if you have this Act that governs this airport we do not know what is in it. But if there is no intention to extend the runway then there are no other restrictions under the Act that kick in—is that not correct?

Ms GOLDBERG: I just do not understand the question, I am sorry.

Ms ABIGAIL BOYD: Sorry. That is fair enough.

The Hon. MARK BUTTIGIEG: I have a related follow-up question. It is a bit confusing because all day we have heard evidence that this thing is academic, it is irrelevant, it is a useless piece of duplication. The obvious question is why so much burning desire to get rid of it if it is not causing any heartache? I suppose that is another way to put the question.

Ms ABIGAIL BOYD: Thank you.

Ms GOLDBERG: There is a Government-wide mandate to clean up legislation, to streamline legislation, and there is confusion that stems from this Act. The sort of question you are asking is the sort of question that comes from having the Act. Without the Act you just do not have that sort of issue.

Ms ABIGAIL BOYD: We would not have the inquiry.

Ms GOLDBERG: The Act poses potential safety risks which Mr Fiegehen is describing. So when Mr Fiegehen says he would not know that the Act exists he is talking in his capacity as a pilot. So therefore—

The Hon. MARK BUTTIGIEG: On that point, because, Mr Fiegehen—you did touch on this—it seems to imply that if you are a pilot and someone wanted to be really narky about enforcing the minutiae of the Act you could come a cropper if you did the wrong thing. Is there anything prosecutable there that a pilot might not be aware of that they have to comply with the Act?

Mr FIEGEHEN: There are imposed penalties within the Act, certainly. The 88 movements is one of those penalties on all pilots, even if they had nothing to do with the extension of the runway.

Ms ABIGAIL BOYD: That is the only thing, though, is it not?

Mr FIEGEHEN: Yes, but to come back to your question, if I were to remove the things in the Act that relate to restrictions on aircraft movements and restrictions on length of runway I would probably be left with noise study—that is irrelevant—

Ms ABIGAIL BOYD: Not remove, amend to refer to the current length of the runway.

Mr FIEGEHEN: Right.

Ms ABIGAIL BOYD: So that they would only kick in for a future extension.

Mr FIEGEHEN: Okay. You would probably end up with two pages. So you would have the cover page and one page which would say that and then you would already have that in other legislation.

Ms ABIGAIL BOYD: Okay. That is a different question, though, is it not? If I was to amend this Act to refer in section 4, if we were to make "existing runway" actually refer to the runway as it is constructed as at the date of this amendment, the rest of the Act would just continue.

Mr FIEGEHEN: I think you mean part 3, restrictions on length and site of runway.

Ms ABIGAIL BOYD: No, I am talking about part—

Mr FIEGEHEN: Part 4, the expansion?

Ms ABIGAIL BOYD: No, part 2.

Mr FIEGEHEN: Oh, part 2. Okay.

Ms ABIGAIL BOYD: This is the offending section, I guess—the bit that at the moment is stopping the number of flights and that is creating the curfew. Those two restrictions are caused by that definition.

Mr FIEGEHEN: Yes, so the curfew is in ERSA. If you want a curfew, contrary to other information you have heard, you can have night operations at an ALA. So that is the curfew part.

Ms ABIGAIL BOYD: The curfew would not be relevant any more if we amended section 4.

Mr FIEGEHEN: If you did not want night operations. Warnervale does not have airport lighting so you cannot have night operations at Warnervale without a change of the development of the airport.

Ms ABIGAIL BOYD: I am confused. This curfew does not apply if section 4 has not kicked in. So if we change section 4 to apply to the runway as it is now then we go back to before the runway was extended, where there is no curfew, there is no flight number restrictions.

Mr FIEGEHEN: That is correct.

Ms ABIGAIL BOYD: But we still then prevent an extension of the runway by this Act. I understand you are saying there are other legislative instruments.

Mr FIEGEHEN: You do. So you have got duplicated legislation—that is correct—to achieve the same purpose.

Ms ABIGAIL BOYD: I guess what I am asking you is two things then. The first one is: As a pilot there are no other restrictions under this Act other than curfew and flight restrictions numbers that only occur—

Mr FIEGEHEN: Flight restriction—that is correct, yes.

Ms ABIGAIL BOYD: —if that part has been triggered.

