

REPORT OF PROCEEDINGS BEFORE

GENERAL PURPOSE STANDING COMMITTEE NO. 5

**INQUIRY INTO THE HUNTER ECONOMIC ZONE
AND THE TOMALPIN WOODLANDS**

**At Kurri Kurri Workers Co-Operative Club
on Wednesday 16 June 2004**

The Committee met at 9.30 a.m.

PRESENT

Mr I. Cohen (Chair)

The Hon. R. H. Colless

The Hon. A. R. Fazio

Ms S. P. Hale

The Hon. R. M. Parker

The Hon. H. S. Tsang

The Hon. I. W. West

CHAIR: I welcome everybody to today's hearing, the first of the inquiry by the General Purpose Standing Committee No. 5 into the Hunter Economic Zone and Tomalpin woodlands. This inquiry examines the environmental assessment process associated with the Hunter Economic Zone industrial site which is of particular significance to the people of the local area and to the Hunter region. That is why the Committee is holding this hearing in Kurri today. The Committee will be holding a second hearing on Friday, 2 July, at Parliament House. The witnesses schedule for that hearing should be available on the Committee's web site soon. A transcript of today's evidence will be placed on the Committee's web site for public and media access so that anyone who misses something which is said today will be able to read the transcript on the web site. It normally takes about a week before the transcript is available.

As with all parliamentary hearings, I need to remind any members of the media who are present that the usual broadcasting guidelines apply. Copies of these are available at the table, as are copies of the terms of reference for this inquiry. It is important that the media has regard to the provision of not filming the public gallery during the hearing. People may see an officer of the Committee's staff taking some photographs for official Committee records; however, for the rest of the audience, with the exception of the media, I need to let people know that they are not permitted to take photographs during the hearing.

I wish to emphasise that although this is a public hearing, it is not an open forum for comment from the floor. While the Committee welcomes members of the public here today, the purpose of the hearing is to have the Committee hear evidence on oath from people who are appearing as witnesses. Members of the public are asked to give the Committee's selected witnesses the opportunity to present evidence without interruption. Only the questions from the Committee and the evidence of the witnesses are recorded on the transcript. People also cannot directly approach the Committee members or witnesses during the hearing.

Evidence given to the Committee today by witnesses is protected by parliamentary privilege. This means that witnesses are given broad protection from any action arising as a result of what they say and that the Parliament has the power to protect them from any action that disadvantages them on account of their evidence given before the Committee. I also remind people that the giving of false or misleading evidence to the Committee may constitute contempt of the Parliament.

The Committee prefers to conduct its hearings in public. However, the Committee can decide to hear certain evidence in private, if there is a need to do so. If such a need arises I will ask the public and the media to leave the room for a short period. All people in the room are required to turn off their mobile phones because they interfere with equipment that is used to record the evidence. I now welcome our first witnesses who represent the Friends of Tumblebee.

BARRY JAMES CALDERWOOD, Vice-president, Friends of Tumblebee, Technical Officer, 58 Neath Street, Pelaw Main, and

JAMES ALEXANDER RYAN, President, Friends of Tumblebee, Graphic Artist, 33 Brunker Street, Kurri Kurri, both affirmed and examined.

CHAIR: The witnesses may request to have their addresses to be deleted from the published transcript. Should the witnesses consider at any stage that certain evidence they wish to give or documents they may wish to tender should be heard or seen only by the Committee, they should indicate that and the Committee will consider their request. In what capacity are you appearing before the Committee—as an individual, or as a representative of an organisation?

Mr CALDERWOOD: As vice-president of the Friends of Tumblebee.

Mr RYAN: As President of the Friends of Tumblebee residents group.

CHAIR: Are you conversant with the terms of reference for this inquiry?

Mr RYAN: Yes.

Mr CALDERWOOD: Yes, I am.

CHAIR: Would either or both of you like to make a statement and present issues to the Committee?

Mr RYAN: I will use an overhead projector and distribute copies of a brief summary of our presentation to the Committee. What I want to try to do today is in a sense almost impossible—not take too long, and try and paint the big picture while supporting it with enough detail to demonstrate why that is our view. First off, I want to say that I am a member of the Greens party and most people in this room know that, but today I am not here as a member of the Greens; I am here today as a member of the Friends of Tumblebee residents group. The Friends of Tumblebee is a proper residents group in the sense that most of our members have no party affiliation. Barry Calderwood is our vice-president and he is definitely not a Green. I do not mean any offence by saying that, of course.

Mr CALDERWOOD: None is taken.

Mr RYAN: There is a whole range of people who are in Friends of Tumblebee. I am also an elected councillor on the Cessnock City Council.

The Hon. AMANDA FAZIO: How many members are there in the Friends of Tumblebee?

Mr RYAN: Financial members of our incorporated association, I would say approximately 20. People on our supporters list, who for example donate money, et cetera, probably number about 200. As I just said, I am an elected member of the Cessnock council, but I am obviously not here today representing the Cessnock council. Basically, to give you a picture of what Tomalpin is, as we discussed very briefly yesterday, it is the largest block of woodland on the Hunter Valley floor. It has been preserved there through good luck, basically, through old coalmining activity and State Forests that were set aside to provide pit props, et cetera. As a result, because of its size—over 3,000 hectares—it has 31 threatened species present in it. That is more threatened species than you will find in any other place in the Hunter Valley except Barrington Tops, which I think it is approximately 70,000 hectares of wilderness area. Even though people think of it around here as just the bush that has always been there, because it is a large area of bush and it is able to support a patchwork of ecosystems and forest types, it can support a whole range of wildlife. That is why we have 31 threatened species there.

The national Swift Parrot Recovery Team did a survey of the whole of the lower Hunter in 2002 and called this is the most important spotted gum site in mainland Australia for swift parrots and one of the most important sites in New South Wales. It has been declared a mining subsidence zone because of the history of coalmining and the shallow undermining, particularly at the northern end. It is difficult to service with roads. I think we discussed that briefly on our tour yesterday. It is a really bad place to get roads to. It is situated such that it does not have access to major arterial roads. They will have to run another road through one of the most

important blocks of Kurri Sand Swamp Woodland to even get to this site. Water is a huge problem. Because it is so big, it will generate a vast amount of waste water and there is not the capacity in Kurri to cope with the water. If they use the capacity in Kurri, that will stop other residential development in Kurri. If they go to Farley, for example, and use the spare capacity there, that could impede the development of the Rutherford industrial area. There is a very big industrial area at Rutherford and it is a growing industrial area. They have a waste water treatment plant at Farley that services it.

Tomalpin has a problem with waste water. There is no strategy to deal with it. Hunter Water has not approved a strategy to deal with the waste water at Tomalpin. It has very strict conditions in the local environmental plan [LEP] that there will be no development approved that impacts on the water quality of Swamp Creek and Willis Creek. The ecological significance of Tomalpin has been identified by the developer's own consultants. Stephen Bell, who did a botanic flora report in April this year, basically said that this area is unparalleled for its species diversity. He identified two new species of eucalypts that have previously never been identified in New South Wales. They are two brand new species and they are obviously not threatened species because they are so new, they do not have a name. They have not had time to be put on the threatened species list. One of them will be spread right throughout the 4H zone, which is the blue part of the map showing the heavy industrial 4H zone. Basically the Bell report and the developer's social impact study [SIS] say that it will be spread right throughout that area.

One of the things that this area is noted for is the woodland birds. These birds are on the threatened species list. There is a whole suite of woodland birds that are becoming rarer and rarer and rarer because of habitat destruction. They are very sensitive to fragmentation and disturbance. One of the last places they can be found in the Hunter Valley is the Tomalpin woodlands. I have some colour overheads, which are arriving as I speak, from the developer's SIS.

CHAIR: Mr Ryan, there are two points I need to make. You should describe the documents so that an adequate description appears on the transcript, and a copy of those documents should be left with the Committee.

Mr RYAN: Certainly. The developer's latest SIS is dated April 2004 and shows that the black-chinned honeyeater is predominantly found in the 4H industrial zone. That is because it likes that type of dry, open, eucalypt forest. That is the type of habitat that it likes and that is the reason that it is disappearing—because that type of habitat is being cleared.

The Hon. AMANDA FAZIO: Is that the only area in this region where you find the black-chinned honeyeaters, or are they spread out more widely across the general region?

Mr RYAN: My understanding is that it is very hard to find black-chinned honeyeaters and brown tree creepers in places further around the Hunter Valley. What you will notice from the maps in the overheads I have just put up is they show that the black-chinned honeyeaters do occur in the national park adjacent to it, but they are predominantly in the 4H area. The other thing you have to realise with these is that they are really sensitive to habitat fragmentation. Just because they are there now, if you fragment this and clear that, that does not mean that they will stay there. That is one of the problems with this type of threatened species. I am now showing the Committee the brown tree creeper. This is probably not a sexy bird or not a bird that interests most of us, but it is a threatened species and it is disappearing. I guess it is a symbol that we are clearing and clearing more and more habitat.

You find that these, particularly the nests, are definitely in the 4H zone. The purpose of doing that is to show that this is not just a special area for eucalypt species, it is not just a special area for swift parrots; it is a special area, particularly the 4H zone, for those woodland species. I could show you a whole range of other things.

CHAIR: Mr Ryan, time is limited, and I wish to be able to give Committee members ample opportunity to ask questions. Would you highlight the main issues?

Mr RYAN: This is another example, *callistemon linearifolius*. It is an extremely rare and extremely threatened plant. You can see that that occurs predominantly in the 4H industrial zone. As I have just said, there is much more I could add to that, and I am happy to give this material to the inquiry so you can really see that this is an environmental calamity waiting to happen.

We had some discussions yesterday. We were talking about: Is this woodland really worth keeping? Is it really that important? Is it not highly degraded? This is just a very small excerpt from the 1999 Ecotone report, which I have here. This is basically the flora and fauna survey that Tomalpin was rezoned on. Essentially, it says that the spotted gum-ironbark-grey gum community, which is most of the 4H zone, is in good to very good condition and there are areas where large, mature trees are present. It then goes on to say, "vegetation communities that should be protected at every possible opportunity", referring to forest gum, red gum and grey gum. You would say they have done a good job of that, because that is mostly down the corridor there.

The dry woodlands, what amounts to Kurri Sand Swamp Woodland, are being protected here, here, and there. The swamp or wetland is protected, the riparian vegetation associated with major creek lines is somewhat protected under the Rivers and Foreshores Act, that is areas of dry open forest where *macrozamia flexuosa* occur. This should be protected at every opportunity. This is the dry, open forest where *macrozamia flexuosa* occurs, predominantly most of the 4H land here and over here.

What I am trying to say is that even in 1999 it was abundantly clear that this was an important site. It was really significant at a State and local regional level, and this environment plan did not meet the recommendations of the assessment reports.

What will the developers and the people who support this say? They will say it is a 70 per cent conservation outcome. I have here an advertisement for HEZ. This is the type of thing that HEZ will constantly claim. They will say that 70 per cent is rezoned for conservation. This is extremely misleading. A great section of the national park was declared in 1998; it existed previously to this rezoning.

What we have tried to give you in our written submission is that the conservation zone is not a conservation zone. It is very clear that it can be subdivided; it can be sold. In fact, that is the intention of it. Included in the supporting documents we have a letter from council to Mindaribba, reassuring them that they can sell and develop the conservation zone. As I mentioned yesterday, the LEP specifically retains the right for coalmining, which in this case presumably would be an open-cut coalmine.

CHAIR: That is in the conservation zone?

Mr RYAN: Yes, it includes the conservation zone as well as other areas.

The Hon. HENRY TSANG: What other areas do you mean?

Mr RYAN: The 4H zone, the industrial area, for example, and the conservation zone expressly allow coalmining. The Department of Mineral Resources insisted that that be included in the LEP because there is still coal under there that may be useful and they may want to mine it. To say that this is a conservation outcome is simply not true. To say that 70 per cent of it has been set aside for conservation is simply not true.

The Hon. AMANDA FAZIO: My understanding is that the site is almost 3,000 hectares and that only 900 hectares are included in the area proposed for industrial development. That is around 70 per cent, is it not?

Mr RYAN: It is not. That 3,000 hectares includes already existing national parks. We have two examples of correspondence from National Parks asking council to remove the national park from HEZ, to stop using the national park as part of the definition of HEZ because it confuses people. There are two examples of correspondence in which National Parks has asked for it to be removed. Council has not done anything about it. However, it did amend the LEP to allow the developer to carry out minor clearing without a development application. So it is very clear that the national park was gazetted first and it is really not part of this conservation outcome. It is also clear that the conservation zone does not protect—

The Hon. RICK COLLESS: I thought that is what National Parks was all about: a conservation outcome.

CHAIR: The questions are very relevant. Perhaps we can get Mr Ryan to go through his presentation as quickly as possible, and then we will have plenty of time for members to ask questions.

Mr RYAN: One of the things the developers and the people who support this will say is that there have been seven years of exhaustive studies, and that no single site has had more effort put into it than this site. That may be true, but there has never been one political study that does not identify this site as extremely important, and there has never been one political study that has said this is a better site to develop than other degraded sites. One of the main things we want to get across in our submission is that the Premier's Department, has never conducted a comparative study. It has never had a look around the lower Hunter and said, "Where are the suitable sites? Let's have a good look at them in a methodical way"—in a way that the Environmental Planning and Assessment Act obliges people to do. The objects of that Act are to provide for orderly planning that takes into account not only economic interests but the interests of the environment. You have to get a balance, and Tomalpin is not the balance.

One of the things they will say is that they have an environmental constraints master plan. It is set up on a grid pattern, with 150-metre-square grids, and it identifies all the ecological features found in this area. So developers will be able, like never before, to walk into an area, know what is there and know what is sensitive. The trouble with that is that it is a little like the old saying "garbage in, garbage out" for a computer. If you do not put the right information in there, you are not going to be informed with appropriate information. For example, the ecological constraints master plan does not record any trees less than 50 centimetres diameter at breast height, despite the swift parrot report requesting them to do that and despite the habitat management plan requiring them to do that.

This is a HEZ promotional brochure. This is the 4H zone. It shows pretty solid development there. This is obviously just a concept plan, but it is a concept that HEZ is obviously happy to put out. It does not matter how good your environmental constraints master plan is. If you are going to develop a place that is full of threatened species to that degree, what is the point of your environmental constraints master plan? It really does not matter. It does not matter if you told us what was there before; the point is that it has gone now. By the time you get to that stage, it has gone.

The other thing they will say—and the Minister said in his statement rezoning this—is that, for the first time, an estate will be governed by a dynamic set of sophisticated environmental management strategies, which will govern all the activities on this estate. So it will be adaptive, it will change to take into account new records of threatened species, and it will provide the highest standard of environmental management for the community's benefit. This was put on public display, it was adopted by Cessnock council, and it was supported by the developer.

To give you an example, this map comes from an SIS. It shows an existing road and a proposal for a new road. I believe you would have been taken on a tour of that road yesterday. These environmental management strategies say that that road will be winding, that it will not be straight. It will be of one lane in either direction. It will have the vegetation coming right up to it, and the canopy will meet over the top. That is for the purpose of letting the gliding possums, and so on, go over the top, because this is a major site for yellow-bellied gliders. That is what this says. It does not say that the developer should think about that; it says that is how the roads will be done.

You have been on that road. Is it winding? Does the canopy meet over the top? It is very clear to everybody that these environmental management strategies were not followed in the least. These environmental management strategies say that because of the sensitivity of the site you cannot clear, except where you are going to have an industrial building, a car park, a road, or something like that.

The latest development application from the developer is to clear an area of land so that proponents can see what cleared land looks like. That is in the development application. The reason for this development application is that it is for a helipad and a cleared area of land. The reason stated is to show prospective developers what cleared land looks like. Yet, this is supposed to protect us. What we are saying is that this environmental constraints master plan is useless if you are not going to implement it. These management plans are also useless; they have not protected the community one little bit.

There are a number of things I would like to talk about. Obviously one of the concerns is the creation of jobs. They often claim that 10,000 jobs will be created by this, and that it is good for the local area. We applaud the creation of jobs in the local area; it is a really good thing. This advertisement makes the claim that 15,000 jobs will be created. Where that comes from, I do not know. Our point is that this estate is very unlikely to

create jobs. The manufacturing sector is actually employing less of the work force as time goes by, whereas the services sector is employing more. It is really not such a terrific strategy for Cessnock.

We have two huge problems with this estate. The first is that the Premier's Department is out of control. Since 1998 it has adopted a whole-of-government approach to this industrial estate. So it seems that this whole-of-government approach can be seen as a sort of semi-government endorsement, a way of saying to individual government departments, "Do not hold this up because it is really important to the State Government." But it adopted this approach before any environmental surveys or environmental assessments were done.

The second huge problem we have is that Cessnock council engaged what it calls an executive planner. You have parts of the contract in the supporting documents we faxed through. That contract clearly says that the executive planner's job is to get this draft LEP gazetted. It is to get it gazetted in accordance with a timeline set by council. It is to get it to make sure large-scale industries are attracted. The job advertisement says "make the HEZ happen".

This person is clearly contracted to get it happening. This person is the person designated by Cessnock council to assess the objections to the estate. I want to make this absolutely clear, because it is a really important point to us. If you objected to this estate you had zero chance of having a fair hearing because the outcome of this report had already been determined. There was zip, no chance at all, that your submission could be considered objectively or fairly. We feel that the people of Cessnock have been conned. They have been lied to. The mayor informed people at a public meeting that all of our considerations would be taken into account. The Minister informed us that all of our considerations would be taken into account. Council planning staff informed us that they would be taken into account, yet it is clear that this person can only ever write a recommendation for, not against, the industrial estate.

Cessnock council says that it is not the consent authority, so it is not a problem. So we FOI'd the planning department documents: there is no assessment of the public submissions or the agency submissions. New South Wales Planning simply repeats the executive planner's statements. There is no change, even despite evidence of forgeries. There is no change in what they relate to the Minister. So we have this bizarre situation that we have the biggest industrial estate in New South Wales in one of the least suitable locations in New South Wales. The only person who has ever assessed the objections and really negotiated detail with government agencies has been funded by the developer and is contractually obliged to recommend that this be rezoned. It is ludicrous. How is the community going to have confidence in that? On top of that we have a \$100,000 donation from the developer to the ALP on 7 May, which is approximately five weeks after this is rezoned. I want to make it perfectly clear that I am not suggesting any improper activity on behalf of the developer, and neither are Friends of Tumblebee or anyone else.

The Hon. IAN WEST: What are you saying?

The Hon. AMANDA FAZIO: Why are you raising it?

Mr RYAN: What I am saying is how can the community have confidence in a system that is seen to be predetermined, a process where the deck is stacked so that it can fall only one way and then a large political donation is made? If you want a recipe for why the community has its confidence destroyed in planning and in politics this is a good one.

CHAIR: I will ask you to finish now.

Mr RYAN: I will. In our submission you will find documentation relating to letters written from Col Cowan at Cessnock council to the Premier's Department, which resulted in a letter from Col Gellatly to Brian Gilligan. There are also briefing notes that we have under FOI that related to the meetings that went on and what we submit is that the pressure from Cessnock council and the developer to get their DA through for a road resulted in the Premier's Department putting pressure on National Parks to the extent that they changed their advice. And we believe that they changed their advice contrary to the legislative requirements under the Threatened Species Conservation Act.

CHAIR: Perhaps you could let the Committee know at a later stage in writing exactly what was the change in terms of the legislative position of National Parks and Wildlife Service?

Mr RYAN: Yes.

CHAIR: A lot of time has been taken up.

Mr CALDERWOOD: Yes.

The Hon. HENRY TSANG: He is only the vice president.

CHAIR: There will be questions, but if you have anything to add, please be brief.

Mr CALDERWOOD: Yesterday we tried to show you that there are community concerns and they are genuine. We thought we had a right to have those concerns assessed objectively, unbiased in a fair manner and in accordance with the Environmental Planning and Assessment Act. We believe that that has not happened because of the system that has facilitated the rezoning process put in place by the consultant planner from Cessnock council being contractually obliged to approve it. The State Government then not meeting its obligations under the Environmental Planning and Assessment Act to oversee the process and to meet the promises that were given to me, personally, as a member of this group a number of times by Andrew Refshauge and the department that they would do an unbiased and objective assessment of all submissions before approving it. We believe, basically, that there were three people involved who identified the site and decided it was an industrial estate that was Ben Chard, Toby Thomas and Iain McLeod. In my opinion Ben Chard has implemented, or facilitated, a process to get the original decision made, and that was the approval of the rezoning regardless of any issues that have arisen in the course of the process.

CHAIR: Who is Ben Chard?

Mr CALDERWOOD: Ben Chard is a member of the Premier's Department.

CHAIR: You said there was evidence of forgeries between departments. Could you briefly state what documents you are referring to?

Mr RYAN: Yes. The documents should be enclosed in the supporting documents that we sent through.

CHAIR: Name them.

Mr RYAN: There is a letter from the executive planner, Cessnock council, to the Department of Planning dated 22 January 2002 before the rezoning, before the ministerial minute to the Minister, letting them know that there has been complaints of forgeries. Cessnock council took no action. Apparently they received one letter complaining of forgeries, but they received a series of phone calls complaining of more forgeries. We thought that was significant because there was a concerted campaign from the supporters HEZ to have an email campaign, wanting submissions of support to the extent that email submissions were received from Singapore, China, Ireland, New Zealand, et cetera. I was a member of the Hunter Business Chamber at that time. I received an email saying, "Quick, email Colin Cowan and support the HEZ." There was a big campaign on to get email submissions supporting the HEZ. We are concerned that—

The Hon. AMANDA FAZIO: My understanding is that 85 per cent of the submissions received by the council about the project were in favour and 15 per cent were against, and that allegations were raised that some of the submissions in favour were forged. Do you consider submissions to be forged if they are not from within the local area, or are you saying that people had their names put to submissions that they were not aware of or that they did not author?

Mr RYAN: Yes, the latter. That appears to be what people are complaining of to Cessnock council. When they received their letter of acknowledgment from Cessnock council, obviously a series of people phoned Cessnock council saying, "I didn't put in a submission supporting this industrial estate."

The Hon. AMANDA FAZIO: Were there enough of those people to have massively swayed the results? Was it going to make it 50-50, or was it still going to be in the order of 80-20 or something like that? How big is the scale of these alleged forgeries?

Mr RYAN: That is a really good question because the point is that nobody knows and nobody has ever made an attempt to find out. That is a question that we have: why was this not looked at in a bit more detail? Second thing is that we do not have any objection to the lodging of an email submission, but, obviously, if you receive email submissions that are form submissions—they are not detailed submissions they are just a form letter by email from Singapore, China, the Sydney metropolitan basin or whatever—and then claim that this indicates a massive community reversal in support for the HEZ when these people, obviously, had almost next to no knowledge of this area and the intricacies of what are involved, that is just a superficial way of judging those things.

Mr CALDERWOOD: I believe that if the percentage were 99 to 1, if I were the only person not supporting it I still have a right to have my submission assessed on its merits regardless of the level of support. I believe that every submission should have been dealt with evenly.