Mr FIEGEHEN: That is correct. Yes.

Ms ABIGAIL BOYD: There is nothing else. So that would fix that then from the pilots' perspective.

Mr FIEGEHEN: No. And again there is something in here about emergencies. I do not know why it is in there because that applies anyway. Part 2 section 7 is irrelevant. You just do not need that in there because that is in other legislation as well.

Ms ABIGAIL BOYD: So then the second question is: Other than causing the council to have to spend a lot of money, as we have heard this morning, if the Act is repealed, what other tangible impact would it have on the operations of the airport if we repealed the Act instead of just amending it?

Ms GOLDBERG: You remain in a position where you are now, where the Act is not providing any benefit and the Act contains areas of duplication not just to the airport legislation and air safety legislation but to environmental legislation, planning legislation and transport legislation. So you have an item of legislation which is old-fashioned in the way that it is written. It is outdated in the way that it is structured. It is unclear, it is confusing and it is providing no tangible purpose, no clear outcome and no benefit to the average user—to people.

Ms ABIGAIL BOYD: Some people have argued today—

Ms GOLDBERG: Correct. There is a perception. Yes, we documented that.

Ms ABIGAIL BOYD: —that there is an extra level of protection given because there is another step to go through.

Ms GOLDBERG: Yes, there is that belief.

Ms ABIGAIL BOYD: Do you agree?

Ms GOLDBERG: But it is not correct. There are no extra steps that this Act really drives somebody wishing to develop this airport into that would not be required in any event by the hierarchy of legislation that exists around it.

Mr FIEGEHEN: And that is an important point: hierarchy. So what we would end up with is parallel legislation where at some stage, if it were challenged, it would be necessary to determine what the hierarchy is and which one has precedence. So straight away you have introduced confusion and effort to establish the hierarchy. The moment that is done, one of those pieces of legislation becomes irrelevant. So, what we tried to do was to look at KISS principle: keep it safe, keep it simple. Why do we need two pieces of legislation for one outcome? If we can strengthen the legislation that we believe is higher in the hierarchy then that should be sufficient just like in any other legislation. If there is no need for duplication you would not have it because that causation of confusion and establishing hierarchy on challenge.

Ms ABIGAIL BOYD: Do you have any sympathy for the perspective that different levels of government cannot necessarily be trusted to do the right thing and the more—

Ms GOLDBERG: I do not believe we can answer the question

Ms ABIGAIL BOYD: I have to finish the question. Could you let me finish the question?

Ms GOLDBERG: Sure, go ahead.

Ms ABIGAIL BOYD: And that the more levels of approvals you have to get through, the more chance there is that you could stop the project occurring.

Ms GOLDBERG: I will take that one. We cannot comment on any level of trust within any level of government.

Ms ABIGAIL BOYD: I am not asking that.

Ms GOLDBERG: That is certainly not something that we are mandating or suggesting or in any way supporting. As far as the levels of government go, what has recently been introduced at the Central Coast is an additional planning panel. Does it add to bureaucracy? Yes, it probably does, but it introduces an additional independence which helps ensure governance hygiene and a greater governance discipline. That sort of thing is in place. Has it got disadvantages? Yes, it does. It introduces an additional level. Does it have benefits? Yes, it does because it introduces independence in decision-making.

Ms ABIGAIL BOYD: Would you agree that the objective of cutting red tape, as it is called, is inherently ideological? That is a particular objective of some governments and political parties but not necessarily—

The Hon. SHAYNE MALLARD: Not a regulation or law you have not liked?

Ms ABIGAIL BOYD: There is always going to be a tension between democratic processes and efficiency, so I appreciate your comment about cutting red tape. I guess what I am trying to get at is that there is a real concern in the community that if you remove the levels of approvals that you need to get that you are also reducing the democratic process.

Ms GOLDBERG: I think you are going to a philosophical approach that we really have not delved into. We are not proposing the removal of anything. There remain multiple levels, multiple Acts, all of which are more efficient, more effective and more modern than this Act, and all of which will enact and enable the kind of oversight and the planning discipline and the environmental discipline that any application would require.

The Hon. TAYLOR MARTIN: I might just pick up on the question of cutting red tape because effectively this was a piece of legislation that was brought in in the mid-nineties to address a very specific and peculiar problem. The council that was the owner of the land of the operation was also the proponent and the consent authority for what was reported to be the largest freight hub in the southern hemisphere. So, it was not red tape for the sake of it. It actually served a purpose.

The Hon. MARK PEARSON: Question?

The Hon. TAYLOR MARTIN: I am getting to it.

The CHAIR: Order!

The Hon. TAYLOR MARTIN: This private members bill, which eventually passed both Houses of Parliament in the mid-nineties, effectively addressed the problem at the time. Is it fair to say that that problem is

no longer there? No proponent is pushing for the largest freight hub in the southern hemisphere to be built in Warnervale?

Ms GOLDBERG: We simply do not know. We cannot answer a question like that. It is totally outside of our realm of knowledge as to what applications there are or what level of business development is happening at the airport.

The Hon. TAYLOR MARTIN: Okay, that is fair. I will be more succinct. Is it fair to say that the legislation served its purpose? Was that a part of your review?

Ms GOLDBERG: No, it was not a part of our review, so we never considered whether or not the reason for introducing the legislation was relevant. We just did not go there.

The Hon. TAYLOR MARTIN: You did not go back into the history of it?

Ms GOLDBERG: No, we did not.

The Hon. TAYLOR MARTIN: That is fair.

Ms GOLDBERG: We did not, in fact, even go into the detail of the private members bill.

The Hon. TAYLOR MARTIN: In that case, is it fair to say that the Act is actually redundant now because the planning process is completely different and the circumstances are not the same here and now?

Ms GOLDBERG: I would say that, yes, the Act is redundant but the circumstances are not completely different. The circumstances have varied and been tweaked around the edges. The Act was possibly always redundant.

The Hon. TAYLOR MARTIN: That is interesting. I did not expect that.

Ms ABIGAIL BOYD: Mr Morgan gave evidence earlier. In his view that repealing that Act instead of just amending it would allow an expansion of some sort.

Ms GOLDBERG: I am sorry, who is Mr Morgan?

Ms ABIGAIL BOYD: Mr Morgan was the witness from—

The CHAIR: He is a previous witness from the Aircraft Owners and Pilots Association of Australia.

Ms ABIGAIL BOYD: He was advocating—and I am putting words in his mouth, I apologise. I am trying to do it as precisely as I can recall. He was saying that you could put hangars and develop the ALA in a way that you could not do if the Act was in place. He was trying to assert that council would find it easier. Is that your view?

Ms GOLDBERG: To do it without the Act?

Ms ABIGAIL BOYD: If the Act was repealed that it would be easier to expand.

Ms GOLDBERG: Absolutely not. They still have to go through a development application process. They still have to go through an approval process, and depending on the value of that development application will depend on the body that gets to do the determination. It is not easy at all. It is long. There is environmental assessment that is required with the wetlands so close, it is particularly complex. With the flight requirement around it becomes extremely complex. Anything on that site will take extremely long to do and require very, very disciplined and very detailed environmental assessment.

Mr FIEGEHEN: I think his comment was more to the point of wanting better processes and governance at the council level. I do not think it was so much about—he did say that, I agree, that removing the Act, but I believe it was insofar as because that Act is there and it puts more constraints on operations at the airport. Therefore, they cannot do as much and the council may be using the Act as a vehicle to block conversation. What the review did was ask for better processes in governments at council level to assist with—

Ms ABIGAIL BOYD: Is a different Minister responsible under the Warnervale Airport (Restrictions) Act for approving certain things than what we have under the other environmental and planning legislation?

Ms GOLDBERG: There are about seven Ministers who work under the portfolio for environmental planning but I would be hard pressed to answer that one. Minister Stokes sits over both of them, but in terms of the detail and environmental issues, which again, for example, the wetlands would kick in, there might be multiple ministers involved. And there are transport issues as well.

The Hon. MARK BUTTIGIEG: I think part of the concern here is that that we have had recent experience of the current Acts, the planning Act and the environmental Act, clashing and there being gaps left in between.

Ms GOLDBERG: Yes.

The Hon. MARK BUTTIGIEG: Superficially, the thought is, "Well, does this Act provide any protection for those gaps that may occur?" If your submission is that it does not then I think there is a reasonable case to repeal the Act, but if it is a bit vague I think people would have concerns. The other argument is those two instruments have matured sufficiently from the time when the original Act was empowered to provide enough protection. In effect, they have made this Act redundant. I am interested in your views on that.