The Hon. AMANDA FAZIO: I was just going to raise the analogy in terms of the submissions that this inquiry has received. We have received 32 so far, 9 of which are in favour and 20 are against. Some 16 of those came from individuals, but a number of them were form submissions, the same sort of submissions that you are saying should not be taken into account. Everyone knows that as soon as there is a call for public submissions on anything people pro and against ask people to send in submissions. Do not tell me that you did not ask people to put in of submissions objecting to HEZ.

Mr RYAN: Just a quick point. We are not actually saying that we are against form submissions. What I guess we are saying is that—

The Hon. AMANDA FAZIO: You are against them if they do not support your position?

Mr RYAN: No, that is not correct.

CHAIR: It is not the issue. The fact that people denied that they put in those submissions is that not a police matter? If those people had not put in submissions, yet their names were signed to those submissions it is a very different situation. Perhaps we need to seek advice on that. Is that the accusation you are making?

Mr RYAN: The accusation, apparently, from members of the public is that forgeries occurred. The advice sent by Cessnock council to the people who put it in writing was that it is a simple matter and if they wanted to take action they should take action. I guess what we are saying is that, yes, that is a simple matter if those people wanted to take action in a sense, but from the point of view of actually making a meaningful assessment, and I agree with Mr Calderwood that it is not the numbers for and the numbers against, you have to assess everything on its merits with commonsense.

CHAIR: The letter received by Planning New South Wales of 22 January 2002 was from a Mr Selmon from Cessnock City Council. Perhaps we can ask these types of questions of council representatives. It alleges that a letter of support signed by particular people was forged. I do not think it has anything to do with the numbers either for or against.

Mr CALDERWOOD: At the very least I believe Planning should have disregarded the forged submissions.

CHAIR: You talked about the DA to clear the area of land, including the helipad. What size of clearing are we talking about in this application?

Mr RYAN: Speaking off the top of my head I think we are talking about a relatively small area, possibly in the order of four to six hectares. It might be more than that. It is relatively small. What I was trying to illustrate was that even though it is small the habitat management strategies, this so-called adaptive raft of management strategies, would actually preclude development clearing for clearing sake in trying to recognise the values of the site. It actually seems to me that you cannot support proactive environmental management and then lodge a DA for clearing just to show people what the land looks like when it is cleared. It is inconsistent.

The Hon. AMANDA FAZIO: But if you are clearing land for a helipad you do not clear just the area where the helicopter lands, you have to have the surrounding area cleared. Or do you want the helicopters to crash and then you have a bushfire and so much for environmental protection plans?

Mr RYAN: That is a fair question. It is very clearly specified in the DA that they have a helipad and they have clearing for that, and then there is extra clearing beyond that. The objective is to show prospective developers what the land looks like when it is cleared.

The Hon. HENRY TSANG: If someone were to invest in Australia for major manufacturing, would they not like to see what the land would be like? If you are building a block of units you have a demonstration unit and fit it out. It may be reasonable to have a small patch of land to look at.

Mr RYAN: Under normal circumstances, I agree that it would be totally and perfectly reasonable, but two things about that is that they already have a small patch of land that is cleared that they could show people, without clearing any more, and these have been implemented to try to placate the community's concerns and environmentalists' concerns that this is a really sensitive site and it needs to be looked at. So this is not an ordinary site. This is not a normal situation. These requirements are supposed to protect us, and they are not.

The Hon. AMANDA FAZIO: Mr Ryan, I wanted to ask you about something that we raised yesterday because only the people who were present at the vantage point would have heard it. In your submission on page three, you use the expression "Our request", and you are asking us to do a whole range of things that are not within the power of this Committee because our terms of reference are very strict and very narrow. I just wonder if you are being unrealistic in terms of what you are expecting as a result of the outcome of this inquiry. The development of that area has all been approved. It has all been signed off. In relation to the areas that you say have not be completely fixed up, for example roads and water, my understanding is that the Hunter Economic Zone people are dealing with both Hunter Water and the Roads and Traffic Authority [RTA] to sort those sorts of issues out. They have spent approximately \$7 million so far on the access road into the site. How realistic is it to expect that at this late stage this whole thing will just be wiped? That is not practical. That is not realistic. You say that you are not anti-development, but, rather, you are pro jobs; if this development's cancellation were to go ahead, even though the Committee is not in a position to recommend it, why on earth would any other investor ever come anywhere near the Hunter with a proposal to create environmentally satisfactory developments that would provide jobs for people? No-one would do it.

Mr RYAN: Just to answer that, we are not asking that this be wiped. What we are asking for is that there be a recognition that the estate be restricted to 200 hectares. That is what we feel the actual ecological evidence would support, both from going back to the Ecotone report and the swift parrot report and those types of things. We are not saying abandon it at this late stage at all. I hope we are not being unrealistic there.

Mr CALDERWOOD: If it was not for the Premier's Department, the outcome of the 200 hectare estate probably would be much more realistic than what we have out there now. We are saying that because the process was not followed in accordance with the Act, we have got the result of a massive industrial estate. We think that if it was all done properly, a 200-hectare estate would be a realistic outcome.

CHAIR: We have limited time and I ask everyone to shorten their questions and answers so that everyone has an opportunity.

Ms SYLVIA HALE: Mr Ryan, the terms of reference require the Committee to inquire into and report on the environmental assessment process. Is the thrust of your submission that from the very outset there was not the appropriate assessment process undertaken and that, if we wanted to achieve the best outcome, the Minister for Infrastructure and Planning might have issued a section 57 direction which would have required the assessment of alternative sites?

Mr RYAN: Yes, that is precisely what we have said in our submission. It seems incomprehensible to us, with such a large and complex site, that the Minister did not ask for section 57 studies. When we put that question to planning staff, they suggested that because the developer had already produced this, as the rezoning submission—

Ms SYLVIA HALE: What is that?

Mr RYAN: This is the basic rezoning submission that was produced. It has got flora and fauna and bushfire and archaeological heritage reports and all of those things in it. We were told at a meeting that it was because these reports had already been done. What we now know is that the Premier's Department had had

meetings and convened a whole-of-government approach to this way before these reports were done. Our question is: Why was not a section 57 environmental assessment asked for? It would have to be a little bit wider, a little bit more comparative, and take in a few extra points than just focusing on this site.

Ms SYLVIA HALE: So that report or those documents, they only focus on the Tomalpin site, not on any other area within the local government authority [LGA]?

Mr RYAN: Yes. They only focus on Tomalpin. They do not do a comparison of Tomalpin in any way as being suitable for industrial development. The Friends of Tumblebee wrote to the department of planning before this rezoning occurred, identifying four sites in the lower Hunter that we thought should be at least looked at to see if they were prospective sites or had potential for industrial development. They were all degraded, big sites that could ostensibly be available for big industry. We actually did not even receive an acknowledgement of that letter.

Ms SYLVIA HALE: When did you write that letter?

Mr RYAN: We wrote that in February 2002, and this was rezoned in March 2002.

The Hon. RICK COLLESS: Mr Ryan, can I pursue this issue of the whole-of-government approach with you a little further. Given the constraints that are on any development process anywhere in this State and the competing interests that various government agencies have in any parcel of land, is it not essential to have a whole-of-government approach to make sure, where it is appropriate, that development does proceed?

Mr RYAN: I agree. I think the problem with a whole-of-government approach in this case is that the line blurred between saying that we need to get the job done and into a certain sort of blindness, if you like, in not considering properly the constraints of this site. I think that is really well illustrated in the correspondence from the Cessnock council and from Col Gellatly's letter. Cessnock council says, "We can't deal with the threatened species as in the swift parrot because it is not in accordance with our whole-of-government approach." On the one hand they have a legislative requirement to take this into account and on the other hand they are saying, "Oh-oh, it does not fit with our ideas for the site, and we are not going to."

The Hon. RICK COLLESS: But surely, in situations such as this where it is quite a complex development, is it not essential that agencies put their heads together and sort out some of their differences. At the end of the day, is there not going to have to be some flexibility in the decisions that are made by the various agencies? Do you see that that is a problem—that those agencies should have the power and the responsibility to make flexible decisions in some cases?

Mr RYAN: No. I think the first idea about the whole-of-government approach in terms of cutting red tape, increasing co-ordination and focus on a project is great, but when it turns into a process which puts pressure on government departments not to fully take into account their own legislative requirements—

The Hon. RICK COLLESS: I do not know whether that occurred or not, and the inquiry will attempt to determine that, but the information that I have been able to read out of the submissions is that there were a lot of discussions held between the various government agencies.

The Hon. AMANDA FAZIO: There were 25 agencies.

The Hon. RICK COLLESS: The decisions were made at a senior level about what would happen and what would not happen. The role of the director-general therefore was to make sure that the decisions that had been made were implemented.

Mr CALDERWOOD: The decision should not have been made without being correct. The only way you can make a correct decision is if you do all the studies and planning.

The Hon. RICK COLLESS: Is that a matter of judgment, or a matter of fact, though?

Mr CALDERWOOD: I thought that is how the system worked—that you had legislation which ensured that everything was done accordingly.

The Hon. RICK COLLESS: If these agencies came to a decision and it did not sit comfortably with your position on it, is it the wrong decision? That is what I am getting at. Is that a matter of judgment or a matter of fact?

Mr RYAN: A really good example would be the National Parks and Wildlife Service's flexible approach, if you like. They obviously agreed to this development going ahead, with conditions. One of the conditions was the set of environmental management strategies. One of the conditions was a detailed environmental constraints master plan. They were flexible and they said, "Okay, how can we make this happen in accordance with our legislative requirements?" The trouble is that the environmental master plan is still not ready, so when the National Parks and Wildlife Service said, "Hang on a minute, we are supposed to have these and this and this ready before we can really look at these DAs to progress it, like we agreed", they were then stomped on. They had pressure put on them for slowing the process down. It is a reversal, really. The National Parks and Wildlife Service, the developer, the Cessnock council and other agencies agreed to a set of conditions which were then not fulfilled, but the National Parks and Wildlife Service got blamed for holding up the process.

The Hon. ROBYN PARKER: I want to explore mine subsidence with you a little bit further. You noted that as one of your issues of concern with the HEZ site. Why is that a concern?

Mr RYAN: Particularly the northern part of the site is known to be very shallowly undermined so there is a fair degree of general concern that that would affect the type of buildings or the type of development you could do there. I do not think it prohibits development. The submission from the Mine Subsidence Board expressed some disappointment that those issues were not included in the LEP to fully inform people of the dangers and issues associated with it. That was the board's rating of that issue. For us, as outside observers in a sense, the mine subsidence issue goes together with the roads issue and goes together with the water issue, and then goes together with the ecological issue, and then goes with the residents' amenities issue to just form the whole complex of issues. This original idea, that this is a simple site of degraded bushland far away from anywhere, is just not the case, and what we are trying to say is that there is a whole range of issues that would make looking at alternative sites at least worth doing.

The Hon. ROBYN PARKER: But you would say that mine subsidence is a significant reason not to proceed. What I am interested in, then, is why you would recommend and show to us yesterday an alternative site that is on former open-cut mining fill and is a very degraded former mining area?

Mr CALDERWOOD: It is basically just an alternative.

Mr RYAN: Yes.

The Hon. ROBYN PARKER: It is one you have recommended to us, so I just found it contradictory, I guess.

Mr CALDERWOOD: Yes, but it has never fully been investigated. You have raised issues that we probably have not thought of, and that is the whole point of the exercise, I think—to look at all the alternative sites and to look at all of those issues and see whether they are viable. They might not be, they might be. We presented five. That was one of them. I would not know the extent of the open cut out there, how deep it is or whether it has been settled, or whether there are areas which are available without those problems of subsidence. You would not know until you have a look and we just think that it should have been looked at.

The Hon. ROBYN PARKER: The other issues you have raised in terms of roads and water surely exist in other large parcels of land, such as the other sites that you have recommended to us?

Mr RYAN: I guess the point we are making is that they may, but we do not know. That is the whole point. There has never been a comparative study. We took some advice yesterday afternoon after we went out and showed you Bloomfield. The response we got from the Mine Subsidence Board was that those issues, of settling and so on, exist. It is not covered by mine subsidence because it is an open-cut, not underground, mine so it is a different issue. Basically nobody knows. You cannot say "No, you cannot build on it", and you cannot say, "Yes, you can build on it" because nobody knows what rate of compaction went on, how old it is, or whether there are rocky outcrops that were not actually open cut. You actually would have to do an investigation to determine those things. Our point is not that it is the site; our point is that there are a number of sites that

could have been looked at so that we get a balanced view. After all, the result we want is the best result for the Hunter Valley that gives everybody a win-win—that attracts jobs, creates employment and gives us a clean and healthy environment at the same time.

The Hon. AMANDA FAZIO: Mr Ryan, following on from the Hon. Robyn Parker's question, in relation to mine subsidence you said that yesterday afternoon, after you had spoken to the Committee, you rang the Mine Subsidence Board about the Bloomfield site. I would have thought, seeing you appear to have had a lot of reports on the HEZ development site, that you would have been aware that the HEZ site is in a mine subsidence district and that Mine Subsidence Board approval is required for any subdivision and any surface development. The issues that you are presenting to us—that you are concerned that whatever they build their might fall into a hole in the ground in 10 years time—are not valid.

If you have come here to say you have serious objections to the proposed development, you should have done your homework and you should have known that the Mine Subsidence Board has to approve whatever is to be built on the site.

Mr RYAN: We have never come here saying that whatever is going to be built is going to fall into a hole in the ground.

The Hon. AMANDA FAZIO: But you raised it as an issue, as if it was an unknown quantity. I am now concerned about some of the other issues you have raised with us, whether they are also unknown quantities and how much they are based on fact.

Mr CALDERWOOD: It is still an issue for any developer that wants to come onto the site. It is an impediment, it is an additional cost, and it is an encumbrance on the land.

The Hon. IAN WEST: I want to leave aside for the moment any perceptions of being lied to, conned, bribery, forgery, or pressures being brought to bear by certain government departments. I want to go to the issue of the 200 hectares that you believe could be developed there, as opposed to the 800 hectares. Have there been discussions between the Friends of Tumblebee and HEZ about the number of hectares?

Mr RYAN: No. Our original submission to Cessnock council was that a suitable win-win for all involved would be a 200-hectare industrial estate surrounded by environmental buffer lands to protect the community as well as habitat. We have made that our open public position for many years.

Mr CALDERWOOD: That was our interpretation of the Hassell report. From day one we have pushed that a 200-hectare industrial site is a balanced outcome, which can achieve better employment and continue the social amenity of the residents. We have put that on the table time and again, only for it to be ignored.

CHAIR: Mr Calderwood, yesterday you said that residents' amenity in Pelaw Main would be significantly affected, I understand mainly by noise. Could you briefly describe the sort of effect you see from the development itself, particularly the position of it and the additional roading that might occur?

Mr CALDERWOOD: When you look at the site, it is so large that it does not really need to be right on the borders of any of the towns. There is a buffer zone, which is the conservation zone, which can be developed. Regarding the issue of noise, anyone in Pelaw Main can hear anything that happens between Pelaw Main and Mulbring. We can hear the Richmond Main working, the trains—everything comes up to Pelaw Main. Even construction on the existing road has caused a number of complaints regarding noise generation.

It is going to have an adverse effect on the people there. Even regarding the mine subsidence issues, the site is covered by being proclaimed a mines subsidence zone, but that does not mean that vibrations, truck movements, and effect on the land there, are not going to cause impacts regarding mine subsidence within the town, which is not covered by a mine subsidence zone. So there are flow-on effects that concern people.

We lost a whole street in the town in 1956, when it fell into a hole in the ground. I live right on the border of that. I have had seven fall-ins on my property. If they start running trucks on the main road in vast numbers, if they start having a construction program going on a few hundred metres away from my back door, there is no protection that I and other people are not going to be affected by that.

People move to the area because it presents a very good quality of life. People have been moving into the area from all over the place recently. We would like to see some type of balanced approach where we can still achieve a quality of life outcome for the residents and employment-generating industries.

(The witnesses withdrew)

GREGORY QUINTON BONE, Planning Engineer, Hunter Water Corporation, P.O. Box 5171 HRMC, and

RUSSELL WILLIAM PASCOE, Manager, Planning and Development, Hunter Water Corporation, P.O. Box 5171 HRMC, both sworn and examined:

CHAIR: Would either of you like to make a statement prior to Committee members asking questions?

Mr PASCOE: I think most of what we want to say is probably included in our submission, but Greg will make a couple of brief comments.

Mr BONE: I would like to take the opportunity to summarise some of the key points in our submission. Hunter Water is a service provider. Its role has been to comment in respect of two things: first, the availability and provision of water and waste water services; and second, the requirements to be met in order for HEZ to connect to Hunter Water's infrastructure.

Hunter Water has not commented on the merits of HEZ from a land use or zoning perspective; this is not Hunter Water's role. Prior to the approval of HEZ by the State Government, Hunter Water's comments included the following key points. Substantial augmentation of Hunter Water's existing water distribution system would be required to service the ultimate development of HEZ. Waste water management was seen as a major issue for the development given its size and location. Hunter Water advised that the Kurri Kurri and Cessnock waste water treatment plants would not have adequate capacity to service the ultimate HEZ development. The Farley plant could potentially do so; however, this is no longer the case based on the most recent information that has been provided by HEZ representatives.

Hunter Water advised that the initial stages of HEZ, equivalent to a population of around 3,500 people, could be serviced at the Kurri Kurri treatment plant, and this advice is still appropriate. Hunter Water advises that options to treat waste water from the remainder of HEZ would need to be considered and would require technical and environmental assessment. Hunter Water noted that there may be potential constraints associated with the discharge of treated effluent to the inland creek system, and that issues such as effluent reuse would probably need to be considered. Ultimately, any proposed strategy would need to go through a formal environmental impact statement process.

The purpose of Hunter Water's comments on waste water treatment was to advise of the likelihood of high treatment standards and/or effluent reuse conditions being imposed on the development, so that there was a full appreciation of the potential costs. This advice in no way represented a view by Hunter Water as to whether or not the development should proceed. Since the approval of HEZ by the State Government, Hunter Water has continued to advise representatives of HEZ with regard to servicing requirements. In doing this, Hunter Water has applied the same requirements to HEZ as it would for any such development proposal.

The longer-term waste water treatment strategy for the remainder of HEZ has not yet been determined. Hunter Water has commenced a regional strategy study to assess options to service future growth in the Kurri Kurri area, including HEZ and other potential, large developments. The study will consider the augmentation of the Kurri Kurri and Farley plants and the option of a new treatment plant.

Any longer-term strategy that may eventually be proposed would be assessed through the environmental planning approval process, including consultation with the community, regulators and other stakeholders. A determination on the issue of effluent disposal to the inland creek system would arise out of this process. Effluent reuse may be a major component of any long-term strategy. HEZ has recently approached Hunter Water with regard to a proposal to reuse treated effluent from the Kurri Kurri treatment plant.

CHAIR: We have been informed that Hunter Water has estimated that if the estate is developed with dry industries that do not use a lot of water, it would produce approximately 18,000 equivalent population. Would that be correct?

Mr BONE: There was initial correspondence to us prior to the approval by Government of varying waste water loads from the development. My recollection is that one set of correspondence indicated it could be

in the order of 18,000 equivalent population based on dry industries. The latest information we have been given is that that is not the case.

CHAIR: From Hunter Water's perspective, can you see any restriction on the type of industry that would be able to perform on the proposed HEZ site?

Mr PASCOE: The real issue in terms of capacity from our perspective would be that whatever the developer puts up, as with any other developer, we will then have to look at the options to service it. Our role is not to constrain or otherwise development, it is to look at what development is put in front of us when the land use authorities actually determine that something is going to go ahead and work out the optimal way of actually servicing that. Ultimately, if it requires 18,000 or 30,000 or 40,000 EP-type capacity, the developer would fund the required infrastructure.

CHAIR: Where would the infrastructure go? Would that be part of the development on the site for that type and size of development?

Mr PASCOE: Mr Bone made the point in the statement he just read that we were looking at doing a broader strategy study for the whole of this area. We do not predetermine what the outcome of that would be. Potentially, it could be a new treatment facility or some sort of on site on the development, or it could be augmentation of facilities that already exist. One option would be for us to further augment the Kurri facility, which we are in the throes of doing now.

CHAIR: That has capacity of some 4,000 EP at present?

Mr PASCOE: Available EP.

Mr BONE: It is 3,500.

CHAIR: That is very limited in terms of the potential that is needed for this type of development. If this capacity is used by the HEZ development overall, would it have an impact on further residential and commercial development in Kurri? Do you foresee a problem there?

Mr BONE: The 3,500 was allocated for larger developments, of which HEZ is one.

CHAIR: That does not include residential, that is separate?

Mr BONE: No, normal residential growth has been taken up in another capacity of the plan. This is a spare capacity for larger developments. As you pointed out, it is a relatively small component of the ultimate development. At current estimates it is around 10 per cent of the total development based on figures that have been provided to us by consultants for HEZ and the remainder will have to be treated by another option. We are doing a desktop study at this stage of what those options could be.

CHAIR: In terms of doing those studies and making those assessments, would that take into account the potential increase in the population that such a development would draw to Kurri itself?

Mr BONE: Yes, it is a regional strategy so it is broader than just HEZ, we are looking at other larger potential developments in the area, plus natural growth that will occur in the Kurri area through to West Maitland. It is a broader regional study, and that is why we thought it best that we take on that role.

CHAIR: If capacity at the Farley Treatment Plant were used, would that have a negative impact on the ability of the Rutherford Industrial Estate to expand and accept industries that use a relatively large quantity of water?

Mr BONE: No, we do not believe so. I guess at this stage we are looking at the potential to upgrade the Farley plant as far as treating the remainder of the HEZ development. I guess at this stage our preference would be to try to reserve some of that capacity for Farley and upgrade it for more local development around the Farley area.

The Hon. RICK COLLESS: Are there any technical difficulties with providing a potable water supply system and network management strategy for a development of the size of HEZ?

Mr PASCOE: Not specifically. I guess any development of any size in a technical sense can be provided for.

The Hon. RICK COLLESS: A challenge?

Mr PASCOE: No, not even necessarily a challenge. I guess the areas that you would look at for servicing in a technical sense would be the level of proposed waste water treatment. The quality of the effluent discharge becomes an issue, but at the end of the day that becomes a matter of dollars. You can polish an effluent to potable water standard if you want to and, depending on what standards are imposed on the development, ultimately the developer will have to fund that. It is up to him to then make the choice as to whether he wants to.

The Hon. RICK COLLESS: When you talk about 13,000 or 18,000 EP capacity, what does that relate to in terms of megalitres per year or day? Is there a common conversion in terms of the amount of water we are talking about?

Mr BONE: I do not know off the top of my head, but we have the loading report that we could refer to.

CHAIR: Perhaps you could take it on notice and get that information to the Committee at a later stage.

Mr BONE: Yes.

Mr PASCOE: Just as an indication, I think the current Cessnock plant is around about 20,000 EP and the discharge is about five megalitres a day, in that sort of ballpark.

The Hon. RICK COLLESS: We are talking somewhere between three and five megalitres a day of waste water that you need to treat. What are the other options for use of that water?

Mr PASCOE: Options for reuse?