Ms GOLDBERG: We did a very detailed analysis of all the legislation that related to an approval that would affect the airport. Our analysis indicated that there was nothing in the Warnervale Airport Act that was not covered elsewhere, so there were none of those gaps. I understand what those gaps are and what you are referring to, but this Act was not filling any gaps that existed in other legislation. In fact, it was adding to the complexity and adding to the confusion. As to whether the other legislation has matured sufficiently, I think that is very similar to the question that Mr Martin asked a little while ago. Yes, there has been some improvements to those Acts, for example, the introduction of an independent panel who would do the decision-making so council is no longer likely to be the decision-maker unless it is a very minor intervention, which has supported the governance of the Act. But, it has not changed it so significantly that you could say that it was valid then and is now no longer valid. As I answered to Mr Martin it was potentially irrelevant at that time and it remains irrelevant.

The CHAIR: We are at the end of our time for this session. Thank you for making the trip. It was an informative session.

(The witnesses withdrew.)

MONICA GIBSON, Executive Director, Local and Regional Planning, Department of Planning, Industry and Environment, affirmed and examined

GREG SULLIVAN, Director, Strategic Planning, Department of Planning, Industry and Environment, affirmed and examined

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

Ms GIBSON: Yes, I would. Thank you Madam Chair, Deputy Chair and the honourable members of this Committee. By way of introduction, I am Monica Gibson and my role is Executive Director, Local and Regional Planning in the Department of Planning, Industry and Environment. My remit sees me lead statutory and strategic planning across regional New South Wales. I would like to take the opportunity to introduce my department colleague, Greg Sullivan. Greg reports to me as the director of the local and regional strategic planning team and was formerly the planning director for the Central Coast Hunter region, which is, of course, the catchment of the Warnervale Airport.

It was in that capacity that Mr Sullivan was instrumental in overseeing the establishment of the independent review of the Warnervale Airport (Restrictions) Act conducted late last year and into early this year. If the Committee would permit I would like to take a few moments to summarise the events of the last 12 months that have brought us to the point with regard to the matter of the 2020 bill to repeal the Act. I remind the Committee that in 2019-20 the independent review was initiated at the behest of the member for Pittwater and the Minister for Planning and Public Spaces, Rob Stokes, in partnership with Central Coast Council, who are the owners and the operators of Warnervale Airport. Can I add, throughout the duration of the review Central Coast council staff were extremely cooperative and provided a consistently excellent level of assistance to the department's team during the review and I thank them for that.

The ultimate purpose of the independent review was to determine whether the Warnervale Airport (Restrictions) Act remained relevant and necessary. I would just like to take a moment to draw attention to the fact that this independent review was preceded by another independent review conducted by the New South Wales Government into the feasibility of that Act during 2016 and 2017. On 11 August 2017, the then Minister for Planning, Anthony Roberts, accepted the recommendations of that review to keep the Warnervale Airport (Restrictions) Act as it currently is. At the time of that review council did not acknowledge that the runway extension had occurred and council subsequently acknowledged that the cap for the 88 flights was triggered and therefore it was important that a review take place. It was around October 2019 that Minister Stokes asked council to partner with the Government to do the current review

In relation to that review, in determining whether the Warnervale Airport (Restrictions) Act remains relevant and necessary, the review's terms of reference asked it to also consider the interaction and consistency of the Act with other legislation applying to the site, to examine the statutory frameworks for airports of a similar size to Warnervale Airport and to seek and consider submissions from the community and other stakeholders on that matter. There were specific exclusions on the terms of reference. Specifically, instruction that the review did not consider the future use of the land on which the airport was situated and comparative economic benefits of any other alternate land use. The future use of the airport, we believe, is a matter for the airport owner, that is Central Coast Council. The independent review was initiated in October 2019 and was undertaken by the previous speakers, Abigail Goldberg and Peter Fiegehen. Peter Fiegehen was put forward as council's representative on that review panel.