The Hon. RICK COLLESS: Yes, options for reuse.

Mr PASCOE: I guess at the existing Kurri plant we are looking at setting up an agreement with the TAFE for reuse, which will take a certain component. There are not any specific designated reuse options. Our broad corporate policy, I guess, is to reuse into industry as much as we can rather than, say, for irrigation. We do that as well, but industry reuse is more constant. If you are getting a steady flow that you can get out into industry you do not have impacts of the effluent not being taken when it is raining. Our corporate approach has been to try to target industry and, I guess, it depends on the type of industry that would go into the area.

The Hon. AMANDA FAZIO: In terms of your corporate responsibilities, does the HEZ site present any difficulties that are unusual or any different to any other industrial site that has been developed in the region?

Mr BONE: Not really. Most developments have some difficulties, I suppose, in being serviced from our existing infrastructure. This one does not particularly jump out as being that difficult to service in terms of distance from our infrastructure, in terms of water distribution. The system is relatively close by. Granted, there will need to be upgrading back in our system to supply them, but in terms of difficulty to actually get water to the site, no difficulties. We have already talked about the waste water treatment issues, and that is purely that there is limited capacity that we can provide at the moment. We can service initial stages, but a longer- strategy needs to be developed. How they actually transport the waste water from the site to the Kurri treatment plant is something for the developer to put in at his cost. There are no foreseeable difficulties in doing that, either.

The Hon. AMANDA FAZIO: So there is no real cost impost to your organisation through this development?

Mr PASCOE: The way any development comes on board as a new connection to Hunter Water is that the developer broadly will pay for the infrastructure within the development itself and then through what we call

developer charges they will contribute to any upgrade for our bulk water sources—the dams, the treatment facilities, any of the main infrastructure that gets water to the site or takes waste water away from the site and then has it treated. The way the system is set up, basically through IPART determining the charges, sees development pretty much washing its own face in terms of cost of infrastructure.

The Hon. HENRY TSANG: Are you part of the whole-of-government approach in dealing with the development approval stage? Were you one of the participants?

Mr BONE: We were invited to make comments with regard to water and waste water servicing only on the requirements to service the development or any constraints, and we provided those comments prior to the approval to Cessnock council. I think we also provided comments to the Department of Urban Affairs and Planning, as they were called then, and also to the representatives of HEZ.

The Hon. HENRY TSANG: Generally it is a good approach to bring all the agencies together and get advice to deal with that application?

Mr BONE: Yes, it is a good opportunity to provide our own information on water and waste water servicing, and we were given that opportunity. In fact, it was five years ago today that I attended a meeting at Cessnock council, the first meeting, to provide some information. Generally, councils and the planning departments set the development and residential development strategies. We are a service provider, but they do consult with us with regard to capacity and infrastructure in setting their strategies.

Mr PASCOE: It is probably worth commenting, too, while they consult with us specifically on this development, routinely we talk to councils and planning about settlement strategies and potential growth opportunities right throughout the region. I guess in the earliest stage possible we try to give a feel for which are the most economic areas for us to service at the end of the day. If they end up in a less economic area and the developer is happy to pay that is fine, but we try to give that advice.

Ms SYLVIA HALE: Would you have considered the HEZ one of the most economic areas to service?

Mr PASCOE: I guess as Mr Bone said, it is not far from our existing infrastructure. From that point of view it is not a major impost. And the size of the development, if you put that probably anywhere within the coalfield system, would have required us to do augmentation. I do not think it would have been any more or any less than other potential sites.

Ms SYLVIA HALE: Given the presence on this site of 31 threatened species, would that pose any particular difficulties to you in the provision of infrastructure?

Mr PASCOE: Not from our perspective. I guess most of the infrastructure that we would have to construct would not be on the site, anyway. And the issue of on-site construction would become one for the developer to deal with.

Ms SYLVIA HALE: You referred to settlement problems, that is subsidence, is it?

Mr PASCOE: No.

Ms SYLVIA HALE: Sorry, what is settlement?

Mr PASCOE: I referred to settlement strategies.

Ms SYLVIA HALE: In terms of population?

Mr PASCOE: Yes.

Ms SYLVIA HALE: The tenor of the advice that you provided five, four, three years ago remains the same as the advice you are providing today?

Mr PASCOE: Broadly we have flagged right from day one that there would be some major water infrastructure upgrade requirements and that still stands. I guess with regard to waste water, given our own

experiences with the upgrade that we have done just recently to the Kurri facility, and as an inland works it was taken to a tertiary treatment level, we flagged to the developer that any requirement for waste water treatment would probably have a high effluent quality standard applied and that they needed to be aware of that. Again, that was from pretty much day one and that is still the case today.

Ms SYLVIA HALE: You intend to complete this regional strategy, or overview, by the end of this year is that correct?

Mr BONE: Yes. The first step is what we are calling a desktop regional strategy. We intend to have that finished by the end of the year. It will identify some preferred options for longer-term waste water strategy for the region, not just for the HEZ.

Ms SYLVIA HALE: But, presumably, the HEZ will be a major component of that. It will be one of the most significant?

Mr BONE: Yes, that is correct.

Ms SYLVIA HALE: Should such a strategy have been completed prior to the HEZ reaching the stage it is at the moment, or do you think it is appropriate to be done after the event?

Mr PASCOE: From our perspective we have not specified how the area would be serviced. One of the requirements that we have placed on the development is that that strategy overview has to be completed before we actually connect to any of our systems, and require all specified developer charges because until we have done that we are not in a position to say, "These are the dollars you will have to pay." In terms of the zoning issue, I guess that is not our place to comment. But in terms of the strategy we are not premature because we have not determined that and they have not required it yet.

Ms SYLVIA HALE: Who meets the costs of developing the strategy? Is that within Hunter Water itself?

Mr PASCOE: It can be, and it can be then partly recouped from developers anyway. If the strategy, say, had been a strategy specifically for HEZ we would have requested them to fund it. Given that we are looking more broadly than that, and that we are looking at the whole of this area we are funding it, but we would incorporate the cost of that into future developer charges so that new development is funding both infrastructure and the cost of deciding what that infrastructure will be.

Mr BONE: We must say, too, that the developer did undertake an initial options study into longer-term waste water treatment for the development itself, looking at a few options, but we have now progressed with that to say that we need to look at it more broadly on a regional basis, and we are better situated to do that.

CHAIR: Mr Bone, on that point, has Hunter Water asked for a whole-of-site waste water plan to be formulated by the developer?

Mr BONE: A whole-of-site plan in terms of how it is serviced with waste water transportation?

CHAIR: Yes, waste water and water capacity.

Mr BONE: Yes. We have asked them to complete servicing strategies for waste water and water for the whole site, that is correct.

Ms SYLVIA HALE: When do you wish to see them by?

Mr BONE: They have provided us with initial drafts of those strategies and we are currently looking at those at the moment, but we have not provided comment.

CHAIR: So is that included in your regional plan? Is that part of your regional plan, factoring in their submission and then the on-site part of the project?

Mr BONE: Yes. We will have to take into account probably our strategy when we have that completed, too, before they can have an ultimate strategy, that is correct.

The Hon. HENRY TSANG: In simple terms, is it true that if the developer does not fulfil your requirements, you simply do not supply the water or provide a connection for the discharge: They have to do what you want anyway, at their cost.

Mr PASCOE: We provide, through our Act, what we call a notice of requirements. They have to comply with that before we will give them what is known as a section 50 certificate. It is at that point in time that they can connect and that we start to supply.

The Hon. HENRY TSANG: Otherwise they would have to do on-site retention, treatment and disposal for all sorts of environmental reasons, so really you are in a good position to impose the conditions you want.

Mr PASCOE: That is right. But I guess probably we should make the point that we are not requiring them to do anything more or less than any other developer.

Ms SYLVIA HALE: Yesterday we were shown Hebburn Lake and it was suggested that it was already highly contaminated. Does the presence of contaminated bodies of water pose any particular problems or concerns from the water perspective?

Mr PASCOE: Not that I can see. Basically we take our raw drinking water from sources elsewhere. We treat it and deliver it through a pressurised system to the site. I cannot see that that would be a problem.

CHAIR: Do you have any role to play in terms of remediation of Hebburn Dam, for example? Is that something that comes under your purview as a water authority?

Mr BONE: No.

Mr PASCOE: No.

CHAIR: So it is not your affair?

Mr PASCOE: No.

Ms SYLVIA HALE: Leachate from any of these mine sites is not a problem because you take it from elsewhere?

Mr BONE: Yes.

Mr PASCOE: Yes. It is not a raw water catchment for us.

CHAIR: Who has the responsibility for the quality of effluent exiting a site like this and, using Hebburn Dam as an example, which department is actually responsible for the quality of effluent and any contaminants in that from past industrial activities, such as mining et cetera?

Mr PASCOE: I can only comment, I guess, that if the effluent is being dealt with and treated by us, then obviously we have the responsibility and it would be covered in terms of quality under a Department of Environment and Conservation [DEC] licence. I do not know about discharges from former mines, but I would assume that perhaps they have some sort of DEC licence as well. I really do not know.

The Hon. ROBYN PARKER: I just want to clarify couple of things although I think you probably have already answered this question. With your assessment of the HEZ site, did you undergo anything different from how you would assess any other industrial site?

Mr BONE: I think the answer to that is no.

The Hon. ROBYN PARKER: It would be the largest proposed industrial site in the Hunter region, would it not?

Mr PASCOE: It would be the largest new potential site, I guess, certainly in my time with Hunter Water.

Mr BONE: Yes.

Mr PASCOE: I cannot comment on earlier dates.

Mr BONE: Yes, I think it is fair to say that.

The Hon. ROBYN PARKER: Was there anything that you used in comparative terms when you were assessing this site?

Mr BONE: Comparative terms, in regard to what?

The Hon. ROBYN PARKER: Was there a smaller development perhaps in the Hunter or elsewhere that gave you indications of what was required?

Mr PASCOE: No. I guess in a design sense you treat each site on its merits and its proposed uses. In terms of, I guess, siting the infrastructure, we rely on the developer giving us an indication of what that will be. In terms of the requirements that we would then impose on the developer, he would only be buying a certain level of capacity, so if the development went beyond that capacity it would have to be revisited in a design sense, and in a payment sense anyway. So, no, we would not necessarily have to look at other areas as a guide to what we need to do. We are basing that on advice we are given about the potential uses of our service.

The Hon. ROBYN PARKER: What is the process if they go beyond that capacity?

Mr PASCOE: I guess basically they buy a certain capacity and we provide that capacity. You really do not get an opportunity to go beyond that in terms of the development. We monitor the usage as it comes on board.

The Hon. ROBYN PARKER: Have you made any concessions at all to HEZ in terms of your approval process?

Mr BONE: No.

Mr PASCOE: No. We were requested to consider changes in the design standard for waste water. We advised them that we did not believe that that was appropriate. One of the potential risks is if the information they provide to us—which suggests, or they believed suggested, slightly smaller sized infrastructure would be okay—turned out to be wrong. The community would then pick up the cost of addressing that at a later date.

CHAIR: Who requested the changes in the design standard?

Mr BONE: My recollection is that it came from consultants on behalf of HEZ.

CHAIR: Has Hunter Water ever expressed to the State Government that this was a difficult site to service?

Mr PASCOE: No.

Mr BONE: No.

The Hon. AMANDA FAZIO: On page three of your submission, it says "Effluent reuse may be a major component of any long-term strategy. It is worth noting that HEZ propose to reuse treated effluent from the Kurri plant." What does that mean? What are they going to do with treated effluent?

Mr PASCOE: They were looking at potentially using that as a substitute for potable water so that they were not putting as big a load, I guess, on natural, clean resources by taking some treated effluent back from the Kurri facility for, I assume, irrigation of gardens or lawns, whatever, rather than using treated water.

Ms SYLVIA HALE: I believe HEZ suggests there might be 15,000 jobs created as a result of this development. Is that the sort of figure you are working on when you are developing this strategy? In developing this strategy, are you assuming that the industries would be only what I believe are referred to as dry industries, or do you take into account a whole range of possibilities in terms of manufacturing installations?

Mr PASCOE: I guess, broadly, when we are looking at a servicing strategy in terms of sizing of infrastructure, we look at the available land and particular zonings that are there. So you cannot necessarily assume that if HEZ is going to employ 15,000 people, they are all going to live in Kurri or Cessnock. They could come from any range of places. So when we do the broad strategy, what we would look at is the information that the councils can provide to us as to what available land is there for residential, rural-residential or industrial uses, and we would base the sizing of infrastructure on what you would need, if that went to full development. It may be a component of that in this area that we would be looking for, but not necessarily all.

Ms SYLVIA HALE: What about the types of industries that might be situated there?

Mr BONE: I think we would be relying a little bit on what the developer, HEZ, is actually saying at the moment on their waste water loadings and the type of industries. If they cannot be quite specific about that, we have to rely back on our standard design criteria, which are more general in terms of the type of development that would occur.

CHAIR: In terms of your organisation's participation and your understanding of the whole-of-government approach, have you had discussions with specific government departments—the Premier's Department or any others—in terms of facilitating this development, or your role in this development?

Mr BONE: Prior to the approval, my understanding is that we had discussions with the council, the Department of Urban Affairs and Planning which is now part of the Department of Infrastructure, Planning and Natural Resources [DIPNR], and representatives of HEZ. We did not have any discussions, as I can recall, directly with the Premier's Department.

Mr PASCOE: That is right. I am not aware of any discussions with any other departments, other than the ones that Greg has mentioned.

CHAIR: Was there just a presumption with, for example, discussions with the council or DUAP, which is now DIPNR, that this development was expected to go ahead, or was it a more open process?

Mr BONE: My recollection is that it was fairly open. There were no expectations on us to comment either way.

Mr PASCOE: That is right.

CHAIR: Thank you very much.

(The witnesses withdrew)

(Short adjournment)

PHILIP GEORGE MAHONEY, Acting General Manager Environment, Roads and Traffic Authority, 260 Elizabeth Street, Sydney, and

ROBERT IAN SHARPE, Regional Manager Hunter, Roads and Traffic Authority, Locked Bag 30, Newcastle, both sworn and examined:

CHAIR: Are you conversant with the terms of reference for this inquiry?

Mr MAHONEY: Yes.

Mr SHARPE: Yes.

CHAIR: If you should consider at any stage that certain evidence you wish to give or documents you may wish to tender should be heard or seen only by the Committee, please indicate that fact and the Committee will consider your request. Would you like to make a brief statement on behalf of your organisation before Committee members ask you questions?

Mr SHARPE: I should briefly outline the RTA's involvement in considering the development approval process for HEZ. The RTA is involved because of a number of legislative obligations, and we are mainly concerned with traffic and transport impacts on the road network. Under the Roads Act we have requirements to provide consent for roadworks on classified roads, and we are also the consent authority for traffic control facilities on classified roads. For works undertaken, there are also requirements under the Roads Act for approvals from the RTA relating to classified roads.

The Roads Act brings the RTA into the picture concerning development approvals. Also under the Environmental Planning and Assessment Act, the RTA is required to be consulted by local councils concerning rezonings, and we provide comments to the councils in that regard. There are also provisions for the Department of Infrastructure, Planning and Natural Resources [DIPNR] to resolve any objections or disagreements regarding rezonings.

Under State environmental planning policy No. 11, which relates to traffic-generating developments, there is a requirement for councils to forward to the RTA development applications for consideration in respect of traffic issues. In a broad sense, that is how the RTA becomes involved in rezonings and development applications.

Specifically regarding the HEZ development, that was seen to be a potential significant traffic generator. When the RTA was first approached concerning the rezoning, we objected, until such time as assurances could be implemented which would protect the road network from the additional traffic generation that could be expected to come from such a development.

There were a number of options to obtain the commitments necessary, and they were explored with council and DIPNR, and there were a lot of discussions with the proponents as well. As a result of all that, we removed the objection to the rezoning on the basis that certain provisions were included in the rezoning approval. That was obtained, and as a result of the Minister for Infrastructure and Planning including conditions which protected the road network from further traffic impacts—which required certain infrastructure to be provided to maintain the current levels of service of the existing network—that satisfied the RTA's concern.

Following the rezoning approval, the next thing required to be undertaken was to effect the various requirements to ensure that infrastructure was provided as the development took place and road junctions et cetera were required to be undertaken. That process is still being worked through today. Particularly as the rezoning covered a number of property owners, there needs to be in place a contributions plan, if you like, as the development takes place on the site and the traffic generation increases. There will be a need to provide for the future, so that if more substantial junctions are required those facilities can be funded from the take-up of the development. As I said, we are working through that and it is taking place.

The RTA's primary concern here relates to the adjacent State road network and the junctions from the development to that State road network. We are looking at the junction from the main access road within the

development to Mulbring Road. We are also looking at adjacent junctions as to what are the impacts of the additional traffic flow. That is a summary of the RTA's involvement.

CHAIR: With regard to the formal objection to the proposal at the time Cessnock council voted on it, you said you had concerns about appropriate intersections with the one major access to the site. Could you indicate precisely what were your original objections with regard to road structure and facility onto the site?

Mr SHARPE: It did not relate to specific intersections; it related to requiring assurances or commitments that appropriate road infrastructure would be provided as the development proceeded. We were looking for agreements and assurances.

CHAIR: You said in July 2001 that the RTA would have trouble supporting a development of that size with only a single point of access for heavy vehicles. Is that correct, and why is this the case?

Mr SHARPE: That was a letter that took place as part of the discussion process that was going on at the time. That was prior to the rezoning. At the rezoning we obtained the commitment we were looking for. So any of the concerns then were overtaken by the rezoning approval.

CHAIR: With regard to any additional impact on the local residents of Pelaw Main, are you satisfied that they will not be disturbed by the development of the new bypass road, which I understand is integral to this development?

Mr SHARPE: Our involvement relates more to the traffic impacts as opposed to the environmental impacts of the traffic flow through Pelaw Main, that is something that council would have considered as part of the consent for the development as it comes through.

CHAIR: That is interesting because my experiences with RTA developments in other areas of the State is that the RTA has taken a proactive role in noise mitigation procedures and conditions for the local community, that the local community has been able to relate to RTA representatives to resolve some of these issues. Is this not the case here?

Mr MAHONEY: The situation here is that the link road is a matter for Cessnock council in terms of any environmental assessment and design, so matters to do with traffic noise and so forth are up to council to determine. It is not a State road. We look after State roads in regard to road traffic noise, but not local roads.

The Hon. AMANDA FAZIO: Is that because the link road is a local road?

Mr MAHONEY: Yes.

The Hon. AMANDA FAZIO: That is the reason you do not have an involvement in it?

Mr MAHONEY: That is correct. It is done under part 4, not part 5 of the Environmental Planning and Assessment Act.

CHAIR: Nevertheless, the link road, unlike most local roads, will have quite a degree of heavy traffic along it, is that not the case?

Mr MAHONEY: That is a matter for the developer and council. I am not aware of the traffic zone.

CHAIR: Generally, from the local RTA perspective, what is your understanding of the whole-of-government approach? Would not dealing with the link road naturally include the RTA for advice, given your expertise in these sorts of areas?

Mr SHARPE: We are interested in how the link road would join on to the State roads at either end. But the proponent, if you like, for the link road is not the RTA, it is someone else. Again, the consent for the link road is something that would be considered by council as a local road, not the RTA.

The Hon. AMANDA FAZIO: Your involvement with the link road is really only where it meets Mulbring Road and John Mitchell Road?

Mr SHARPE: Yes, that is right.

The Hon. AMANDA FAZIO: Do you have any involvement where the heavy vehicle road is going into the HEZ Road? The T intersection that is being created, is that your responsibility as well?

Mr SHARPE: Yes, that comes back to the RTA.

CHAIR: And the intersection of the link road, is that also an RTA concern?

Mr SHARPE: The intersections with the State roads are matters for the RTA to consider, not the link road itself or the access road into the development from the State road.

CHAIR: It is interesting to see that differentiation between bureaucracies, which gets back to my original question: how do you interpret a whole-of-government approach to this? Perhaps there is an issue to be teased out in terms of trucks stopping at those intersections and then making what I understand to be a right-hand turn quite close to the local community of Pelaw Main. Might that not be of interest to the RTA in terms of disturbance to that local community because stopping and then starting again and turning would be quite a noise factor with heavy vehicles, would it not?

Mr SHARPE: We would be more concerned with the traffic flow and safety considerations of the junction.

Ms SYLVIA HALE: Do I take it that the RTA could make it a condition of its approval that a link road be provided, but once that link road is in place it washes its hands of the consequences for the community thereafter?

Mr SHARPE: No.

Mr MAHONEY: It does not, because the environmental assessment for the link road is done by the developer with council.

Ms SYLVIA HALE: Not by the RTA?

Mr MAHONEY: The RTA is asked to comment, but we are not the consent authority.

Ms SYLVIA HALE: You say, in effect, provided it is there it is up to other people to wear the consequences or otherwise of its impact on communities?

Mr MAHONEY: No, under the legislation the proponent and the council have that role, not the RTA. We are not the consent authority.

Ms SYLVIA HALE: But do you think in requiring a link road, the very imposition of that condition, that there is also implicit in that an obligation that you consider the impact of that link road not just on the State road but further on the down the line?

Mr MAHONEY: We provide our comments to the consent authority and to the proponent. We do not have an approval role.

The Hon. HENRY TSANG: This is a demarcation dispute.

CHAIR: Given the obvious expertise of your organisation in all aspects of road design and impact on local communities—I know many people on this Committee have had reason to have communication with the RTA in terms of community impacts—do you consider that Cessnock City Council has expertise to design a road that would be acceptable to the local community, given that it is a council road but it is also going to be primarily a heavy vehicle traffic road?

Mr MAHONEY: Yes, I believe they do. I was there this morning talking to their people and I am quite convinced that they are quite capable of doing the environmental assessment and design, and overseeing the development. I do not have a problem with that.

CHAIR: And the noise mitigation of the road fits with the RTA conditions?

Mr MAHONEY: That is up to them to decide. They have expertise.

CHAIR: No, I am asking something different.

Mr MAHONEY: They will carry that out considering the proponent.

CHAIR: In your opinion as a professional from the RTA and given that you had discussions with them this morning, is the design that Cessnock City Council promotes adequate to ensure noise mitigation and vibration, and mitigation for the people of Pelaw Main?

Mr MAHONEY: That is a matter for Cessnock council to answer, not me. They will be here this afternoon so you will be able to ask them.

CHAIR: I will ask them the same question.

Mr MAHONEY: The general manager will be here this afternoon. That is his accountability.

The Hon. HENRY TSANG: To be fair, the witness has expressed his opinion three times. He has answered the question three times.

CHAIR: The point I am making is that I am trying to understand the RTA role in what has been considered a whole-of-government approach.

The Hon. HENRY TSANG: He explained three times.

CHAIR: I do not need to be—

The Hon. HENRY TSANG: I am here. You are our Chairman. You have to be fair.

CHAIR: That is correct. I am asking questions and the gentlemen are answering the questions.

The Hon. HENRY TSANG: Same answer.

CHAIR: You are satisfied?

Mr MAHONEY: Yes.

CHAIR: Will you have any further input into the design of this particular project?

Mr MAHONEY: I will not, personally, no, because they are quite capable, as a local government agency, to consider all of those issues. That is their role in part 4 of the Environmental Planning and Assessment Act.

Ms SYLVIA HALE: Reverting to the whole-of-government approach, am I to understand that the individual components of the Government have strict demarcation boundaries so that they do not take responsibility for what the other units take on, but at the top of the whole-of-government pyramid, as it were, they can override any of the reservations or objections that any of the constituent parts have?

The Hon. AMANDA FAZIO: Would that question not be better asked of the Secretary of the Premier's Department?

CHAIR: One at a time. Ms Hale has asked the question. If you can, answer it. If you cannot, perhaps you would like to take it on notice. But if you can answer, it would be appreciated. Every member of the Committee will have ample opportunity and I will take extra time if they would like to ask further questions.

Mr MAHONEY: The RTA's role in this matter under SEPP 11 is only a consultative role.

Ms SYLVIA HALE: I want to divert to a slightly different topic. Do you regard this site as well serviced by public transport?

Mr MAHONEY: That is probably a question for DIPNR, the planning and transport people. They have the carriage of the whole-of-government issues for that. We are the road authority.

Ms SYLVIA HALE: Yesterday we were shown an alternative site. I do not by any means know whether it is a preferable site, but the suggestion was that it was serviced by John Renshaw and other major roads. From the public transport viewpoint, would that be a better site?

Mr MAHONEY: The issue that we come into in that regard is road-based public transport, so that buses and taxis can be provided in a safe fashion to serve those communities. That is our only role as a road authority.

CHAIR: Has the RTA expressed concern that not enough effort has been made to encourage the use of public transport to the estate?

Mr MAHONEY: We would refer that question to other agencies that look after public transport, such as DIPNR.

CHAIR: It is a specific question. Has the local RTA asked that question or expressed that concern?

Mr MAHONEY: I have not.

The Hon. HENRY TSANG: It is not your role, is it?

Mr MAHONEY: No.

CHAIR: Mr Sharpe, has that question been asked? Have there been concerns expressed?

The Hon. AMANDA FAZIO: He said "no".

CHAIR: Mr Mahoney may not be aware of it. I am asking Mr Sharpe whether he has been made aware or is he aware of that concern being expressed by the RTA?

Mr SHARPE: I am not aware of concerns being expressed, but as far as road access is concerned we would certainly look to see that they do cater for transport.

Mr MAHONEY: The other role that the RTA has is the provision of cycle access on roads, the provision of public transport by buses—that is a big role of the RTA—pedestrians and so forth. Any proposal that we would look at in terms of State roads, that is what our role would be. But it is up to others to ask the bigger question of land use planning and public transport, and that is DIPNR who, I assume, you may have called on not called. I am not sure.

The Hon. ROBYN PARKER: I want to take this in a different way. Recently the Federal Government announced a fairly visionary package of funding for roads, including a link and extension to the F3. That is subsequent to your planning. Is that going to have any impact at all on the HEZ development?

Mr SHARPE: As part of the developers' consideration of the development they are required to undertake traffic studies and the like, and those traffic studies can take into account the broader picture as well.

The Hon. ROBYN PARKER: In your view is the link road from the F3 now with the extension going through and out to Branxton, going to assist this development and traffic movement or not?

Mr SHARPE: The planning for the F3 to the Branxton link road has been going on for quite sometime and the developer is well aware of where it is planning to go and where the intersections and junctions and interchanges, if you like, are planned.

The Hon. ROBYN PARKER: Is that a yes or a no?

Mr SHARPE: I cannot answer for the developer, I am sorry.

The Hon. ROBYN PARKER: It does not make any difference to you in terms of your planning at all?

Mr SHARPE: We would assess the traffic studies and information as it comes through.

The Hon. ROBYN PARKER: What I am trying to get at is that I would have thought that that would assist traffic flow and safety. I am just wondering, when you say that you will assess it, whether you then have to go back to the drawing board or not? I would have thought it was an improvement, but I am asking you about that.

Mr SHARPE: Why I am hesitating to say yes or no here is because planning for the F3 to Branxton has been out there for a long time. It has been there and the developer and everybody are well aware of it and are well aware of where the connections are.

Mr MAHONEY: It has been on public exhibition for the community, the developer and everyone to see.

The Hon. ROBYN PARKER: And now it is going to be a reality!

Mr MAHONEY: Everyone makes their decisions based on what we put on exhibition so that they can see where the junctions are.

The Hon. ROBYN PARKER: So you took that into account?

Mr MAHONEY: Yes, and we got 73 submissions. That is how we assess what the community view is of that proposal, and then we continue the planning. That is what Bob is saying; the planning will continue into the future on that. It is only a concept at this stage and it will be developed up into a full design.

Mr SHARPE: That is something that is there, and the developer will consider those things as part of the overall plan.

Mr MAHONEY: Yes.

The Hon. RICK COLLESS: I will take you back to the planning stages of the HEZ proposal. Were you involved in any of these planning focus meetings prior to the formal legislative requirements that you outlined previously?

Mr SHARPE: My staff were involved in quite a few meetings and I believe there was a planning focus meeting which they attended as well.

The Hon. RICK COLLESS: When you objected, was that at a formal stage or was it at that planning focus meeting stage?

Mr SHARPE: I am not clear exactly when or where, except that we did it at an early stage. We made it clear that for rezoning to be considered, we needed to have certain things in place—certain assurances in place.

The Hon. RICK COLLESS: Would I be correct in assuming from what you have said that the whole process was a consultative process; that you actually worked with the various other organisations and agencies involved to try to come to the best decision with relation to the road structure there?

Mr SHARPE: There were certainly lots of discussions and consultation, if you like, with the various agencies, council and the developer.

The Hon. RICK COLLESS: Has any pressure ever been placed upon you by the Premier's Department or any other government agency in order to remove your objections to the proposal?

Mr SHARPE: No. When I say "no"—we operate in an environment in which we are asked about things by a lot of different groups, if you like, and what took place here was no different to any other development that we work through. We were not under pressure to move away from our standards and we worked that through and we obtained the result that we were looking for in the rezoning approval.

The Hon. RICK COLLESS: In your experience, given your obvious technical expertise in road construction and traffic flow and safety as well as all the other things you are talking about, do you see any technical difficulties in implementing a suitable road and traffic network within that HEZ proposal? While I recognise that that may be a little outside your legislative area of responsibility, I think the Committee would appreciate your opinion on that, given your obvious expertise in those areas.

Mr SHARPE: Our focus has been on how it is going to join in onto our road network and how the road network outside of the development would function. I am not aware of aspects that may be difficult within the development itself.

The Hon. RICK COLLESS: But in terms of the areas that you are involved in, are there any insurmountable problems that you foresee?

Mr SHARPE: In terms of the technical side, I do not believe there will be or is. In terms of coming up with a contributions plan to fund the work that is required, that is something that we still have to work through.

The Hon. AMANDA FAZIO: I just want to confirm with you, in relation to a question asked by the Hon. Rick Colless, whether the RTA did not treat this development any differently from any other development that it had to assess. Is that correct?

Mr SHARPE: That is correct.

The Hon. AMANDA FAZIO: In relation to the link road that will go through, which I know you do not have the statutory responsibility for because it is a local road, given that there is a 50 kilometres an hour speed limit through Pelaw Main because it is just a residential zone, and presumably there will be a higher speed limit on the link road, do you think there will be a positive impact in shifting through traffic off the local main road through Pelaw Main? I do not know if you have done traffic studies on it or not, but I just thought I would ask.

Mr SHARPE: No. I am not aware of the specific analyses that have been done, but motorists generally will pick and choose.

The Hon. HENRY TSANG: In this project, which involves 25 departments, there is a whole-of-government approach and the Director General of the Premier's Department co-ordinates and makes sure that the departments talk to each other, I presume.

Mr SHARPE: Yes, that is right. Up here in Newcastle we have a regional co-ordinator with the Premier's Department who arranges quarterly meetings with all the agency heads where service delivery and cross-agency co-ordination is worked through so that services are provided efficiently and effectively for the community. That is the key thing.

Mr MAHONEY: The other thing to add is that the number of developments and applications that come through the RTA is quite large. There are many, many instances in the Hunter and elsewhere where we are asked under State environmental planning policy [SEPP] 11 what is the RTA's view or advice. There are many, many developments going through and that is why there is a need for co-ordination and prioritisation.

Mr SHARPE: I might add that that is why we have a process which is standard and which we follow so that we have a consistent approach all the way through.

CHAIR: We had a look at a Bloomfield site, but quite apart from whether it is suitable in the long term I am wondering whether, as that is further down John Renshaw Drive, that is in a situation that is better serviced

by road, rail and public transport, or is that a more difficult site than is the current one from your RTA perspective?

Mr SHARPE: It is not something that we can comment on really because we are here dealing with the impacts on the road network. We do not give advice as to which is a better site or vice versa.

CHAIR: Well, in terms of the road network?

Mr SHARPE: Again, it is up to people to come forward with their proposals. We will consider those impacts and will treat it just like that. We do not say, "Look, this is better or worse than that." We do not get involved.

CHAIR: You have no idea at this particular time?

Mr SHARPE: That is for another agency.

Ms SYLVIA HALE: Gentlemen, in the submission by Mr Mahoney, which I assume is from both of you, it is stated that the proposed development will be a significant traffic generator. Do you see that as occurring from the outset when stage one is completed, or when the development reaches its full intensity?

Mr SHARPE: Obviously at day one it is not going to be as big as when it is fully occupied. That is one of the reasons why we are working through, with the council and the developer, a contributions plan to pick up those extra facilities that are required as it gets bigger.

Ms SYLVIA HALE: But you still think it will be significant at stage one and that it will be extra significant at stage five, for example?

Mr SHARPE: No, I am saying it is significant part-way through its development.

Ms SYLVIA HALE: Significant in terms of what type of transport? What type of transport do you expect to be generated by it? What sort of traffic? Will it be B-doubles or just motor car movements?

Mr SHARPE: The word "significant" came in here more from the viewpoint that it is a large area wise development. It will have a fair degree of transport required. It is not something just like a small development beside the road. It is a large area and it could be expected to be, therefore, a significant traffic generator.

Ms SYLVIA HALE: Both in terms of attracting traffic to it and emitting traffic from it?

Mr SHARPE: Potentially, yes.

Ms SYLVIA HALE: In your submission, you say you received two draft traffic reports. One is on the traffic impact assessment and there is the transport and accessibility environmental management strategy. You say that these reports are insufficient "for the purposes outlined above and require attention". Have you received further detail on either of those draft traffic reports?

Mr SHARPE: Not at this stage, and, as I said earlier, that is what we are working through to develop a contributions plan for the development as it progresses. That is information that is still being worked through to come up with a contributions plan.

Ms SYLVIA HALE: What sort of information has not been provided that you would think would need to be provided, if they were to be comprehensive reports?

Mr SHARPE: I am not in a position to go into detail, but there needs to be sufficient information so that the time frame, or the infrastructure needs under various time frames, can be identified. There needs to be a little bit more work done to identify the time frame of the infrastructure needs so that then a funding scenario can be developed.

Ms SYLVIA HALE: For example, if the conservation zones were to be used for open-cut mining, as I believe is permitted, you would need to know that information so that it would be taken into account in the impacts of transporting coal on your roads?

Mr SHARPE: It relates not to whether it is coal or anything else, but what are the expected traffic movements on account of the development as it progresses.

Mr MAHONEY: What that allows us to do is to design an intersection with the State road, which is our responsibility, so you get the counts, you know the turning circles and you know what is going to use that development, and then the timing of when that has to be done because obviously you have to get resources and you have to do designs and you have to do community consultation. You have to do all that process.

Ms SYLVIA HALE: But a comprehensive report would need to take into account the potential development of the site. For example, as I say, in these conservation zones, if open-cut mining is indeed permitted in them, any comprehensive report would need to take that possibility into account?

The Hon. HENRY TSANG: They would do it.

Ms SYLVIA HALE: I am not asking you. I am asking the expert.

CHAIR: Excuse me. I will give the Hon. Henry Tsang plenty of time to ask questions. He will please direct his comments through the Chair.

Mr MAHONEY: It is the responsibility of the developer to provide that information to us, but we cannot use a crystal ball.

The Hon. HENRY TSANG: Nobody knows the future. Open cut? Who knows the future?

CHAIR: The Hon. Henry Tsang will have plenty of opportunities to ask questions.

The Hon. AMANDA FAZIO: The Ms Sylvia Hale can ask unlimited questions.

Ms SYLVIA HALE: We do know the future in so far as we know that the zoning permits open-cut mining in those areas. When you are trying to work out future requirements, do you take into account those likelihoods?

Mr SHARPE: We are not going to take into account the sort of industry there. We are interested in the traffic at the junctions, and that is what we would look at.

Ms SYLVIA HALE: Surely the type of industry—

The Hon. HENRY TSANG: Can I ask a question to shortcut the process?

CHAIR: If the Hon. Henry Tsang wishes to take a point of order on the process, he is quite at liberty to do so, but he otherwise should not interrupt.

The Hon. HENRY TSANG: Point of order: The question asked is to do with something that has nothing to do with this development because open-cut mining is not part of this project.

Ms SYLVIA HALE: It is.

The Hon. HENRY TSANG: It is not. An open-cut mine in the conservation zone is not part of this project. If there is to be an open-cut mine, it will need a new development application [DA]. It would be a separate development application which would be separately dealt with by the Roads and Traffic Authority. Therefore, it is not appropriate for the question of a new development application for an open open-cut mine to be included in consideration of this development.

Mr MAHONEY: That is our understanding.

CHAIR: I might also suggest concerning the point of order that there is the capacity within the zoning of that land to have open-cut mining in the future. That is part of what I understand to be the zoning of that particular conservation zone.

The Hon. HENRY TSANG: But it requires a new DA

CHAIR: It may be a case of a new DA being required; nevertheless, it is part of the potential use of that land. I ask Ms Sylvia Hale to be as brief as possible, but I will allow the question.

The Hon. AMANDA FAZIO: But she is getting unlimited questions.

CHAIR: I give the Hon. Amanda Fazio significant opportunity shortly. Would Ms Sylvia Hale finish her question?

Ms SYLVIA HALE: No, I would rather not.

The Hon. HENRY TSANG: Please answer the question.

CHAIR: If you feel you could answer that question further, we would appreciate it.

Mr MAHONEY: On my understanding, it is exactly as the Hon. Henry Tsang has put to the Committee: if there was going to be another land use, another development application would be required. Under SEPP 11 the RTA would consider its requirements and give advice, just as we do for any development.

Ms SYLVIA HALE: You are totally dependent upon the developer to provide you with the information from which you plan?

Mr MAHONEY: That is the only way we can operate.

The Hon. AMANDA FAZIO: Are you aware that the developers are proposing to put a rail link into the top part of the development? When that is introduced, what impact will it have on vehicular traffic movements around the site? Do you have figures on that?

Mr SHARPE: We do not have any figures. We are aware that that is a consideration.

CHAIR: Given that the RTA is obviously the organisation with the greatest degree of expertise on all matters concerning road safety throughout New South Wales, are you called upon to give advice regarding conditions of local roads, community complaints, and so on? Given the RTA's expertise, is it called upon to give advice on such matters, either as a result of court challenges by community groups or requests for your expertise from local government organisations?

Mr MAHONEY: The only time we are called upon in such matters is if we, in some way, get involved in funding and then requirements are given regarding, say, alternative access to a State road. That could be a reason. If there were an accident on a State road and we wanted the State road traffic to use a local road, we would put requirements on council, but only in the event that we would be involved in funding it. Otherwise it is a matter for the local council. I have had a lot of experience with flood relief routes and emergencies, such as the bushfires in the Blue Mountains. I have been totally involved in alternative access on local roads.

CHAIR: As an RTA operative?

Mr MAHONEY: Yes. If a truck rolls over on a highway, obviously we then get involved with councils to get agreements about the use of local roads, and the repair thereof because of State road traffic using them. That is our involvement. Otherwise it is totally a matter for the local council.

CHAIR: You do not lend your expertise to any local government authority in terms of assistance with assessments of the quality of road safety, community impacts, and so on?

Mr MAHONEY: The only other area is if we are sitting as an RTA member of a committee and we give our advice, but not in a legislative sense. I am on the Blue Mountains Urban Stormwater Run-off Committee,

which covers all roads in the Blue Mountains. We have a sealing program, and we have had research with the University of Western Sydney into stormwater run-off from the dirt roads. I am only a committee member; I do not have any legislative role, but I give my advice as an environment manager.

I also get involved with traffic committees, in which we only have an advisory role. The council is still responsible. The police and the RTA are members of that committee, and our officer will freely give advice, standing on a local street corner looking at an intersection. The councillors would also be there to hear the views, and they may accept or not accept the views.

CHAIR: Are you involved, in an advisory capacity, with any local council traffic committee or other committee regarding the proposed Pelaw Main bypass?

Mr MAHONEY: No.

Ms SYLVIA HALE: The RTA would have a representative on Cessnock council's traffic committee, would it not?

Mr SHARPE: It does. But we are not taking an active role in the design of the link road.

Ms SYLVIA HALE: But you would be giving advice?

Mr SHARPE: If it comes before the traffic committee, there would be consideration by the committee itself.

Ms SYLVIA HALE: At some stage the proposal must have come before the council.

Mr SHARPE: Not necessarily.

Ms SYLVIA HALE: It has not as yet?

Mr SHARPE: Not necessarily.

Ms SYLVIA HALE: Are you saying that it has, or that it has not?

Mr SHARPE: It is not necessary that it will come before the traffic committee.

Ms SYLVIA HALE: Has it come before it in the past?

Mr SHARPE: I cannot answer that.

The Hon. RICK COLLESS: Point of order: I do not think we can expect these gentlemen to answer that question; they are obviously not members of the traffic committee. The question would be better directed to the council representatives.

CHAIR: Given that it may be beyond your knowledge, perhaps you could take the question on notice. If you can answer the question, it would be appreciated.

Ms SYLVIA HALE: This morning we heard from Hunter Water representatives that Hunter Water was in the process of developing a regional strategy, which it expected to be completed by the end of this year, which sought to take into account the future settlement and expansion of industry and therefore looked beyond specific general proposals. Is the RTA engaged in any equivalent regional strategy?

Mr SHARPE: There are strategies. The F3 to Branxton is part of that, obviously, as well as other works in the lower Hunter area.

Mr MAHONEY: The Roads 2010 document put out by the State Government leads to the Whole of New South Wales Roads Strategy, so the Hunter is part of that, as are the Blue Mountains and the Sydney region.

The Hon. AMANDA FAZIO: Like the Parramatta Road project.

Mr MAHONEY: Like the Parramatta Road project, exactly.

(The witnesses withdrew)

(Luncheon adjournment)

CHAIR: For those of you who were not here earlier today, the Committee will hold a second hearing on Friday 2 July at Parliament House. The schedule for that hearing should be available soon on the Committee web site. The transcript of today's evidence will be placed on the web site for public and media access. Anyone who misses something that is said today will be able to read the transcript on the web site. It normally takes about one week before the transcript is available. As with all parliamentary hearings, I remind members of the media present that broadcasting guidelines apply, copies of which are available at the table as are copies of the terms of reference for this inquiry. It is important that the media have regard to the provisions of not filming the public gallery during the hearing.

I again emphasise that although this is a public hearing it is not an open forum for comment from the floor. Although the Committee welcomes members of the public here today, the purpose of the hearing is to enable the Committee to hear evidence from those hear as witnesses. Members of the public are asked to give the Committee's selected witnesses the opportunity to present their evidence without interruption. Only questions from the Committee and the evidence from witnesses are recorded in the transcript. You cannot directly approach Committee members during the hearing. However, if you have a burning question you might like to write it down, quietly attract the attention of the officers at the table and they will deliver it to members of the Committee to whom it may be important. That is something that is done generally in parliamentary hearings both in the field and within Parliament House.

RODNEY WILLIAM DOHERTY, Secretary, Kurri Kurri Chamber of Commerce and Industry, and

TOBY GRIFFITH THOMAS, President, Kurri Kurri Chamber of Commerce and Industry, both sworn and examined:

CHAIR: Would either of you like to make a short statement to the Committee to clarify some of your positions?

Mr THOMAS: I think we will both make a short statement. By way of introduction, I am President of the Kurri Kurri Chamber of Commerce and Industry. I have been President for the past nine years. Rod Doherty is Secretary of the Kurri Kurri Chamber of Commerce and Industry, and has been for the past nine years. I will ask Mr Doherty to give an introduction on the basic history of the HEZ area.

Mr DOHERTY: In putting our submission together in support of the HEZ proposal, we considered the very high unemployment levels in the Cessnock LGA, which have been entrenched for probably more than 30 years since the closure of coalmines started in the middle 1960s. The area known as HEZ was occupied previously by coalmines dating back to the beginning of the century. These coalmines extracted coal. They had very high employment levels. During the construction and extraction phase of these coalmines the forests that were surrounding these coalmines were heavily harvested for pit props, railway sleepers and roof trusses in the actual coalmines. Of concern to us are these issues related to a greenfield site when we believe that the actual area in question has been a heavily used industrial area for close to 100 years.

CHAIR: Do you have anything to add, Mr Thomas?

Mr THOMAS: I can give you a basic history of the rezoning process from when it was first initiated, because I have been involved in the Hunter Valley Wine Country Development Employment Team since its inception. The Hunter Valley Wine Country Development Employment Team came about from what was known as the City of Cessnock strategy document, which was put together by a small team to put together a 10-year plan to get the whole of the Cessnock LGA up and running. Obviously, as Mr Doherty explained, there was very high unemployment in the area. It needed something to solve the unemployment. The whole area was developing into a hand-out mentality. It was very reliant on social security. We had all the socioeconomic problems that go with high unemployment. We probably have the highest unemployment in the State, particularly among the youth. My personal feelings were that all of these methods, such as RED schemes and all the other ones, to try to help the unemployment do not do so in the long term. The only way a long-term solution was going to be found was to bring in real industry and get things rolling.

The City of Cessnock strategy document suggested the formation of a peak body to drive what was in this 10-year plan contained within this document. This document was put together in the second half of 1995. In mid-1996 the Hunter Valley Wine Country Development Employment Team was formed to drive this strategy document. I was elected vice-chairman of that. It had several different working groups. One of the working groups was the Industrial Land Working Party, and I was elected to chair that. From there we started to look at what land was available within the Cessnock LGA to put together a large-scale business park to bring in the real industry. The history of that is certainly in public documents, but it has gone through an extremely rigorous process of approval and one that I had never envisaged. I have lost a lot of bets as to when the next things were going to happen. But it has gone through two periods of public display. The first proposal that went on public display was something in the order of 1,450 hectares, quite a lot larger than the current one. It received quite a few submissions. It had something in the order of 700 hectares of light industrial and about 750 hectares of general industrial.