Following three months of consultation, 939 unique written and verbal submissions were received, 75 per cent of which supported the Act being repealed. The review has agreed that the Act is no longer necessary based on their findings: It is ambiguous and outdated in its content, legal form and the key administrative processes; it duplicates other relevant primary legislation without adding any unique requirements; it is difficult to administer; and, adds to operational complexity. It provides some community certainty but it has not resolved or eased the community and stakeholder differences. It cannot easily be improved or easily updated by minor amendments, both of which would be costly and complex to undertake.

The Act also adds complexity for pilots and, as a result, presents some potential operational compliance and safety risks. As you would have heard, the review makes three recommendations: recommendation 1 is that the Act be repealed as soon as possible, particularly that the limit on the number of daily take-offs and landings in section 6 of the Act be suspended immediately; recommendation 2 is that the Central Coast Council commit to establishing a clear framework for the governance of the operations and change management at the airport, including robust technical assessment, the preparation of a business plan and an operations plan; and recommendation 3 is for council to undertake urgent works to modify vegetation height to the north of the runway

that poses safety risks and limits the usable length of the runway. In July this year the New South Wales Government accepted all of the recommendations of the review and resolved that it intended to introduce a bill to Parliament to give effect to those recommendations.

As the Committee is aware, in September the Hon. Rob Stokes tabled in the House the Warnervale Airport (Restrictions) Repeal Bill 2020 that proposed to adopt recommendations to repeal the Act. Clause 3 of the bill provides for the immediate omission of section 6, part 2 of the Act, which deals with the restrictions on aircraft movements. It is hoped that this amendment will provide clarity in operation to local businesses and the community groups that use Warnervale Airport, as well as improve its financial viability in providing a reliable airspace. As the review notes, the current limit of 88 aircraft movements appears largely arbitrary and without explanation.

The final provision of the bill, which is clause 4, will repeal the remainder of the Act, but not immediately. Subclause 2 provides that this repeal will occur on the earlier of a day to be appointed by proclamation or the day that is two years after the date of assent to the Act. Two years was the term originally suggested to reflect the remaining term of the current Parliament. I understand that during the debate on the floor of the Legislative Assembly that the time frame was extended by an additional year to make that three years. During that time council has three years to respond to provisions set out in recommendation 2 of the independent review and that is the preparation and implementation of those business and operational plans. Any changes to local planning controls will require community consultation and therefore it is appropriate to allow for these administrative processes and for consultation with the community as to exactly how the airport is to operate.

Should the Minister for Planning and Public Spaces be satisfied that appropriate local planning controls sufficiently manage the airport and that council has responded to the other recommendations ahead of the three-year time frame, then the Minister can recommend to the Governor that the Act be repealed by proclamation. It might be useful to note here that the review has referenced the fact that the Warnervale restrictions Act is the only piece of legislation that refers specifically to the operation of an airport in New South Wales, and in our State there are a number of airfields and airports of varying size and scope operated privately or by councils or corporations, but none other than Warnervale are governed by a specific piece of legislation. Thank you for allowing me that time to present.

Ms ABIGAIL BOYD: Thank you to both of you for coming and answering our questions on a Friday afternoon. I want to talk about the 2017 review. What period was that undertaken over exactly? When did it start and when was the report?

Ms GIBSON: I can check on the exact dates that it started, but it was during the period of time of 2016 and 2017.

Ms ABIGAIL BOYD: Then the review in 2019, when did that conclude?

Ms GIBSON: It concluded earlier this year.

Ms ABIGAIL BOYD: What changed between those two reviews that accounts for the difference, as in the recommendations, in your view?

Ms GIBSON: I am happy to explain that. At the time of the completion of the 2016-17 review council had not acknowledged that the trigger for the 88 flight movements had been activated and then subsequent to that council did change their perspective and that they did acknowledge that that cap had been triggered. And that was part of the reason for that review, a new review to commence.

Ms ABIGAIL BOYD: Apart from the trigger, that was pretty much all that had changed?

Ms GIBSON: Council also contacted the Department of Planning, Industry and Environment and did say that they wanted to better understand the regulatory concerns about the airport now and into the future.

Ms ABIGAIL BOYD: When the 2019 review stated—I am sorry I wrote down what you were saying and I am not sure I got it completely right, I think you said the 2019 review said that the Act was ambiguous?

Ms GIBSON: Yes.

Ms ABIGAIL BOYD: But the 2017 review did not?