The second proposal that was put on public display reduced that area quite considerably from 1,450 hectares to the current 890 hectares, but it changed the zoning to this 7H, this State significant zoning that is something that is probably desperately needed by the State. It is an opportunity to bring large-scale industry into the area, and that is certainly what is going to drive us forward and solve our long-term unemployment problems. There have certainly been a lot of things thrown in the way of it. Some of them are justified, some, of course, are not. You have heard from people this morning who are a bit concerned about their own backyard, and I can sympathise with that because when it is out there it is certainly going to change the whole nature of this Kurri Kurri area and, indeed, it will have a significant effect on the whole of the Hunter and, indeed, the State. But, of course, there are others who are using it for their own political ambitions, which is a little bit sad.

But I hope that the outcome of this inquiry proves that everything has been done in the correct manner—it has certainly been exhaustive and over a very large time frame—and that we get on with the job of building this industrial park.

CHAIR: Before other members commence their questions, I wonder if either of you would like to give an interpretation of your understanding of whole-of-government approach from your organisation's perspective?

Mr THOMAS: Being an integrated development, obviously it has to pass through a whole lot of different government departments. It is not just one department that determines the outcome of it. But by the same token these individual departments, from my point of view, are not consent the authority. The consent still rests with the Minister for Planning.

CHAIR: Were you in part responsible for the selection of Tomalpin as a site for development in 1995 and 1997? Perhaps you can tell us who originally selected that as the investigation site for such a development?

Mr THOMAS: This area has been, I believe, looked at by the State Government prior to the formation of this team. But this particular working party was put together in a meeting that was actually held in my offices. This morning Barry Calderwood mentioned that there were three people involved in the selection of that land. I have the minutes of that meeting here in front of me and those in attendance were myself—

The Hon. RICK COLLESS: Could I ask that the document be tabled?

CHAIR: Do you have any objection?

Mr THOMAS: No, these are all public documents.

Document tabled.

Mr THOMAS: Present at that particular meeting were myself as chairperson, Ben Chard, Ian Mcleod who was the Land Manager for Coal and Allied, and Bruce Anshaw who was the Economic Development Manager at Cessnock council. Also in attendance were Steve Edmunds from Maitland City Council and Bernie Mortimer from Cessnock City Council. We looked at the three possible sites to establish this industrial park, one of which was at the site where the old Aberdare North Coal Mine used to be on the right-hand side leading into Cessnock, the other was the area surrounding John Brown's Lagoon and the third one is where the industrial park is now going. There was not any rocket science involved, but you just had to have a look at the three different sites to realise that the one that shone out above the other two was the HEZ land.

CHAIR: What was the obvious advantage of the HEZ Tomalpin site?

Mr THOMAS: Its size, its relative isolation from populated areas—Pelaw Main of course is the closest one to it—and it was under just a few different ownerships. It was basically flat. It was basically well located to all services. It was going to be close to the F3 link road that is coming through from Seahampton to Branxton, which meant we would have four lanes of traffic from the industrial park straight into Sydney, and you just got that feeling about it that it was just absolutely ideal.

CHAIR: Would you agree, though, that it is in very close proximity to residential areas? Would you not agree that there are significant sound issues and potential disturbance for people who are living on the high side of the ridge in the village?

Mr THOMAS: There is little doubt that there will be some level of noise generated from an industrial park, but people live in the middle of Sydney with traffic going past them all the time, and they get used to it. It had to be a balance—a balance between high unemployment and some of these slight inconveniences that some people are going to suffer. You cannot get something like this that is just going to satisfy everybody 100 per cent.

CHAIR: In your submission to the inquiry you mention on the first page that it has been disappointing throughout the Hunter Economic Zone rezoning process that the National Parks and Wildlife Service has dragged the chain to the extent that it required intervention from the Premier's Department to get them to handle the application within an appropriate time frame. Could you describe to this inquiry what action you took? Did

you have a part in this process? Exactly when and how was the Premier's Department called in, and what did it actually do to facilitate completion?

Mr THOMAS: I was not personally involved in the finer details of these processes, but in the regular meetings of the Hunter Valley Wine Country Development Employment Team where the progress of these rezoning applications was reported on, it became obvious to everybody on the committee that the National Parks and Wildlife Service was dragging its heels. It was the committee members themselves who said that something had to be done about moving them on to make their decision. There was never any pressure put on anybody to make any particular decision. It was just that the pressure was there to move it along. The time frame was just getting extended and extended.

CHAIR: What did the committee do in that circumstance? What was your action?

Mr THOMAS: From my recollection, the motions were to contact the relevant people in the State Government to move it along.

CHAIR: Did that come by way of letters? What sort of communication occurred?

Mr THOMAS: I was never privy to any of the actual correspondence.

CHAIR: Who did undertake the correspondence? Did you designate someone to do that?

Mr THOMAS: The project manager of the actual rezoning process was Matt Somers and I can only assume—that is what I am doing, assuming—that he was one of the ones who handled the correspondence.

CHAIR: Do you have any indication of what the result was of the correspondence specifically, other than that you seem to have moved along?

Mr THOMAS: Only what I have seen of late—that people seem to be a little bit concerned that there was pressure put on the National Parks and Wildlife Service by Col Gellatly to process the application.

CHAIR: You are not aware of any of the specifics though?

Mr THOMAS: I am not aware of what was actually in the letter, no.

The Hon. RICK COLLESS: Mr Thomas, when you were saying that there was a hold-up in the National Parks and Wildlife Service somewhere, are you aware of what the logjam was, why the hold-up occurred and what was stopping the process from proceeding?

Mr THOMAS: No, I was not.

The Hon. ROBYN PARKER: You mentioned earlier "real industry"—that the development would bring real industry. What do you mean by "real industry"?

Mr THOMAS: This whole area has a history of coalmining, and coalminers have different needs. They have different training skills and things like that. I spent nine years in the underground coalmines myself so I am pretty familiar with the way coalminers think and with what their work requirements are. We have vineyards in this area that are firing pretty well but you just cannot assimilate these coalminers into the tourism industry; they just do not fit. What they assimilate into quite easily is the larger scale industry. When we had mechanisation come into the mining industry back in the mid-fifties, there were a lot of displaced coalminers, but BHP at the time was able to accommodate them because they had industrial skills and they fitted into BHP quite readily. But of course those jobs have gone now too; BHP has closed down. We are still left with quite a coalmining legacy of, if you like, the mentality of coalminers to be quite crude and things like that. They can assimilate into the manufacturing-type industries, so that is what we are looking for—the larger-scale manufacturing industries.

Mr DOHERTY: May I comment on real jobs?

The Hon. ROBYN PARKER: Yes. I was going to ask you next.

Mr DOHERTY: There is a perception within our community that tourism is a panacea for all of our ills. My background is of having spent 18 years at the Kurri Kurri smelter in public relations and human resources, 10 years as an ambulance officer working in this area, and I spent my nominated six years at BHP also. What we have today is an enormous growth in casualisation of our work force. Industry generally employs long-term people. We should be looking at jobs where people have a lifespan or a turnover of, say, three to five years before they want to move onto another job or another lifestyle job. What we are not getting now in the Hunter region in particular in this area is continuity of employment. With that lack of continuity of employment is also a fairly significant downsizing of the salary base.

I enjoy tourism. I enjoy going to vineyards also. But when you start talking to people out there and you talk to people in the industry, their wages are quite low. Sometimes they are holding down two and three jobs to make a reasonable living. When you look at a person who is working, say, at the smelter or in the coal industry currently, coal industry jobs are paying somewhere in the vicinity of \$60,000 to \$80,000 per annum and they are permanent jobs. The Kurri smelter and the Tomago smelter would be paying probably in the vicinity of \$40,000 to \$55,000 per annum. In this particular area we had continuity of employment in the textile industry for a number of years. The women's wages in the local area supplemented their men's wages. In the last 12 or 14 years, the textile industry left the lower Hunter in droves and put 600 to 700 women out on the scrap heap.

Also what we have actually observed was that in 1999 there was a big power play about BHP closing down and putting out of work about 2,000 people, but what actually happened was that between 1983 and 1999 they had put out of work 12,000 people. In fact, over a period of 10 years, we lost greater employment within the Hunter than what we did in that 1999 period. Going back a little bit in the history of Kurri Kurri, when the coalmines began to shut down in the middle sixties, the then Labor Government—Jack Renshaw was the Treasurer—opened up the John Renshaw Drive to Newcastle to allow the coal industry employees who were downsized access to the BHP steelworks, the dockyards and whatever there was in Newcastle.

If people were to get to Newcastle from the Cessnock or Kurri area, they had to drive over Mount Sugarloaf or drive across to Maitland and go through various railway crossings, et cetera, to get to work. Rover Motors at that particular time had coaches running backwards and forwards to BHP to carry men folk down to BHP to work. That was from 1967 to 1983. Again, we are looking at a period of about 10 years or more when all of a sudden BHP put its hand up and said, "I am out of this joint", and they moved on. Probably over five to 10 years we lost Pasminco and we lost National Textiles. We lost our textile industry, we lost BHP and the State dockyards, et cetera—all big heavy industry or blue-collar jobs that have disappeared out of the Hunter Valley.

When they announced that they were going to bring in an industrial park within the Cessnock LGA, I thought it was probably one of the best things that could ever have been achieved in the history of this community. This community is only 100 years old and has been through turmoil upon turmoil. We have been talking about local government boundary changes but this place has been subjected to four local government boundary changes, it has been subjected to about five or six State Government boundary changes over that period of time, and while I am fairly strong in my point of view, Kurri Kurri and this district have been the political scapegoat for lots of people over that period of time as well. I can remember clearly when Allan Walsh was the member for Maitland that Kurri Kurri spent a year in the Maitland electorate to make sure that Allan was elected. These are the kind of things that disappoint me, as a resident of this area for 34 years. I have seen the highs and lows. I believe personally that, with this project going ahead, it could be hopefully a major impetus for long-term employment and wealth creation for this community.

The Hon. ROBYN PARKER: Mr Doherty, you have been involved with the Business Enterprise Centre, is that right?

Mr DOHERTY: That is right.

The Hon. ROBYN PARKER: So job creation is an important aspect of your role?

Mr DOHERTY: Yes.

The Hon. ROBYN PARKER: With the State Government's moves on the Business Enterprise Centre, would you be looking for other opportunities to try to expand employment in this area?

Mr DOHERTY: Yes. We have had a disappointment in the last week.

The Hon. ROBYN PARKER: Could you expand on that and what that means to this area?

Mr DOHERTY: Principally it means a lack of opportunities for potentially unemployed people to create a small business and have direct access to a small business advisory service. The small business advisory service from 1 October will be delivered from an office in Newcastle so people from the lower Hunter and upper Hunter areas who want to have face-to-face communication with a person will have to go to Newcastle or consult an on-the-road adviser. What it means to this community and to the Maitland-Cessnock area is a loss of \$80,000 a year in grant allocations to this business community. It potentially loses about another \$83,000 a year in dollar-for-dollar sponsorship, which this business centre actually creates through councils and corporate sponsors.

The Hon. ROBYN PARKER: So there is a loss of employment opportunities rather than an improvement in terms of what is going on from the State Government's point of view?

Mr DOHERTY: No. I do not think there would be a loss. The small business sector is one of the fastest-growing sectors in the economy—and everyone knows that at all levels of government. It is the engine room of the economy—that is, businesses with between four and 20 employees. There is no doubt about that. What the loss of this particular service means is that those people who employ between four and 20 people do not have that close-association access to business facilitation, and that may mean a loss of jobs.

The Hon. IAN WEST: Are you aware of any groundswell within the community saying that this particular HEZ development is against the interests of the future of the area?

Mr DOHERTY: I only listen to the positive side; I do not listen to the negative side. My personal belief is that the negative side of your community tends to get the most oil, in the sense that if you want to put a positive spin on something the negatives will get more airplay than the positives.

Mr THOMAS: There has certainly been a generated groundswell of opposition. It is only a relatively small number, but it has been generated by people running campaigns that contain a lot of misinformation. We had been through a similar campaign just on 10 years ago when the DROSS plant was proposed for Kurri Kurri. That ended up in street marches, and it was a lot more vigorous campaign than the campaign against HEZ has been, in that it really generated a lot larger groundswell against the plant. That plant has come into Kurri Kurri; it was approved by the Land and Environment Court. It has not been a problem. It has generated employment for the locals, it is expanding down there, it is running with absolutely worldwide pollution controls, and it has set the standard. I have little doubt that what will happen at HEZ will be no different to what has happened with the DROSS plant and the DROSS debate. Once industries start appearing there, people will ask what was all the fuss about.

The Hon. AMANDA FAZIO: Are you able to indicate the unemployment rate in Kurri Kurri?

Mr DOHERTY: I am sorry, but I have a problem with the unemployment rate as stated by the ABS and the unemployment rate in reality. The reality is that the unemployment rate in our area for youth under 24 years of age would be somewhere between 27 and 30 per cent, and the unemployment rate in mature-age adults would be in the vicinity of 12 to 15 per cent.

The Hon. AMANDA FAZIO: Apart from the HEZ project, are any other significant employers on the horizon in this area?

Mr THOMAS: None that I am aware of.

Mr DOHERTY: In our community, the significant employer is the aluminium industry. Combining that with Weston Aluminium and the Kurri Kurri smelter, you are probably looking at about 650 people, plus the contractors. The next significant employer in our area would probably be education.

The Hon. AMANDA FAZIO: I understand the new Business Advisory Centre to be located in Newcastle will be funded at \$200,000 a year, which is a lot more than the combined budgets of the lower Hunter and Kurri Kurri business enterprise centres. Does your concern about the consolidation of those two services in Newcastle relate to the lack of available face-to-face contact, rather than the allocated level of funding?

Mr DOHERTY: I would like to correct you on the funding issue. The funding for the upper Hunter, the lower Hunter and Newcastle was \$240,000 per annum. Fifty per cent of the Manning district, which is the Great Lakes area and Gloucester, which is another 31,000 people, has been added to our business service area, which takes another \$40,000. So the loss of income to the Hunter is closer to \$80,000 which is a shortfall.

The Hon. AMANDA FAZIO: You have concerns on both grounds?

Mr DOHERTY: We have concerns on all grounds. We now have to service 600,000 people over one of the largest regional areas anywhere in the State.

The Hon. HENRY TSANG: Mr Doherty, a couple of hours ago the Committee members and a few of our colleagues walked through the streets of Kurri Kurri. We spoke with a shopkeeper retiree, who responded to my remark that Kurri Kurri appears to be a wonderful, quiet town. He told me that in the old days when there was a lot of industry in the area, the town was quite busy and alive and people enjoyed their active lifestyle. Would you like to comment on that?

Mr DOHERTY: I was amazed that the primary school had a population of 700 or 800 students. One of the primary school principals told me that the school had up to 1,000 students at one stage. The township of Kurri Kurri today has no banks. Not much more than 10 years ago Kurri Kurri had the State Bank, the St George Bank, the Commonwealth Bank and Westpac. The State Bank opened in Kurri Kurri because we knew the manager and he gained the payroll from the textile industry. The textile industry payroll was valued at \$20 million. When the textile industry closed in Kurri Kurri, the State Bank walked out and left the teller machine, and so did the St George Bank. We lost two banks immediately, just on the textile industry closure.

In more recent times, we cannot understand the Commonwealth Bank's reasoning for shutting, but we took on Westpac when it was closing, and we also spoke to the Commonwealth Bank and asked whether it realised that somewhere in the future we had a large industrial park development under way. But through the Commonwealth Bank's normal rationalisation, it said, "You can do your services in other regional areas." I believe that when I first came to Kurri Kurri in 1971 it was a much busier town as a retail shopping area than it is today.

Ms SYLVIA HALE: Mr Doherty, you seem to place great store on the fact that an industrial park will generate a large number of jobs. I believe 15,000 is the level that has been spoken of. Given the obstacles that businesses might confront, given that they must be heavy industry, and that there is to be no light industry or small commercial activity on the site, given that they have to contend with 31 threatened species and how they are going to be preserved and protected, and given that they have land that has been heavily mined and subjected to subsidence, and in light of the fact that you have traced that over the last 40 years there seems to have been a flight of industry from the Hunter, what sorts of industries do you anticipate will be attracted to the centre that might not find equally attractive locations elsewhere without any of these disadvantages?

Mr DOHERTY: I do not think that anywhere in Toby's or my submissions this afternoon we have mentioned 15,000 jobs.

Ms SYLVIA HALE: I think HEZ has, has it not?

Mr DOHERTY: Yes, but I do not work for HEZ. I do not think that anywhere in our submission this afternoon we have mentioned that heavy industry was going to be the panacea. I said that long-term employment was going to be the panacea, not heavy industry. In this day and age, the dinosaurs are BHP and Pasminco. I do not believe any Australian would vote for a new BHP or a new Pasminco.

What we are hoping to attract and see come to this area is job-creation businesses of high-tech, transportation, perhaps electronics, and perhaps downstream aluminium support industries. We produce probably close to 30 per cent of Australia's aluminium ingot, and yet we export the majority of it. I personally believe that we should be looking at attracting aluminium industries that can value-add to the product, thus creating jobs.

A marketing manager at the smelter said to me some 10 years ago we should be looking at downstream products. At that time I wrote an article in which I said that by 2000 the car industry would be using upwards of 50 million aluminium wheels a year. He said, "I don't believe that to be so." In 2004, the majority of showrooms

have new cars with aluminium wheels on them, and yet the majority of the aluminium wheels on those cars are imported. Most are manufactured in South Australia.

Ms SYLVIA HALE: But we are looking at the HEZ area. I take it light industry has been excluded. Historically, light industry generates more jobs than heavy industry, particularly if we are looking at plants that presumably will be very highly mechanised. In what way will this heavy industry site contribute, do you believe, to job creation in the area?

Mr DOHERTY: Let us not go down the track of thinking that another BHP is going to be built on HEZ. Heavy industry in Newcastle created about 15,000 jobs, at BHP, Tubemakers and Lysaghts. That heavy industry, which has a two-to-one multiplier, was looking at 45,000 to 50,000 jobs in Newcastle. When BHP shut, the focus was on BHP; the focus was not on the other 6,000 to 10,000 contractors who lost their work life as a result of the BHP closure. When the Alcan smelter came to Kurri Kurri, it was a stand-alone unit of 22,000 tonnes per annum. It is a 165,000 tonnes per annum plant, and hopefully it will go to 200,000-odd tonnes. When it came to town, it created employment for upwards of 1,500 people through contract services provided to the plant. If a large industry—I do not like the term "heavy industry"—comes to HEZ, I would guarantee you that the multiplier effect would be at least two to one.

Ms SYLVIA HALE: But is it not only zoned for heavy industry, not light industry?

Mr THOMAS: May I answer that question? No, it is not zoned for heavy industry or light industry. It is not zoned 4A or 4B as such; it has its own special zoning of 7H, which is for State-significant industries. It does not mean that those State-significant industries are going to have a big smoke stack on them. They could be very high-tech industries, but they have to be of large scale and of State significance in what they do.

Ms SYLVIA HALE: Mr Doherty, are you aware of a recent study by the Hunter Valley Research Foundation that said that the problem for the area is not the lack of jobs but the lack of educational opportunities and facilities?

Mr DOHERTY: The Hunter Valley Research Foundation does lots of studies for lots of things. Would you ask the question again?

Ms SYLVIA HALE: Are you aware of a Hunter Valley Research Foundation study that said the problem confronting the region is not the unavailability of jobs but the lack of educational opportunities in the area?

Mr DOHERTY: The Hunter area has some of the best educational institutions anywhere in the country. It has an excellent university, excellent TAFE facilities, and excellent high schools right across the region. Our region still churns out some of the highest qualified students anywhere in Australia, and so does the Kurri Kurri community. Some of the best high school students in the State have come from Kurri Kurri.

Ms SYLVIA HALE: Do you think the research foundation's report was incorrect in suggesting that?

The Hon. RICK COLLESS: Point of order: I have listened to this line of questioning for some time. Ms Sylvia Hale's question has nothing to do with the terms of reference for the inquiry.

CHAIR: I uphold the point of order. If Ms Sylvia Hale can relate the line of questioning to the terms of reference, she may pursue it.

Ms SYLVIA HALE: Mr Thomas, you spoke about the Hunter Valley wine development and employment team. Can you tell me who were members of that organisation?

Mr THOMAS: I can. I can read out a list of the full committee. This Hunter Valley Wine Country Development Employment Team had several working parties. There was the Industrial Land Working Party, the Tourism Working Party, Behavioural and Attitudinal Development Working Party, Marketing Working Party, Light Metals Task Force, and at that particular time we had the Olympic Business Opportunities Committee. This team was not put together with just one agenda, it was broad based to just look at everything that was holding the area back and try to address the problems. At this time the full committee was John Knipe chairman, Toby Thoma vice-chairman, Chris Barnes, Katie Brassil, John Clarence, Trevor Coombe, Colin Cowan, Alison

Davey, John Drayton, Rick Griffiths, Duncan Hardie, Janette Jackson, Alan Keller, Michael Murray, Catherine Parsons, Merv Pyne, James Ryan, Tony Sansom, Garbis Simonian and Lindsay Whaling.

Ms SYLVIA HALE: How would you describe representation on the committee? Was there any specific representation from residents?

Mr THOMAS: When you say "residents", all of these people were residents. I am a resident myself and I sat on it, so what do you define as a resident.

Ms SYLVIA HALE: The people who had a commercial or business interest in the area as opposed to people who were employees of those commercial or business interests?

Mr THOMAS: James Ryan was on the committee, and you heard James this morning. You know which side of the fence he is on.

Ms SYLVIA HALE: Was Mr Ryan removed from the committee?

Mr THOMAS: He was voted off the committee, yes.

Ms SYLVIA HALE: Was that not the committee that was responsible for examining and locating the varying sites? You say that you looked at it. Was it the committee that actually looked at the three sites and then came up with the Tomalpin site?

Mr THOMAS: It was the Industrial Land Working Party that was given that charter.

Ms SYLVIA HALE: Were there any representatives on the Hunter Valley Wine Country Development Employment Team with any environmental credentials?

Mr THOMAS: There was a further committee put together, which was a community liaison committee as this HEZ went through its processor for rezoning, and that particular committee had quite a few residents and people of different groups on it to report back to the community.

Ms SYLVIA HALE: But I asked about people with particular environmental credentials who were able to assess the relative merits from a threatened species or environmental aspect when they were looking at the choices?

The Hon. AMANDA FAZIO: Were there any birdwatchers on the committee?

The Hon. HENRY TSANG: Point of order.

CHAIR: I am interested to know whether threatened species registered as an issue with the initial choice of sites that you described previously. Was it a recognised issue at that time or something that came later?

Mr THOMAS: No, it is something that really came later because most of the threatened species out there have been shot by the local residents.

The Hon. HENRY TSANG: If there is further information that witnesses want to submit in terms of environmental concerns, could they do that?

CHAIR: Certainly, we have no objection. If you have further information you would like to submit to the Committee, we would be quite happy to take that.

(The witnesses withdrew.)

COLIN LESLIE COWAN, General Manager, Cessnock City Council, Post Office Box 152 Cessnock sworn and examined:

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

Mr COWAN: At the invitation of the Committee.

CHAIR: But in what capacity, as an individual or as a representative of an organisation?

Mr COWAN: I represent Cessnock City Council.

CHAIR: Are you conversant with the terms of reference of this inquiry?

Mr COWAN: I am.