Ms GIBSON: I would have to check exactly what it said, but there were comments in that 2016-17 review that did comment on the complexity of the wording of the Act and difficulties in interpreting that.

Ms ABIGAIL BOYD: Because I guess the 2019 review, from what you were saying, it claims that the Act is ambiguous, outdated, duplicates other Acts, and I think you said something about an administrative burden

on council. I am curious as to why that is the conclusion about the very same Act in a 2019 review, when in 2017 that Act was recommended to stay as is.

Ms GIBSON: Can I just check on some of the recommendations of the 2016-17 review, because I know that some of those matters were coloured in that review? In the executive summary to that 2016-17 review, which was an appendix to this current review, it does say that several Warnervale Airport (Restrictions) Act provisions are considered inoperable and ineffective in their current form. The recommendations are provided for further investigations to support amendments to the Act, the preparation of associated regulations, and that is summarised in the executive summary. So, it does talk to the complexity and the inoperability and ineffectiveness of that Act.

Ms ABIGAIL BOYD: But they were recommending amending it, not repealing it.

Ms GIBSON: Let me just check and see. They concluded that the Act should be retained because the policy objectives remain valid and that it was the most effective means of achieving those objectives.

Ms ABIGAIL BOYD: It just sounds completely different to the 2019 review then. I am finding it hard to understand why the 2017 review concluded that the Act did actually operate in some way, maybe not perfectly, but was not needing to be repealed. Whereas the 2019 review is saying that it does not provide any additional protections. Has something else changed in the legislative framework or in something else in that period of time?

Ms GIBSON: As I mentioned before, the acknowledgement of the trigger of the 88 flight movement cap was triggered in that period of time after the 2016-17 review was released. It was acknowledged by council that it had been triggered. Again, in the executive summary of the 2016-17 review it does say that the Act, there are major inoperable and ineffective elements of the Act and that it was difficult to administer. The reviewers also found that there were major limitations to their review, that they had to assume a number of policy objectives and, in particular, they were concerned that council's long-term objectives for the airport at that time were uncertain, and that that information would be required, which also formed a recommendation of the 2019 and that recommendation too about the requirements for Central Coast Council.

Ms ABIGAIL BOYD: Thank you, that is useful. Why then was there no action in response to those recommendations in the 2017 review? Why was the Act not sought to be amended at that time?

Ms GIBSON: That was not a decision that I made. That was a decision made by the then Minister for Planning at the time. I cannot really speak to that.

The Hon. SHAYNE MALLARD: Thank you for that comprehensive introduction to the situation. It was very helpful. What I want to probe here is what regulatory controls will be in place around the airport if the Act has gone? You talked about a three-year window to put those in place, or the Act stays there before it is repealed if it goes through. You said that they need to establish a clear framework, a business plan and operational plan. Are those requirements on all airstrips around New South Wales? Is that how you regulate flights, hours, airplanes and so forth?

Ms GIBSON: In relation to the first part of your question about what regulations exist, repealing the Act we feel will not change the regulations that exist around this airport in terms of the environmental planning Act, which sets out zoning and development controls, or other environmental policies that might apply in relation to sensitive wetlands that are in that location or other civil aviation and airport safety regulations that exist outside of the New South Wales planning system, so they will continue to exist. Recommendation 2 about Central Coast Council providing more detailed operational guidelines for the airport is, as owner and operator, to be clear about what is happening at that airport or the intentions at the airport, and as I am sure you heard from the two reviewers, a number of community submissions reflected that they were uncertain about what council's intentions were. The purpose of that recommendation is really to provide greater clarity about what council's future intentions are.

The Hon. SHAYNE MALLARD: That would be the business plan.

Ms GIBSON: Yes.

The Hon. SHAYNE MALLARD: The operational plan picks up on things that are in the Act, if that is the path that the council wants to go down—the number of flights, the hours of operation, the type of aircraft?

Ms GIBSON: Yes, that is right. They will be matters for council, as the owner and operator of the airport, to address and to make clear and to make public in the documentation that they prepare over the next couple of years.

The Hon. SHAYNE MALLARD: It gets exhibited and there is consultation with the community?

Ms GIBSON: That would be normal operation. Again, it is a decision for council as to the timeframe that they would exhibit and how they would engage with the community, but typically you would see a report like that presented to the council.