CHAIR: I understand that there was a submission from a former member of Cessnock City Council Mr Kosh, but other than that Cessnock City Council does not have a submission before the inquiry. If you would like to take this opportunity to address some concerns, you may put them before the Committee commences to ask questions.

Mr COWAN: No, only to say that council was not the consent authority. We believe that the terms of reference are not directed in our direction. The council was unanimous, but one, in its support for the proposal from day one. Obviously, I will represent the views of the corporate body, being the council.

CHAIR: A few issues arose when we were discussing matters with the RTA in terms of the bypass road.

Mr COWAN: Do you mean that spine road?

CHAIR: The Pewal Main bypass.

Mr COWAN: The proposed bypass we are talking about.

CHAIR: Yes. Could you detail for the Committee the process in council and where it is up to? The RTA was unable to answer a number of matters raised by Committee members in terms of noise amelioration to reduce the impact of traffic noise on local residents. As the RTA has indicated clearly, it is a local council issue because it is a local council road.

Mr COWAN: The answer to that is very simple, there is no development consent because it is still under consideration. Until that is finalised I am not in a position, and nobody is, because, clearly, the assessment process has to occur on its merits.

CHAIR: There has been no assessment of this particular road?

Mr COWAN: No approval has been given.

Ms SYLVIA HALE: Was there no DA lodged either, is that correct?

Mr COWAN: That is correct.

CHAIR: Would you be able to give the Committee your understanding of the whole-of-government approach in terms of this significant development?

Mr COWAN: My view of that is—whole-of-government approach—we need to address it on the basis of ecologically sustainable development. We need to take all of those factors into account. It is environmental, social, economic and the things we understand. Whole-of-government approach is a balanced approach by all of government, so it is not fragmented, so there is a cohesive approach to it, bearing in mind this project has had the support of the State Government, the current State Government, and the council from day one.

CHAIR: Is that all aspects of the current State Government, all departments?

Mr COWAN: I speak for the Government, I do not speak for individual departments. But their views are their own.

CHAIR: We have received information that there were objections from the RTA at a certain stage to certain aspects of this development, and there are also concerns from the National Parks and Wildlife Service as I understand it.

Mr COWAN: I am only speaking from what the Premier has produced on this. There were some initial objections, which were withdrawn by the RTA when their understanding was that they were virtually economic. They did not want to be burdened by the cost of providing road infrastructure. When that issue was overcome their objections were no longer valid.

CHAIR: It was not a safety issue at all, only an economic issue?

Mr COWAN: Economic issues. They simply did not want to be footed with the bill.

CHAIR: Could you indicate to the Committee who provided money to engage the executive planner?

Mr COWAN: The council provided the money. We paid the executive planner. We had a priority processing arrangement and the developer paid us an amount of money that covered consultants' costs all round. It is not an unusual process. The system in New South Wales is devoid of suitably experienced and qualified planners. It is not unique to Cessnock. It applies everywhere. You should understand that Cessnock council deals with some of the major projects in the State right now. We have \$600 million, \$400 million developments that we deal with. They would simply not proceed without external assistance.

CHAIR: Could you enlighten the Committee on the executive planner's contract? Does it say that they were to have HEZ rezoned in accordance with council's time line? Could you enlarge on that?

Mr COWAN: Yes, I have a copy of the contract here if I might read from it.

Ms SYLVIA HALE: Would you be prepared to table that contract?

Mr COWAN: I am more than happy to do so.

The Hon. AMANDA FAZIO: There are no commercial in confidence concerns relating to the consultant? You do not need to check with them first?

Ms SYLVIA HALE: It has been made available through freedom of information.

Mr COWAN: It has already been acquired through freedom of information. All I would ask is that the Committee respect the remuneration details that are provided in this contract.

Motion by the Hon. Rick Colless, seconded by the Hon. Amanda Fazio:

That the remuneration details not be published.

CHAIR: Is that document entitled "Conditions of Engagement"?

Mr COWAN: Conditions of engagement and there are several document annexed to it.

CHAIR: Please continue.

Mr COWAN: If we look at the schedule of services on lump sum fee it talks about work to be principally focused on that Hunter Economic Zone and it puts some other detail in there, including the LEP, DCP, section 94 plan, the environmental management plan, infrastructure planning, vision statement, assisting in marketing the site and processing all DAs, and all other relevant tasks. However, if there is available time within the contract period, other work outside HEZ may be undertaken. In essence, that is what it says. The

position description goes on to say that the key result areas are more important than the duties because they are more general.

The draft LEP, DCP section 94 plan and environmental management plan are processed and adopted, gazetted in accordance with the time line for the projects—it does say that. Council unashamedly supported this from the outset, and that is the reason they engaged this person, bearing in mind—and I stress for the information of the Committee—they were not the consent authority. It would have been quite different if we had been the consent authority. It also goes on to say, among other things, that the highest environmental standards are achieved so that the HEZ will stand as a benchmark twenty-first century industrial park, and that is referred to throughout the documentation.

Ms SYLVIA HALE: Does that not imply that the HEZ will be approved?

Mr COWAN: Absolutely. No apologies for that whatsoever.

CHAIR: Could the executive planner be seen to have a conflict of interest in assessing the submissions that objected to the proposed industrial estate?

Mr COWAN: He may have, and you may perceive that, but I stress for the sake of the Committee that we were not the consent authority. The ultimate decision was not that of Cessnock City Council.

The Hon. AMANDA FAZIO: And were those submissions that were sent in forwarded on to the consent authority? What happened to them?

Mr COWAN: Those submissions that were sent in were not assessed by the executive planner, they were assessed by another council planner, a senior strategic planner, who actually dealt with those quite separate.

The Hon. HENRY TSANG: Is it true that this executive planner is engaged partly for the purposes of zoning? Once the zoning is done the council will deal with it as a development application and this consultant will no longer be involved. You will have a separate system, your own consultant, your own employed town planner dealing with the separate issue of the DA. Therefore the zoning and the DA are two separate issues. You are not the consent authority, it is the Government of New South Wales. When you are the consent authority you would then have your own set of consultants or employees to deal with.

Mr COWAN: That is the case.

CHAIR: In terms of that rezoning, if the executive planner was to make it as good as he could, there would always have been the intention of rezoning. Is that correct?

Mr COWAN: Absolutely.

CHAIR: It was a foregone conclusion?

Mr COWAN: No.

CHAIR: With the right conditions?

Mr COWAN: No. With respect, I would say that you are trying to twist my words. I said we are not the consent authority. We are not the consent authority, so we were not in a position to make a determination.

CHAIR: Who was in a position to set up the structure with the rezoning?

Mr COWAN: That was agreed to through the whole consultative process with the Government and the government agencies.

CHAIR: But the council had a lead role in working with this executive planner to facilitate that rezoning?

Mr COWAN: Yes, we did. But once again, you can do what you like, but unless you are the ultimate decision maker, that is their decision—whether they like it, do not like it, or whatever. They will come to their own conclusions.

CHAIR: Fair enough, Mr Cowan, but I think you will agree that if the basic building blocks are set up for a certain structure, if you like, to go ahead, then there is an impetus that is perhaps unstoppable. I am not here assessing the merits of the eventual product; I am talking about the processes being undertaken from the point where you have the executive planner employed to achieve a rezoning as such. You are setting up a dynamic, if you like, to create an industrial site or an estate on that site, eventually.

Mr COWAN: Okay, but all I can say is that we beg to differ on that point, Mr Chairman.

The Hon. HENRY TSANG: I seek clarification.

CHAIR: Is that clarification on that point? You might note that I am being very lenient.

The Hon. HENRY TSANG: Thank you. As the general manager, you are charged with the policy of the elected council of the day in relation to certain decisions that were made when it was elected to create employment: therefore for the industrial park to be developed. Therefore you are working under the charter of the council's policy?

Mr COWAN: Absolutely.

CHAIR: On that matter, Mr Cowan, would it be reasonable to say that it is questionable whether people who objected to the estate would get a fair hearing if the planner who assessed their submissions was contracted to get the land rezoned?

Mr COWAN: As I have pointed out to you before, the submissions were not assessed by the executive planner.

CHAIR: By whom were the submissions assessed?

The Hon. HENRY TSANG: The Government.

Mr COWAN: No. They were assessed internally by another. I am not proposing to mention people by name because they are not party to this inquiry. However, it was a senior strategic planner, well respected in local government, who was not attached, directed or controlled by the executive planner.

CHAIR: Employed by whom?

Mr COWAN: Cessnock City Council.

The Hon. AMANDA FAZIO: We heard evidence this morning about alleged forged submissions, in favour of the development going ahead, being received by council. I am wondering if you were aware of that and if you could tell the Committee what action, if any, council took in relation to any complaints. I understand that people received acknowledgement letters to submissions. They rang council and said, "What are you sending me an acknowledgement letter for? I did not write anything." Can you tell us what happened with that?

Mr COWAN: I am aware of a couple of instances of that. They were drawn to my attention and I instructed that they be referred to, I think—there have been so many departmental changes in name—the department of planning at the time. We referred it off, but we were not in a position to investigate that.

The Hon. AMANDA FAZIO: Can I ask you about the approach that the council took to the development at Tomalpin? How many councillors are there on the Cessnock City Council? Are there 12?

Mr COWAN: There are 12, plus a popularly elected mayor.

The Hon. AMANDA FAZIO: You had 12 people on the council in favour of the development and one against.

Mr COWAN: That we did.

The Hon. AMANDA FAZIO: Council then adopted a policy of trying to facilitate the development going ahead so that you would create more jobs and economic benefit for the area?

Mr COWAN: Absolutely.

The Hon. AMANDA FAZIO: In accordance with that direction of council, do you believe that the way the council set about trying to promote this development was appropriate and in the best interests of the majority of the community?

Mr COWAN: Undoubtedly.

The Hon. RICK COLLESS: I want to take a slightly different tack from the approval process and beyond. There have been a lot of statements made about zone 7B which I think is called the habitat protection zone of some 800-odd hectares under the proposed plan. Can you advise the Committee what activities would be permissible under that zone?

Mr COWAN: Once again, when all of the environmental issues have been dealt with, they in fact will determine what activities are permissible because they are recognised and are identified as potential constraints. Those constraints will govern what, if anything, happens in that area.

The Hon. RICK COLLESS: One of the things that we have been told is that that area can be mined, subdivided and built on as rural-residential blocks and that sort of thing. Is it likely that that will happen in that zone?

Mr COWAN: As a general blanket statement, that may be possible. But, as we know, each and every one of those developments will be subject to its own assessment, and the individual assessment will determine what is possible, what is permissible, and what is not.

The Hon. AMANDA FAZIO: Would that be just an ordinary development approval process, or for something like a mine they would need an environmental impact statement [EIS], would they not?

Mr COWAN: Absolutely, and the Minister would make that determination. It would certainly be called up and it would be a ministerial decision, I believe.

The Hon. RICK COLLESS: Can you advise the Committee then of what the tenure is on that particular zone? Is it freehold land, Crown land or what is it?

Mr COWAN: I do not know, off hand. I would have to consult the maps to positively identify the land tenure.

The Hon. AMANDA FAZIO: Mr Cowan, if the HEZ proposal for that Tomalpin land had not appeared, what were the other potential uses to which that land could have been put? It was not just going to sit there, was it?

Mr COWAN: Well, it may have. It sat there for a long, long time. If it was part of the former Coal and Allied Rio Tinto holding acquired by Hardie Holdings, it had probably sat there for 40 years and nothing had happened to it, so it is a matter of identifying what the potential of that land is. Clearly, if a private individual owns land, they simply cannot leave it there and expect nothing to happen with it.

The Hon. HENRY TSANG: This morning we heard evidence which questions the ability or competency of your council in designing and in taking into account environmental considerations for the link road which, if it is built, will be under your jurisdiction.

Mr COWAN: Yes.

The Hon. HENRY TSANG: Can you tell us that whether your council is able, capable and competent to deliver a link road?

Mr COWAN: Absolutely. It is what we do. It is what councils build. We spend about \$16 million or \$18 million a year on road construction. We do it year in, year out. It is our bread and butter.

CHAIR: Mr Cowan, were elected councillors told that the planner had a special interest in getting the land rezoned? Was that clearly indicated to the council at the time?

Mr COWAN: I cannot remember the details. What I am saying is that I cannot remember if the council approved the actual terms of engagement. It is so long ago, I simply cannot remember that.

CHAIR: Perhaps you can take it on notice and refresh your memory with some documents, if that is possible?

Mr COWAN: Yes. I can certainly consult the minutes on that. But what I can say in clarification is that I am sure the council was well aware of the intention and supported that intention entirely.

CHAIR: Should the planner have declared a pecuniary interest under the Local Government Act?

Mr COWAN: How would he have a pecuniary interest?

CHAIR: In that he is paid specifically and has a special interest in getting the land rezoned.

Mr COWAN: I do not believe there is any pecuniary interest.

CHAIR: In your letter to the Premier's Department on 22 October 2002, you accuse the Swift Parrot Recovery Team of colluding with local political interests. Can you explain that?

Mr COWAN: Yes, I certainly can. It was either collusion or a remarkable series of coincidences. We can decide what we want that to be, but the date that report was released to us, it was also released to those people who objected to this proposal. I would suggest to you that is a remarkable series of coincidences.

Ms SYLVIA HALE: Was it not a public report that was supposed to be publicly available?

Mr COWAN: At that time, I believe not.

Ms SYLVIA HALE: Who commissioned the report?

Mr COWAN: It was the Federal Government that issued the swift parrot report. It was not a State Government initiative at all.

Ms SYLVIA HALE: But can you see anything wrong with interested members of the public having access to reports that have presumably been paid for with public money?

Mr COWAN: Absolutely not, but I do have an objection if they are used to frustrate a legitimate process, and when people provide it for reasons that it was not originally intended for.

Ms SYLVIA HALE: But is not the function of the report to provide an informed basis for further action—not to frustrate something, but to say that if we take this, this and this action, we have to beware of these consequences? That is the whole purpose of having the report, surely?

Mr COWAN: That is a point of view.

Ms SYLVIA HALE: Can you suggest what other purpose there would be to having such a report prepared?

Mr COWAN: No. I prefer not to pursue that avenue. As I said, I have a point of view—a remarkable set of coincidences.

Ms SYLVIA HALE: What is the collusive element in that? I wish you would spell that out. It is one thing to make allegations and it is another thing to actually substantiate them.

The Hon. AMANDA FAZIO: You never ask your people to back up their crazy allegations.

CHAIR: Members should address comments through the Chair. That comment is out of order.

Ms SYLVIA HALE: Mr Cowan, with regard to the spine road development application, did the executive consultant planner have any involvement with that development application [DA]?

Mr COWAN: I am not sure whether he had left the project by that stage or not.

Ms SYLVIA HALE: Could you take that question on notice and then inform us as to whether he had any involvement, and what that involvement entails?

Mr COWAN: We can.

Ms SYLVIA HALE: Did the executive consultant planner have any delegated authority to approve any development applications on the site?

Mr COWAN: No.

Ms SYLVIA HALE: No delegated authority whatsoever?

Mr COWAN: No, not to approve. He reported to a director.

Ms SYLVIA HALE: But he could make a recommendation. He had delegated authority therefore to make a report and a recommendation, but that was ultimately subject to the director's approval?

Mr COWAN: Yes, and, I would think, to the council. As far as I am aware in relation to the HEZ, those things would generally dealt with by the council. But everybody makes a recommendation. That is what you employ people for.

Ms SYLVIA HALE: If the Pelaw Main bypass goes ahead, one of the factors that seems to be of concern to the community is that that bypass will be used by a large amount of very heavy traffic and that Pelaw Main is already a site that has been honeycombed with the mining tunnels, shafts and whatever. The propositions I will put to you are all hypothetical.

Mr COWAN: Sure.

Ms SYLVIA HALE: If there were any subsidence as a result of the construction of the road, who would be responsible for any compensation claims that might arise as a result? Would that be the community as a whole, through the council, or would it be the developer who required the bypass to go ahead?

Mr COWAN: That is very much a hypothetical, as we say.

Ms SYLVIA HALE: I admit that.

Mr COWAN: Very much a hypothetical.

CHAIR: But given your experience—

Mr COWAN: I will attempt to be pragmatic in answering it. Firstly, it is a civil engineering issue. The applicant would first have to demonstrate that the proposed route of the bypass met all the necessary civil engineering requirements, and they would then have to satisfy the council. As to potential liability, once council was satisfied and accepted dedication of that road, it would become a council responsibility. But if we relied on advice, and that advice turned out to be wrong, obviously there would be a cause of action by us against that provider.

Ms SYLVIA HALE: What would be the impact on the whole development if council were persuaded that there was not the assurance from your civil engineering studies that the road would be constructed—

The Hon. HENRY TSANG: Point of order: We are not inquiring into a failed piece of engineering on the site.

CHAIR: I allowed you to ask some erudite questions earlier. Perhaps if the question is allowed to be put and answered quickly, we will get through it.

Ms SYLVIA HALE: If for any reason council, in its wisdom, decides that it does not want the bypass to proceed, what impact will that have on HEZ?

Mr COWAN: That is a matter for the applicant.

Ms SYLVIA HALE: But council is obviously keen for the development to proceed.

Mr COWAN: Absolutely.

Ms SYLVIA HALE: What impact do you think it would have?

Mr COWAN: It is not for me to speculate on the commercial decisions that the applicant may take. But I am not envisaging those outcomes, because I simply do not know until the assessment is completed.

The Hon. ROBYN PARKER: Is mining subsidence an issue with regard to development applications in the Cessnock shire?

Mr COWAN: It is, in some locations.

The Hon. ROBYN PARKER: Is it insurmountable, or is it simply a matter of course that development applications meet mining subsidence requirements?

Mr COWAN: No. In some locations it does cause some degree of difficulty, and they are issues that need to be addressed. What we need to understand is that those locations are limited. As I said, it is going to be up to the applicant to demonstrate that what they propose is in fact achievable.

The Hon. ROBYN PARKER: So mining subsidence in the HEZ area is not a problem as far as council is concerned?

Mr COWAN: There are areas where individual development applications will require their own individual assessments. One cannot see what is under the ground. Until you have done your investigation, you really do not know.

The Hon. ROBYN PARKER: Evidence has been presented to us that there was insufficient investigation of alternative sites, given that there was an interest in promoting a large industrial development. What is your view on that?

Mr COWAN: With respect to the inquiry, I think they need to go back before the HEZ, because this goes back a long time before the HEZ. Alex Martin, the project manager for Hassell, and Dr Phillip O'Neill, who is well respected and well known, were the authors of the Hassell report, with some assistance from other consultants. This area was identified in that report; there are other sites. In essence, the report concludes that New South Wales, and the Hunter Valley in particular, is not well served by tracts of land suitable for heavy industrial purposes. A lot of research has been done by the Hassell report. But what it found is that nobody really knew; the information was not there. As to alternative sites, I am sure there are bits and pieces, but there is no consolidated, large site that you can develop into a cohesive and managed fashion.

The Hon. ROBYN PARKER: Are you familiar with the Bloomfield colliery site?

Mr COWAN: Very much so.

The Hon. ROBYN PARKER: How much of that falls into the Cessnock local government area?

Mr COWAN: Most of it.

The Hon. ROBYN PARKER: In your view, would that be suitable for a development such as the Hunter Economic Zone?

Mr COWAN: It is a big hole in the ground, and a whole lot of issues need to be dealt with. But you must also remember that that is relatively close to urban development, particularly in the Maitland and Thornton areas.

CHAIR: Is it closer than the HEZ site?

Mr COWAN: If you go through to parts of East Maitland and the suburbs there, it is not very far at all across there.

CHAIR: Are we talking about hundreds of metres? When we were taken on site, we saw that aspects of the HEZ site were quite close to built-up areas. Comparatively, is the Bloomfield colliery site more restrictive than that? You are obviously well acquainted with the urban development centre.

Mr COWAN: I am well acquainted with both sites. There are two things. Until you know what the industry is, and what the impact will be, I do not think anyone can make an informed decision, because every industry is different and every impact is different. With some industry you can build right up to the back fence, so to speak, and it will not have an impact; others you have to put a long way away. But that site is so heavily disturbed. I would not be prepared to make a call on whether it is suitable or not; I simply do not know.

The Hon. ROBYN PARKER: The Hassell report and council's view is, therefore, that the current site is preferable to any other site, is that what you are saying?

Mr COWAN: Yes. It is the preferred site, subject to the constraints being managed.

Ms SYLVIA HALE: Was the purpose of the Hassell report to compare various sites, or to assess the operational desirability of the HEZ site?

Mr COWAN: The site was identified and they said, "Have a look at it." But, as you will see in the report, they also looked at other sites within the Hunter Valley and thereabouts.

Ms SYLVIA HALE: Did they do so in any depth, or was it just in passing?

Mr COWAN: I think you will find that they could not find any other sites of that magnitude.

Ms SYLVIA HALE: Did the Hassell report attempt to assess the ecological impacts, or issues that were entailed in the HEZ site?

Mr COWAN: It identified them as issues that would require detailed examination.

Ms SYLVIA HALE: But it did not attempt to undertake them itself?

Mr COWAN: No, not in a study of that type.

Ms SYLVIA HALE: It simply flagged them?

Mr COWAN: Yes.

The Hon. AMANDA FAZIO: At the time in 1996 when the industrial land working group was looking at proposed sites—Mr Thomas told us it looked at three sites—was the Bloomfield site available then, or was it still being used as a coalmine?

Mr COWAN: It is still being used as a coalmine today.

The Hon. AMANDA FAZIO: I went through a newspaper clipping service and got a large number of press clippings about this project from the *Newcastle and Hunter Herald*. I take it that it has been a project of some concern within the local community. During the council election campaign earlier this year, was there any significant change in the ratio of councillors who support the project and those who oppose it?

Mr COWAN: There was a change of one. One opponent of the project was defeated at the election, and one opponent of the project was elected at the election. As far as I am aware, the balance remains the same.

The Hon. AMANDA FAZIO: Was the project—

CHAIR: Is this relevant to the terms of reference?

The Hon. AMANDA FAZIO: Of course it is relevant, because it goes to the heart of community support for the project. Was the Tomalpin site a big issue in the election campaign?

Mr COWAN: Obviously I have to be careful how I answer that; I am a public servant, not a politician.

The Hon. AMANDA FAZIO: Was it an issue in the local newspapers?

Mr COWAN: I believe that outside Kurri Kurri it was not an issue that dictated the result of the election.

CHAIR: The National Parks and Wildlife Service has asked repeatedly to have the national park removed from the definition of the HEZ because it is confusing people. The council has rushed through an amendment to the LEP to allow the development to be cleared without a development application. Why has it not acted on the National Parks and Wildlife Service's request?

Mr COWAN: Firstly, I am not sure what that question means in its entirety. Council does not have any control over national parks. If National Parks wants to do something with its land, it does it.

CHAIR: But I understand that the actual project still includes the national park area as part of the acknowledged conservation protection zones and so on.

Mr COWAN: It is a contiguous parcel of land.

CHAIR: It is contiguous, but it is not part of the HEZ site by any means.

Mr COWAN: No, it is not.

CHAIR: It was established separately from this development process.

Mr COWAN: Yes. And I think we should remember that the national park did not exist when this process began. The national park was gazetted after the HEZ process began.

CHAIR: But the national park was gazetted before the overall process was completed; it was gazetted as a separate activity by another department.

Mr COWAN: It was not even on the horizon when this process commenced.

CHAIR: As I understand it, it is part of the regional forest assessment process, which was gained as part of an overall agreement with government. I think it is quite separate from the HEZ development.

Mr COWAN: That is a matter of interpretation—and I have no issue if someone wants to interpret it that way. But all council is saying is that there is a contiguous parcel of land of about 3,000 hectares—national park, forest, Crown land, Mindaribba Aboriginal Land Council land—that makes up that component. If somebody wants to colour it a different colour, that is fine, but I do not think it changes the issue.

CHAIR: It is hardly part of the development conservation zone.

Mr COWAN: No, it is not.

Ms SYLVIA HALE: And you would not say that its gazettal as a national park had anything to do with the HEZ proposal?

Mr COWAN: No.

Ms SYLVIA HALE: They were totally separate issues?

Mr COWAN: Yes.

(The witness withdrew)

MATTHEW JOSEPH SOMERS, General Manager, Hardie Holdings, Level 4, 251 Wharf Road, Newcastle, sworn and examined:

DUNCAN JOHN HARDIE, Investor, GPO Box 2557, Sydney, and

CRAIG JOHN ANDERSON, Ecologist, Post Office Box 428, Hamilton, both affirmed and examined:

CHAIR: In what capacity are you appearing before the Committee, as an individual or as a representative of an organisation?

Mr HARDIE: I am here as the chairman of several HEZ companies.

CHAIR: Are you conversant with the terms of reference of this inquiry?

Mr HARDIE: Yes.

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

Mr SOMERS: As General Manager of Hardie Holdings, which is the major shareholder of HEZ.

CHAIR: Are you conversant with the terms of reference of this inquiry?

Mr SOMERS: Yes, I am.

CHAIR: In what capacity are you appearing before the Committee, as an individual or as a representative of an organisation?

Mr ANDERSON: I am Senior Ecologist with Harper Somers O'Sullivan, consulting ecologist to HEZ Pty Limited

CHAIR: Are you conversant with the terms of reference of the inquiry?

Mr ANDERSON: Yes I am.

CHAIR: Before questions are asked by members of the Committee, would one of you like to make a short statement?

Mr SOMERS: We are here today to talk about the project that we call the Hunter Economic Zone, which is a very important project for our company. A couple of things have been missed this morning. What I think is very important for us to remember is that this is a project that has been ongoing now for some seven years, and the life of this project from now, from when the first industry starts until the completion of this project, is probably another 10, 15 or 20 years. I think that has been missed this morning. What I would like to do, if I could, is spend a moment to go over the process of where we have got to and how we got there. Then I would like to clarify some issues that have been discussed earlier today. Lastly, before taking questions from the Committee, through you, Mr Chairman, I would like to outline some of the positives and the messages that we would like you to take away and the Committee to take away about the Hunter Economic Zone.

You have heard many people talk about the process so far today, and how we got to where we are. Our company became involved when Hardie Holdings purchased a significant tract of land from Coal and Allied, the previous owners of the site. The site itself, as you have been told already today, encompasses a number of land holdings. Hardie Holdings bought a number of tranches of land from Coal and Allied and it happened to be that the land out at Tomalpin was one of those. At that point in time we had had no involvement in that wine country team or the economic development committee of council, or with the State Government in their selection for the commissioning of the Hassell report or anything like that. It was only after we purchased the land that we became aware of the activities that council had proposed for the land.

Certainly, at that point in time, when council indicated to us where they wanted this land to go in terms of its future development and the future role it would play in terms of the economy of this area, yes, we did

become very actively involved. Mr Hardie joined the wine country employment development team, and we worked collaboratively with council and with government to get this land rezoned. That is the process to where it has come. The process went through an exhaustive and transparent process to get to where it is. It went through a formal rezoning application lodged with all the appropriate accompanying number of studies, and there is an exhaustive list of those, I am sure you have been provided with those already. If you have not, I am happy to provide you with them.

It then went through the consultative process with State Government through various focus meetings with the various government departments. After having been discussed with the various government departments a formal rezoning was lodged and it was adopted by council to go on exhibition. There was a public meeting. There were a number of submissions received from the public, and amendments to the LEP were made to reflect some of the issues raised not only by the public but also by the various government departments. A revised zoning plan was prepared, which was then put on exhibition a second time and another round of public meetings held. After the conclusion of that process council endorsed the proposal and sent it forward to then Planning New South Wales for review and gazettal by the Minister. That review occurred and gazettal occurred, and the announcement was made by Minister Refshauge in March 2002. The process of where this rezoning has come from over an exhaustive period—transparent, involving the public, involving government agencies.

I would like to clarify some of the issues that you have heard or have been submitted previously to you—I do not want to talk particularly to our submission because you have that and you can read it in your own time. Much has been made about the threatened species on site, but nothing has been mentioned to you of the appropriate conservation outcomes on site. In fact, for the vast majority of those threatened species National Parks are happy with the conservation outcomes. The vast majority of the species are adequately represented in the reserve system, but that is never mentioned. It has not been mentioned yet.

Mention has been made in this forum and others that the vegetation out there represents an old growth forest. It is not an old growth forest. You would have seen it yourself yesterday when you were there. It has been stated that it is the largest tract of bushland on the valley floor. That is demonstrably not true. There are other areas larger on the valley floor, and I can point them out to you if you wish. It has been implied that significant subdivision can occur on the site in the 7B zone. Again, this is simply not true. I will hand up to the Committee, I have a copy for each member of the Committee, is the LEP that created the 7B zone at the HEZ site. It is over three pages. I will hand those up and talk to them for a moment.

Document tabled.

Mr SOMERS: Under subdivision of land within zone 7B, Clause 17A of the Cessnock LEP says that consent shall not be granted to the subdivision of land within zone 7B. It cannot be subdivided. However, you need to turn over to the next page in the photocopy that I have provided to look at clause 56 (1) (iii), which says that despite clause 17A, which is the one I just read to you saying no subdivision, consent may be granted to the subdivision of land to which this clause applies solely for the purposes of subdivided areas of land within 4H, 5A or 7B along zone boundaries. The perfect example of that is, if you look at the map up there you will see that the riparian zone that runs through a contiguous parcel of land owned by Hardie Holdings. It is 7B. The surrounding zone is 4H. Under this clause it allows you to excise the 7B away from the 4H. That is the only way you can subdivide land out at HEZ.

CHAIR: To clarify that, you are saying that that excision, if you like, is for conservation purposes not any other actual use?

Mr SOMERS: That is right. I seek the Committee's indulgence to hand up a letter that we have sent to Cessnock council.

Letter tabled.

Mr SOMERS: During the rezoning process we acknowledged that there were conservation outcomes to be achieved in the 7B land and we were happy for there to be no development within the 7B land. Both Planning New South Wales, as it was then, and Cessnock City Council had concerns that you take away every development right from the parcel of land. They were saying that there could be an argument placed, not my words but their words, that there could be a case made that that was compulsory acquisition of land. If you set aside land for a public purpose and allow no development opportunities, it is de facto acquisition of land.

Cessnock council and Planning New South Wales insisted that clause 59 (2), dealt with in the LEP, which is the third sheet of the photocopy I gave you, does say that despite clause 17B, consent may be granted to the development of land to which this clause applies for the purpose of one, but not more than one, dwelling house but only if that land has an area of not less than 25 hectares and there is no dwelling house on the land.

I remind you that it cannot subdivide land itself, except along zone boundaries. Therefore the only way you can have a dwelling house out there is on an individual title. If you look at the approximate 1,000 hectares of environmental land out there, applying these clauses the best you can do is approximately six dwelling houses. That is the best you can do in 2,500 acres of land, which is approximately four square miles. I think that should address the concern of the Committee regarding development of the environmental land. If I can carry on to clarify a couple more issues for a moment before we turn to questions. We have heard much made of some of our opponents saying they represent the community. We do not believe they do represent the community. They represent a part of the community and they are entitled to their opinion and they are entitled to their view. They are not entitled to say they represent the community.

HEZ Pty Limited has commissioned the survey by the Hunter Valley Research Foundation, which I will pass up again, Mr Chairman, with your permission, which shows that 74 per cent of people in the Cessnock LGA support the rezoning and development of the HEZ. I can hear my opponents in the background now smirking and laughing saying, "But you prepared the question for the Hunter Valley Research Foundation." That is not true. As anyone around this table would know, with the integrity of the Hunter Valley Research Foundation they would not be influenced by the person asking for the survey to formulate the question. I will pass this up for distribution among the members. I would like to read the question as asked by the Hunter Valley Research Foundation.

Document tabled.

CHAIR: Where was that?

Mr SOMERS: It is on page two under the heading "Results", "Attitudes towards the HEZ Project". I might read, if I could, the question as asked. It says that the Hunter economic zone, or HEZ, is a large area with business and industrial components located near Kurri Kurri. The site is held by private interests, the Mindaribba Aboriginal Land Council, Cessnock council and New South Wales government agencies. The site also includes a conservation area 2½ times the size of the business and industrial area. HEZ will accommodate a wide range of businesses and industries, including manufacturing, engineering, recyclable, distribution and telecommunications. Do you agree or disagree with the HEZ development and conservation land project? As I said, 74 per cent of the community agreed with that.

CHAIR: In terms of the ratio there, the conservation area—what does that include?

Mr SOMERS: It includes the national park, Mr Chairman. I am sure that is what you are getting at.

CHAIR: It certainly does colour things a bit.

Mr SOMERS: Yes, it does. If I might add on that point that, as Mr Cowan from the council said, when this process started, when the area was identified in the Hassell report and investigations were commenced, it included that area of State forest which is now gazetted as national park. The rezoning was actually formally lodged with council and the first we knew about the gazettal of the national park was when we held a focus meeting with government agencies. Katherine Sale from the National Parks and Wildlife Service indicated to us that under the forestry agreement, as mentioned earlier, that had been gazetted as national park. However, Mr Chairman, it is worth noting that the national park got its full statutory enforcement with the rezoning of the HEZ. In the rezoning of the HEZ the national park went to 8A national park. Before that it was gazetted as national park but it was still zoned State forest.

Additionally, I have heard comments today which are new to me about the National Parks and Wildlife Service requesting that the national park be taken out of the HEZ study area or the HEZ area, certainly contrary to the negotiations and discussions we have been having with the National Parks and Wildlife Service which indicate that they want it left within the study component because our ecologist, at great expense to our company, has undertaken significant ecological studies in the area, including the national park, which have added to the knowledge base of the national parks system itself. I will move on to just a couple more points.

You have heard that the Bloomfield site has been held up as a candidate area where this could have gone. I think Mr Cowan expressed it well when he said that at the time this proposal was put forward, the Bloomfield site was a working mine. It is still a working mine today but I can assure you that if any intellectual rigour is given to an analysis of the Bloomfield site, it is not suitable for industrial development. I am happy to take you in detail to that later, if you like.

CHAIR: Perhaps you could present something to the inquiry by taking it on notice.

Mr SOMERS: I have it here. I can give it to you now. With your permission, Mr Chairman, I will hand up some documents.

The Hon. AMANDA FAZIO: I move:

That the documents be tabled.

Motion agreed to.

Documents tabled.

Mr SOMERS: You have there an aerial photograph of the Bloomfield site outlined in red. I have not extended it any further to the east because that now includes the Donaldson Mine and the conservation reserve that is associated with the Donaldson Mine. That is the limit in the east. The limit in the north is the limit of the Bloomfield area where Mr Cowan said earlier it abuts the residential area of East Maitland.

CHAIR: Excuse me. Could that mobile phone be turned off? I am sorry about that. Please continue, Mr Somers.

Mr SOMERS: The limit to the south is John Renshaw Drive and the limit to the west is Buchanan Road. What I have done there is outline the areas that would be suitable for possible development without the whole scale demolition of any more trees, and you have those eight areas. If I can refer you to the eight areas in turn, area 1 is substantially cleared and as you can see it abuts the residential area of East Maitland. In my opinion it would be a better potential use as an extension of the residential zone. Area 2 is the existing Maitland garbage tip and also an area of environmental sensitivity, as outlined in the Maitland settlement strategy which was tabled last week. Area 3 is a disturbed area of open-cut coalmining. Area 4 is an old area of disturbed open-cut coalmining and has now been rehabilitated. But you will see from the photograph it is unconsolidated fill in a hilly type of situation and is certainly not suitable for an industrial development.

Area 5, which is the largest area on the site, is basically a large hole in the ground. Area 6 is suitable for industrial development. It is about 22 hectares and is located around the old washery site. Area 7 is cleared and appears, from a simplistic overview, to be unconstrained and may be suitable for industrial development. Area 8, which abuts John Renshaw Drive, again appears to be suitable for potential industrial development on albeit a brief overview, but with some intellectual rigour brought to it, which is more than our opponents have done, from that I think you can see that unless you are prepared to whole scale clear the Bloomfield site, you have potentially around 110 hectares of land that is suitable for industrial development. That is before you look at all the other raft of studies you would have to have a look at, one being the undermining. You were told earlier today, misleadingly, that there is no underground mining at Bloomfield. There is: so you would have the same issue of mine subsidence. You would then have to look at the areas of ecology and you would have to look at the issues of the requirements of the Department of Infrastructure, Planning and Natural Resources [DIPNR] for the creeks, et cetera, and all the other raft of studies you have to do. I think we can demonstrate that the Bloomfield site is not a viable alternative to the HEZ site.

I notice our opponents actually have a press release in the *Maitland Mercury* about it today trumpeting that the going ahead of the HEZ will in fact detract from the Maitland industrial capability in terms of the development of any more industrial land at Maitland because we would use up the capacity of the Farley treatment works. I think this morning Hunter Water adequately addressed that point and that is simply not true. One of the other things that was said of the HEZ is that it is the largest known swift parrot site on mainland Australia. That is simply not true. In fact, the largest recording of swift parrots on mainland Australia is currently occurring in the Bateau Bay area on the Central Coast. It is interesting to note that that proliferation of swift parrots in Bateau Bay at the moment is in fact occurring in a residential area where there just happens to be

the right food trees there at the moment. One of the other things we find misleading is in fact the name of this inquiry. It has been called the Tomalpin woodlands which we think is misleading at best, Mr Chairman, in that there is no such ecological community as the Tomalpin woodlands.

There is also a matter I would like to clarify which is the matter of the mine subsidence issue. Again I believe that has been misleading and irrelevant. I think you have heard other people today talk about the issue of mine subsidence and how it will not necessarily be an impediment to the development of the site. Certainly there may be issues to be addressed in relation to mine subsidence but they will not necessarily be an impediment to development. The other thing that is often said of this site is that 900 hectares of bushland will be cleared. That is simply not true. There are 900 hectares of potential development site. When you take into account some of the constraints from the undermining, the issues of setback and associated things within the environmental management strategies, there will be—and I am not saying that there will be hundreds of hectares of it—ribbons of vegetation left through this development, notwithstanding that the National Parks and Wildlife Service has already said that it is happy with the environmental outcomes and the conservation targets we have achieved. There will still be vegetation left on the 900 hectares.

You have heard that no alternative sites were considered, and I think you now have heard from others besides us that that simply is not true. Mr Toby Thomas indicated to you that there were at least three sites that they considered and while I am not sure how many were considered in the Hassell report, it appears that other sites were considered in the Hassell report. One of the things that is often said is that there is no industry interested in coming to the HEZ. In fact there is significant industry interested in coming to the HEZ. We have a number of users with which we are in detailed discussions at the moment. Without revealing the commercially confidential nature of those discussions, one of them is a large rubber recycling plant which is an investment of approximately \$250 million involving 150 jobs; another is a precast panel manufacturer which represents a \$50 million investment and 50 jobs; another is a mixed industry facility representing 35 jobs and \$25 million; another is a hub and spoke distribution centre representing 25 jobs and an investment worth \$60 million; and another is a major heavy vehicle manufacturing plant with about 20 to 30 jobs and a \$25 million investment. There are industries that are ready to come to the HEZ, Mr Chairman.

I will quickly make three minor points before I conclude. We heard about the potential for coalmining within the 7B zone. We would gladly have that removed from the 7B zone except that Mineral Resources, a Government body, insists that it be there. Their sole purview on life is to ensure that the mineral resources of this State are not sterilised. They would not agree to the LEP being rezoned unless it was left in there. It is not our decision. It is a government decision.

CHAIR: Just on that point, Mr Somers, as I understand it, Mineral Resources on any land does have a priority like that.

Mr SOMERS: That is right.

CHAIR: Albeit that there are other uses, either conservation or industrial development, Mineral Resources still has the No. 1 starting block, if it so desires.

Mr SOMERS: That is right, exactly.

CHAIR: How do you resolve that?

Mr SOMERS: Mr Chairman, I think the issue is that there is no proposal to mine land there at the moment. But I think more telling than that is that in my opening statement I have said that Hardie Holdings purchased this land off Coal and Allied, which is a mining company. It is part of Rio Tinto, which is the largest mining house in the world. It sold the land and relinquished a coal lease. If Rio Tinto, the largest mining house in the world, thought there was a valuable resource there, I doubt it would have surrendered the lease. With the possibility of mining, it is possible. Legally, they can lodge a development application [DA], run an environmental impact statement [EIS] and open-cut mine that 7B zone, but I think, Mr Chairman, we need to deal in reality, not in fantasy. I do not think it is going to happen.

Mr Chairman, you also heard that we are not complying with our environmental management strategies. You were told today that our roads must curve and must not be straight like those you drove on yesterday. You need to realise where the environmental management strategies sit within the planning regime. The top of the

planning regime, as outlined in our submission to which I direct you—page 20 or page 29 which has a diagram—is the LEP. The LEP sits at the top and it can only be changed by consent, by a formal process, by a rezoning being run through both local government and the State Government before it can be changed. That sits at the top of the pecking order. Below that is a development control plan which says that we have now rezoned that land and this is the way we would like to see it generally happen. Below that again sits the environmental management strategies.

The environmental management strategies are not set in stone; they are meant to be guiding principles of how this development will work, and they will adapt and change over time. For someone to say they have not complied with a management strategy, it may be true, but it is just one factor in a whole range of factors needing consideration.

I wish to make one last point on the matters I wish to clarify. It has been suggested that we should look at reducing the size of the HEZ from its current 900 hectares to 200 hectares. The situation is that at 200 hectares it is not viable. The cost of providing the infrastructure into this development—road, rail, water, sewer and power—is such that you will not get a return at 200 hectares. Two-hundred hectares will not cut it; you just cannot do it. There is no return at 200 hectares. It needs to be the size it is to be viable.

To put in a link road to take the traffic out of Pelaw Main is an expensive exercise. I think our last budget cost for that is about \$4.5 million. Our traffic study indicates that on a typical 15-year development phase, that does not need to be until about year seven. But we have given a commitment, and the council has given a commitment, to the people of Pelaw Main that it will go in prior to any development commencing operation on HEZ.

Similarly, you have heard from Hunter Water this morning that while water and sewer capacity can be provided to the site, it comes at a significant cost. That cost is borne by the developer; it is borne by us. There is a critical size that HEZ needs to be, and it is not 200 hectares; it is closer to the 900 hectares it currently is.

They are the issues I would like to clarify. There are some very important points on this project that I would like the Committee to consider. The rezoning is a result of intergovernmental co-operation to provide New South Wales with a large-scale industrial estate. New South Wales was lacking that large-scale industrial estate before HEZ. If you wanted to bring a manufacturing facility to New South Wales that required 20, 30, 40 or 50 hectares of land in close proximity to a population base, in close proximity to the major export port, in close proximity to the major urban area of New South Wales, you just could not find it; it just was not available.

This rezoning is important not only to this local government area but also to New South Wales. New South Wales is losing economic development to areas such as Gladstone and Geelong, and overseas to Auckland, because it cannot provide that infrastructure and that land here in New South Wales. This rezoning has been through an open and transparent statutory process over seven years, and that process is still ongoing.

After the rezoning was complete, Hardie Holdings and HEZ had spent more than \$300,000 providing an ecological constraints master plan, and I believe we are within days of having that signed off by the National Parks and Wildlife Service. In fact, if this Committee was not sitting at the moment, we believe we would have had that sign-off before today.

No other development in New South Wales has had the ecological scrutiny that this project has had. The reason that there are 31 identified threatened species in the HEZ is that we have gone and looked for them. We have found them. That is why we know they are there. If there was any other tract of land in New South Wales with this much vegetation on it, and you gave it the scrutiny that this project has had, you would find a similar number of threatened species. But this project is about balance. It is about balance between the environment and development. In fact, the methodology we have used in terms of the ecological constraints master plan—and I will let my colleague Mr Anderson speak about it further if the Committee wants more detail—has been the benchmark now adopted by Minister Debus for the proposed changes to the Threatened Species Act.

As I said earlier, this project achieves a balance between environment and development. Probably the only point that Mr Ryan and I agree on is that we need a balance between environment and development, and this project achieves it. The project has the potential to provide in excess of 14,000 direct jobs and more than 12,000 indirect jobs in an area that badly needs economic stimulus. When fully developed, HEZ has the potential to inject approximately \$1.4 billion a year into the Hunter economy.

I would like to conclude my remarks at that point, and I am happy to take questions. If the questions could be directed to me, I will determine which one of us will answer them.

CHAIR: You have provided a lot of information to the inquiry, and that is appreciated. Could you comment on the fact that the HEZ seems to acknowledge in its latest species impact statement that the conservation zone allows dwelling development? Were you referring to that in terms of the limited dwelling development that you described?

Mr SOMERS: I am happy to provide to the Committee a plan that would show how we work out that only six houses could be built there. You need to step your way through the LEP, look at the clauses I have tabled before the Committee, which show no subdivision, subdivision only along zoning lines, and then the requirement of 25 hectares but only one house per title.

Because it does require that level of detail to assess it, National Parks has always had an issue with it because it also does not understand it fully. We have said to National Parks that we would be happy for that provision to be removed from the LEP. As shown in the letter I sent to Mr Mortimer, council's director of strategic planning, Mr Mortimer is not happy with that, because of the issues I outlined earlier. Therefore, about a month ago we sent a letter to Mr Mortimer saying that the agency has this concern, that we would like to address that concern, that council does not want us to ask for the removal of the development rights for a dwelling, so how can we address the agency's concern.

Mr HARDIE: Perhaps I could add something to that point. Mindaribba Aboriginal Land Council, which is probably the biggest contributor of the 7B lands, has been particularly strong on not losing this land development opportunity of its dwellings. The council is very sensitive about taking away its right to build an Aboriginal home on its land, whether it be 7B or not.

CHAIR: How many dwellings are on the Mindaribba land?

Mr SOMERS: On the entire 1,000 hectares, six. I will give you the breakdown of ownership between HEZ and Mindaribba as part of the plan that I will gladly provide to the Committee.

CHAIR: I understand a botanist working for HEZ has recommended that parts of the conservation zone should be converted to national park. Does this indicate that the conservation zone is not doing its job?

Mr SOMERS: With due respect, I did not follow the question. Could you please repeat it?