The Hon. SHAYNE MALLARD: Would it trigger any development application requirements? I suppose if you were building hangars it would.

Ms GIBSON: Again, that would be a matter for council to explain what development they are anticipating or proposing at the airport, but there would be no change to the planning controls from what already exists unless council were seeking to change zoning or add other land uses to that zone, all of which would need to follow a process that exists today and is not affected by the repeal of the Act.

The Hon. SHAYNE MALLARD: Independent planning panels and so forth.

Ms GIBSON: Yes.

The Hon. TAYLOR MARTIN: Thank you for your time here this afternoon. I think it is timely, particularly given some of the confusion in the hearing earlier. The development process has been teased out in earlier lines of questioning. Would you be able to enlighten us as to the difference between the development process now and what may have been the case in the mid-1990s when this Act was brought in? My question effectively is what has changed to bring us to a point where the Act is not needed anymore.

Ms GIBSON: There have been a number of changes in New South Wales planning regulations since the mid-1990s and I cannot speak to all of them, but in terms of where those planning controls are now there are a number of State planning policies as well as the Environmental Planning and Assessment Act that spell out the development processes and steps for an airport to be built, for buildings like hangars to be constructed and for works on that land. An example of that might be a State environmental planning policy that looks after and talks to coastal wetlands. That State environmental planning policy is in place at the moment and there would be a requirement for development consent if there were to be any works, earthworks, vegetation removal, clearing or disturbance of land in that wetland, so those provisions exist in the planning controls at the moment.

The Hon. TAYLOR MARTIN: Mr Sullivan, do you have anything to add, or has that pretty much covered it?

Mr SULLIVAN: I think the Executive Director has covered it.

The Hon. MARK BUTTIGIEG: Mr Sullivan, in respect of the surrounding Wyong Employment Zone, in the event of an airport expansion, would there be any implications for planning requirements in terms of acoustics, height and that sort of thing?

Mr SULLIVAN: All of those matters would be taken into account in any development application process.

The Hon. MARK BUTTIGIEG: Has any thought been given specifically to the sorts of things that might have to be done if there was an airport expansion in that employment zone?

Mr SULLIVAN: There has been no proposal to the State about that.

The Hon. MARK BUTTIGIEG: In the event that that was to happen and those things were contemplated, would that serve as a natural barrier to further airport expansion? In other words, competing tensions between those two things.

Mr SULLIVAN: There are a number of barriers to expansion of that airport already: There is the wetland, there is a very major arterial road to the north, there is the existing residential and commercial development around that area, and there are significant airspace considerations above the Warnervale Airport, all of which would need to be taken into account if there was ever a proposal to try to expand the airport.

The Hon. SHAYNE MALLARD: I asked a question earlier today of one of the other councils about E2 zoning. That is a constraint around the airport site. I am up in the mountains, half of my property is E2, and you cannot do a thing on it. You are allowed a few eco-tourism type things, but hardly anything, and everything other than that is prohibited. What are the steps and how hard is it to rezone E2 if the airport was to go down that path?

Ms GIBSON: It is a bit of a hypothetical—

The Hon. SHAYNE MALLARD: Yes, it is a hypothetical.

Ms GIBSON: But the process for rezoning land starts with a planning proposal, which would need to be prepared, and typically council would need to make a resolution to prepare and submit that for a gateway determination.

The Hon. SHAYNE MALLARD: For the rezoning?

Ms GIBSON: For the rezoning of land. There are specific things that would need to be referred to in relation to rezoning of land that is set aside for environmental protection purposes, so there are some ministerial directions for local plan making that would need to be considered.

The Hon. SHAYNE MALLARD: A raft of reports and studies, yes.

Ms GIBSON: It is not a decision taken lightly to change an environmental zone.

The Hon. SHAYNE MALLARD: If it gets gateway approval, that then goes back to the council to exhibit and then back to the Minister if the council adopts it, so there are quite a lot of steps.

Ms GIBSON: Yes, you are right that there is a public exhibition phase on a planning proposal and consideration of submissions. There is often a step for engagement and consultation with State agencies or public authorities that have an interest in those matters, and then consideration of those and finalisation, which includes a legal check.

The CHAIR: Thank you for making time and appearing at today's hearing as the last witnesses.

(The witnesses withdrew.)

The Committee adjourned at 15:54.