CHAIR: Has any botanist working for HEZ recommended that parts of the conservation zone be converted or transferred to national park?

Mr SOMERS: I might pass the question over to Mr Anderson, who has much more day-to-day contact with National Parks than I do.

Mr ANDERSON: I presume you are referring to the report by Stephen Bell, who undertook a vegetation assessment of the HEZ. I seem to remember that that was one of the possible recommendations that Mr Bell had forwarded. I guess he believes that the 7B land situation with the current provisions for dwellings may potentially leave the door open, so to speak, in terms of compromising any outcomes that rely on those lands.

As we all know, it is one thing to say "Let's make it national park" and another to actually set the mechanisms in place to ensure that happens. The National Parks and Wildlife Service firstly has to want to acquire it and have the funds to look after it. Certainly the idea has been touted with the service in the past, but at this stage it has made no moves to enact anything along those lines.

CHAIR: You would agree, would you not, that it is deserving of national park status?

Mr ANDERSON: No, I would not. I think the 7B zoning, in its intent, provides an adequate conservation outcome. Just because something is possible within a zone does not mean that it will happen and it is a fait accompli. You still need to go through a statutory process to enable development to occur in those areas. From the progress of the ecological constraints master plan and the works that have been done on the 2,300

hectares of conservation lands, I suggest that it is unlikely that dwelling houses would be permitted by National Parks under integrated development within those areas.

Mr SOMERS: Additionally, it is because of the concern raised by the service that we have written to Mr Mortimer to see how we can better address that concern. We do not have an answer from Mr Mortimer at this stage. But we are prepared to work collaboratively with council, and with the National Parks and Wildlife Service, to ensure that those outcomes are achieved.

CHAIR: Whether we regard it as the largest area in terms of the swift parrot seasonal habitat—and I appreciate what you are saying about another area; indeed, I think it is acknowledged all round that it is a very important habitat—I commend particularly the riparian zone boundaries that you have presented, which are beyond what is required of you with regard to distances.

With regard to another species of bird, the black-chinned honeyeater, its habitat is not so much the wetter riparian areas and areas that you have given protection to, but the dryer woodlands which are part of the area that is designated for industrial zoning. Could you comment on that?

Mr ANDERSON: I would imagine that the use of the habitat within the site by the black-chinned honeyeater and the various other woodland birds will change seasonally, and also annually during the different seasons. If you look at scientific literature with regard to the woodland birds—the black-chinned honeyeater, the brown tree-creeper, the speckled warbler and the grey-crowned babbler—the brown tree-creeper, for example, according to the best scientific information available, requires the largest area, 200 hectares, of intact habitat to remain viable. To my mind, 2,300 hectares is significantly larger than 200 hectares, and therefore it would seem to me that we are talking about a factor of 10 as the minimum area of land involved to keep these species viable. So for people to say that the loss of habitat within the 4H lands of the HEZ is going to lead to extinction of these species is a quantum leap.

CHAIR: In terms of the road we travelled down when we first entered the site, and I was given an indication of the buffer zones and the potential tree plans, we did get information that there was a requirement that it was not the straight road that we are seeing now, that there was going to be a touching canopy. The are two quite distinct perspectives on what it should be. Could you clarify that in terms of what is on the plans and what is in black and white about that access road?

Mr SOMERS: I might refer defer to my colleague again.

Mr ANDERSON: Again, I refer to Mr Somers' comments in regard to the role of the EMSs and the fact that they are not statutory documents. In any event, in regard to the need or otherwise for a connecting tree canopy, or at least a very close tree canopy across the tree to facilitate the species, as Mr Ryan told us before, gliding possums can glide up to 50 metres, but we suggested that 30 metres is probably a more realistic figure as a maximum that these species should have to traverse. As such, we are currently working with National Parks and Wildlife in regard to our current application before council and, hence, refer to National Parks for the crossing of the conservation corridor as we saw on site the other day.

What we are proposing is that the road will be taken to the minimum width feasible in engineering terms and from there vegetation will be retained as close to the batters as possible. Bearing in mind that we cannot retain large, mature trees immediately adjacent to significant earthworks, we will use other potential mechanisms to facilitate movement, such as the erection of glider poles, which are virtually like telegraph poles without the wires, because literally all a glider needs is a structure to get from A to B. They can be put in place until the trees around there mature. There will also be significant fauna underpasses, which have been designed in line with RTA's best practice guidelines as per the Pacific Highway upgrade works. We are also looking at a multitude of culverts and pipes to ensure that the hydrological regime through that conservation area is maintained as far as is feasible.

CHAIR: Is that at variance with regional plans that are laid down, hence the lack of understanding, or is that the original plan that was put forward for the design of that road?

Mr ANDERSON: I am not sure which regional plans you are referring to.

CHAIR: I am not questioning the environmental bona fides you are describing in terms of the design of the road and the accompanying protection measures that you are taking. Is that as it was projected originally in terms of your design, or is that different to the original design?

Mr ANDERSON: I am still not sure as to which original design.

CHAIR: Information has been given to us that, originally, it was narrower, it was a winding road and there was a promise to maintain the canopy as part of the project. I am not arguing what your design is now, I am just trying to understand why there is such a difference of opinion between two sets of people who are appearing before this inquiry.

Mr SOMERS: The spine road, which is the only road under construction at the moment and the only road for which we are seeking approval, has always been envisaged as it is now. We are talking about a road leading into a large industrial estate that will have large trucks. I would think you would agree that it is not a road that needs a circuitous form of entry.

CHAIR: It may not need an absolutely straight entry. That is not the argument. I am just asking whether there is actually a difference in what was stated at one stage and what is occurring now, or whether there is consistency. I am not questioning the engineering of it.

Mr SOMERS: I am trying to get to the point to say that the critical part, take for example the interlocking canopies we are talking about, is the riparian zone. The riparian zone is there not only to protect the particular species of red gum, which I cannot question to you because I do not know it as well as a gentleman on my left, but it is also there as a linkage.

CHAIR: There is no argument about that. I have given you an appropriate compliment in terms of your taking the extra riparian zone, which I, as a conservationist, certainly appreciate. I am just asking about this other—

Mr SOMERS: I am trying to get to the point that in my opinion, although I am happy to look back in the records and confirm to the Committee, the environmental management strategy talks about the interlocking canopies and the circuitous narrowing of roads, et cetera, where appropriate, which is in the riparian zone. But I will take that question on notice and get back to you.

The Hon. RICK COLLESS: I would like to ask you a couple of questions about the spotted gum ironbark. Is the swift parrot habitat essentially in that spotted gum ironbark community?

Mr SOMERS: You will appreciate it if I defer to Mr Anderson again, who knows these things.

Mr ANDERSON: I guess the perceived importance of the spotted gum ironbark forest to the swift parrot is that spotted gum is a winter flowering eucalypt species. Most eucalypt species, of course, flower in spring and summer. It provides a potential resource in the locality when few other species would be flowering. Forest red gum is flowering at a similar time, slightly staggered. Spotted gums are sporadic flowerers, to say the least. I have heard an old timber-getter say that spotted gum will flower once every eight years. In year one these ones here will flower and in year two these ones over here will flower. Swift parrots are utilising the site when spotted gum is heavily in flower.

Records have been provided by the local birdwatchers from the year 2000 when spotted gum is due to flowered profusely in the Cessnock LGA. The site at Bateau Bay that Mr Somers told you about before utilises a totally different food resource. They use standard swamp mahogany in coastal swamp forests, which is a rich nectar resource also in winter when the birds are on the mainland. Other times of the year they would use the box ironbark woodlands in central Victoria. They go as far up into south-eastern Queensland and almost across into South Australia. It usually depends on where the food resource is when taking to the mainland. They will move to those areas in response. Not only nectar, they will also feed on lerp, which is the sugary exudate surrounding an insect on gum leaves.

If you are talking about a population of swift parrots, I think 2000 was the last estimate, and when we are talking about over 65 per cent of the potential habitat on the HEZ site alone not including any individual trees that may be retained in the 900 hectares as stated by Mr Somers, and we have certainly located a lot of those—it

is well documented that the swift parrot is happy to use individual large trees in parklands—combine that with all of the other habitat that is still in the local area, including sites such as Bloomfield, I think that it is far call to make to say that development of the 4H plans will lead to the extinction of the swift parrot.

The Hon. RICK COLLESS: There are a number of other types of spotted gum ironbark forests in the vicinity, and I refer to the Seaham spotted gum ironbark forest and the coastal spotted gum ironbark forest. Does the swift parrot use those communities as well as the lower Hunter spotted ironbark forest?

Mr ANDERSON: I would suspect so because the Swift Parrot Recovery Team will tell us that swift parrots will tend to go to trees that have a high nectar production. They are looking for trees on lower lands, more fertile soils. Some of those other spotted gum communities that you have referred to, the differentiation between those and the lower Hunter spotted gum ironbark forest that is on the HEZ site is that they are in more moist, more fertile areas closer to the coast. I would think it is undoubted that they would utilise those forests.

The Hon. RICK COLLESS: They may be more likely to flower more regularly if that is the case?

Mr ANDERSON: Potentially. I do not know that. That would be speculation.

The Hon. RICK COLLESS: The swift parrot will feed on all three forest types. If we assume that the 900 hectares was going to be clear-felled for trees, what impact would that have, given the distribution of the spotted gum throughout the lower Hunter area, not only the lower Hunter type but the Seaham type and coastal foothills type? As a percentage, it would appear to be a very small percentage. What impact would that have on the swift parrots?

Mr ANDERSON: From the latest data available that would be less than 2 per cent of the extent of lower Hunter spotted gum ironbark forest, let alone those other spotted gum varieties you are talking about as well. I think it is important to note that the information pertaining to the importance of the spotted gum ironbark forest is coming from the Swift Parrot Recovery Team, which is funded through the National Heritage Trust out of Canberra. The threatened species unit from the Department of Environment and Conservation, the old National Parks in Sydney, are not entirely in agreement with the outcomes and, I guess, the assumptions made in some of the reports in regard to the worth of these forests. They think that the situation has been overstated.

The Hon. ROBYN PARKER: I do not want to ask questions about the swift parrot, but I do want to ask questions about the land zoning. You have been involved with this project for some time. When you were purchasing the land in the first instance, you said you did not know that council had a view at that time for the purpose of that land. At the time of purchasing, for what purpose were you buying the land?

Mr HARDIE: We were quite active, and still are, land rezoners and subdividers. At that particular stage we could not keep up the supply of 100-acre blocks. We purchased that particular site with the view of turning it primarily into 100-acre lots. There are existing, I think, five small lots of sub 40 hectares, which we believed had a building entitlement. In all we were going to get 19 building allotments fall under the rural 1A zoning. There was a road going through, the extension of the hospital road. There was a power line running through it. We were going to create 19 lots. They would have been farmland today with very little disregard to the current environment—dogs, land clearing, a house on each lot, sheds and so on.

The Hon. ROBYN PARKER: Did the council come to you and say, "Now that you own this land, here is an idea"?

Mr HARDIE: Yes, they took us aside and confidentially told us about the rezoning investigatory work that was taking place at the time. We weighed it up and made the decision that we would go along with their studies in the short term until we got a handle on it. I must admit there were times when we wondered whether we had made the right decision. But as time progressed it appeared that this was a better way forward, yes.

The Hon. ROBYN PARKER: Who was doing the investigation at that time? Was that the Hassell report or was that an independent survey?

Mr SOMERS: At the time that Hardie Holdings became involved it was the time that council had just received the Hassell report. It was fair to say at that point in time that without the impetus that our company and others put into it, it probably would have floundered at that time. But we were advised by council as to what

their view was of this area and, as Mr Hardie has said, we decided to go along with that and run with that for a while and see what happened. That is how we have got to where we are today. But at that time it was basically as you have heard from Mr Thomas and Mr Cowan. That wine country team had been trying to promote it as best they could.

The Hon. ROBYN PARKER: The group that then progressed through council, about which we heard from Mr Cowan earlier, with the actual rezoning et cetera, was that a subsidiary of Hardie Holdings or an independent?

Mr SOMERS: No, at the time the company was made aware of the council proposal for the land and remembering where this came from, this came from a committee of council that was trying to engender economic stimulus into an area that badly needed it. At the time we were made aware of what was happening, Mr Hardie was invited to join the wine country employment development team and from that point on Mr Hardie was on that committee as well and that committee was the one that drove the studies and that committee was the one that formulated the rezoning to lodge at council.

The Hon. ROBYN PARKER: I just had an idea that there was a company involved that was doing that.

Mr SOMERS: I am sorry. Let me go back a step. I do not want to mislead you. The wine country team employed Harper Somers as project managers to prepare, through subconsultants, all the necessary studies, but it was done under the purview of the Hunter Valley Wine Country Development Employment Team.

The Hon. ROBYN PARKER: But that is your company?

Mr SOMERS: No. Maybe we need to backtrack a little bit to get the history right. Prior to my engagement as general manager of Hardie Holdings, I used to be a principal of a firm by the name of Harper Somers and Mr Hardie and I worked for a decade previously on various projects in the Hunter. In fact I was actually a principal of Harper Somers who were engaged by the wine country team to project manage the HEZ project for the rezoning. After that was done, in consultation with subconsultants who did various aspects of the rezoning. Strictly speaking the rezoning was lodged with council by the Hunter Valley Wine Country Development Employment Team, but the work was done by a project manager, which was me or my firm at that time, Harper Somers. Subsequent to all of that, I decided to sell my share in Harper Somers and go and work for Mr Hardie. Does that explain it?

The Hon. ROBYN PARKER: Yes. That does clarify, and I think that is important. Mr Anderson, you work for Harper Somers, not for Hardie Holdings?

Mr ANDERSON: That is correct. I am a director of Harper Somers O'Sullivan and we are employed by HEZ Pty Ltd.

Mr SOMERS: I would just clarify one other point. That wine country employment team that I said Mr Hardie joined, that committee drove it forward. It is worth pointing out that Mr Hardie was only one member on that committee of 14.

The Hon. ROBYN PARKER: In terms of your tenacity with this project, I commend you for that because it has been a long project. Why do you think, given the number of jobs that will be created and the benefits to this community, there is opposition from some people in the community?

Mr HARDIE: I think, through you Mr Chairman, that there are a number of very committed environmentalists out there in the community, of which I am one, and some take different extremes than others. There are some very extreme environmentalists out there. There are others that need a platform to stand on, whether it was the Vietnam War when I was a young fellow or what it is today, the environment, which is a good platform to stand on. I feel that that is an easy way to stand up. It is an emotional subject, so it is an easy platform.

The Hon. AMANDA FAZIO: Unfortunately one of my two questions goes back to the swift parrot. This morning we had a presentation from the Friends of Tumblebee when there was talk about the swift parrot and other birds. In your submission you have a letter from the National Parks and Wildlife Service dated 29 August 2003 which states:

There also continues to be some confusion surrounding the national recovery plan process for the swift parrot. As we have repeatedly stated this process is being co-ordinated by Environment Australia, a Commonwealth agency, not the National Parks and Wildlife Service, which is a New South Wales Government agency.

I stress that the National Parks and Wildlife Service does not support the Environment Australia proposal for retention of 70 per cent of the local swift parrot habitat and believes that the LEP outcome for the HEZ represents a significant and more than adequate contribution to the recovery plan for this species.

In the light of that fact, do you have any idea why there is so much carry-on about the swift parrot being further endangered by the HEZ development?

Mr SOMERS: Firstly, we do not walk away from the issue that the swift parrot has been on that site. We do not walk away from that. We are not trying to belittle those people who want to protect that environment. But what we are saying is that what we are doing is achieving a balanced outcome. There is a balance between the environment and a balance between development and, as Mr Anderson has already said, in our rezoning and in the ecological studies we have done, we can show that 65 per cent of the swift parrot habitat will be conserved. We think that is a reasonable outcome. Unfortunately—and they are entitled to their view—there are other people who say that unless you preserve 100 per cent of it, it is not good enough. We have a different view. With respect, the National Parks and Wildlife Service has a different view. I just think that people have different views.

CHAIR: Just on that point, have you as an organisation ever complained to the Premier's Department regarding the role of the National Parks and Wildlife Service in this process? Could you clarify that?

Mr SOMERS: As Mr Cowan indicated earlier, we were suffering some significant frustration and significant delays in the latter part of 2002 and into 2003 by the actions of certain officers of the National Parks and Wildlife Service. We had inconsistent advice, given that we were given assurances at a senior management level of the parks service that certain things would be done in an agreed methodology. That never filtered down to the officers who were dealing with it. It was of great concern to us. The frustration was quite high. As you heard Mr Cowan and other speakers such as Mr Thomas say, we in the Hunter Valley Wine Country Development Employment Team and the council's project manager at that time, Mr Selmon, had this frustration. Council had that frustration and the wine country team had that frustration, so we thought it appropriate to go and see the regional co-ordinator of the Premier's Department in Newcastle, Mr Ben Chard, and explain to him our frustrations.

The Hon. AMANDA FAZIO: When we saw the presentation this morning of the colour overheads, I noticed a bit of a reaction from Mr Anderson. I got the impression that perhaps the overheads that we were shown of bird populations' and endangered species' locations on those coloured overheads represented just a little cut-out of a bigger map. Is that the case? Are most of those things more widely spread in the local area than depicted in the overheads?

Mr ANDERSON: It did seem that the majority of the overheads only showed the 4H land and seemed to neglect the other 2,300 hectares within the study area. Also I guess I was quite surprised to see some of the figures on those overheads. Being the ecologist at the forefront of this project and having been involved with it for the last six years, there is not a lot of ecological information about this site that I have not come across or encountered, and it seemed to me to be information that I had not seen before.

The Hon. AMANDA FAZIO: In your submission on page eight, you refer to the extensive delays that you have experienced which you say were instigated by a small number of detractors whose conduct, when taken in total, has proved vexatious. You talk about the illegal occupation of the HEZ office in Newcastle, the illegal interference with the commencement of works on site, harassment of Hardie Holdings and HEZ nominees staff, threatening emails to the HEZ nominees chairman, and several appeals against approvals in the courts that were subsequently dropped at the latest possible time. From the Hardie Holdings perspective, have you been involved in any other developments that have generated this level of venom and disruption?

Mr HARDIE: No. Through you, Mr Chairman, it has been particularly worrying since we became involved and views became political. In a prior life I was a very major industrial developer—one of the largest in the country. We have approximately another 30-odd developments going at the moment. All the venom is directed at this one and it is worrying. It comes in waves. It starts off with threatening phone calls, abusive

phone calls, and usually often the media picks up on it, often originating from the Chairman's office or Lee Rhiannon's office in Sydney. It flows through the media Green outlets here.

CHAIR: Excuse me, Mr Hardie, you are referring to my office. Are you making suggestions that I am putting out some sort of threatening material?

Ms SYLVIA HALE: No. I think it was from Lee Rhiannon's office, which I think is inappropriate, given that she is not here.

The Hon. HENRY TSANG: This is a parliamentary inquiry. The witness is protected.

Mr SOMERS: With respect—

CHAIR: If you can, clarify that because I am well aware of what comes out of my office and the opinions stated. Equally I would like to think that my chairing of this committee is balanced. One takes a role as appropriate at particular times: similarly, you have made complaints and accusations against me. But I think in the forum of this Committee, I am trying to be as open and as balanced as possible and give you adequate opportunity.

Mr HARDIE: Mr Chairman, I would like to compliment you on the way you have chaired this meeting. It has been absolutely superb, so I have no problem there, but I was just trying to explain what happens in these waves, and there has been about three waves. There has been a lot of media, and of course the media has come out of certain statements out of the Greens office, both in Sydney and in Newcastle, so I do not think there is—

CHAIR: That is fair comment. You are not implying that in some way it is associated with threats against you or your officers.

Mr HARDIE: No.

CHAIR: I think it is important to separate that.

Mr HARDIE: Look, I did not say that, Mr Chairman. What I said was that I had threatening phone calls and the media become involved. We then generally have stock shot and we have a lot of trespassing that takes place and it goes in a three-to-four-week period. There is a lot of property damage. Vehicles are broken into and fuel tanks leaked. We have had our offices invaded by, incidentally, two of the witnesses who gave evidence earlier. They have invaded our office and have refused to leave our office after they were asked to leave by the police, and the most serious one we had was an attempted firebomb of my home. Fortunately the bomb did not go through my daughter's window. It bounced off the roof and exploded out on our back lawn. This was all in the same three to four weeks period when our office was invaded, our land was trespassed, and we had a member of the Greens chained to the—

CHAIR: Excuse me, I assume that firebombs and such were reported to the police?

Mr HARDIE: Oh, certainly.

Mr SOMERS: They certainly were.

CHAIR: As such, I do not think that is a matter for this Committee.

The Hon. ROBYN PARKER: It is important information, surely.

The Hon. HENRY TSANG: But it is evidence that has been given.

The Hon. AMANDA FAZIO: It is important.

Mr SOMERS: I think—

Mr HARDIE: The last event was a death threat that occurred about two weeks ago—and we have had a number of death threats—but there was an arrest made. It is also interesting to note that the person who was

arrested was—I do not know whether "bailed out" is the right term—but helped out of arrest by one of the earlier witnesses. So that is why, first of all, I did have an issue with you chairing this, but I compliment you on your fairness today. But I also requested that the media not take photographs today.

CHAIR: And we acceded to that request.

Mr SOMERS: Mr Chairman, both Mr Hardie and I recognise that in the work that we do, that does cause us to deal with people who have differing views from us. We accept that, and we accept that other people are entitled to their view. Mr Hardie and I accept that occasionally we personally get pilloried. But where we find it difficult and where we find it objectionable is when incidences happen to our families and our staff. As Mr Hardie pointed out about the firebombing, I am not saying it was the Greens, but it happened. Our office got invaded and our staff—we only have a very small staff in Newcastle—were intimidated. They felt intimidated. We think that is going beyond the pale. As I said, two of the people who presented here first thing this morning were involved in that.

CHAIR: Could I just say that that is not part of this Committee's deliberations.

Mr SOMERS: We were answering the question, Mr Chairman.

CHAIR: Secondly, obviously the comments that you have made are on the record.

Mr SOMERS: Yes.

CHAIR: Could I put back to you, in terms of the angst it has caused, you are well aware that a previous witness clearly indicated, for example, that the link road that is proposed will become a local council issue, as will the proximity of potentially loud and disruptive industry. I wonder if you could tell the inquiry what steps you have taken or are envisaging taking to adequately buffer people in that nearby village both from truck movements and the potential of heavy industry? I must say I sympathise. I think that all of these issues should be kept out of the personal realm and I am sure that all members of the Committee would agree with me wholeheartedly on that. But what is equally as important is that there is a perception, which may well be right, that people's lifestyle will be absolutely severely impacted upon. There have been witnesses earlier today who have indicated that that is bad luck and that is just the price paid by some. That is not a very satisfactory answer to those people.

I will give you the opportunity to express to the Committee your guarantees with regard to noise disruption and subsidence disruption to houses in Pelaw Main, and also noise disruption to communities close to the site. Would you like to comment on that?

Mr SOMERS: Certainly. I do not think you would have ever heard anyone from HEZ or Hardie Holdings make light of the people's concerns. We have always tried to address concerns when they have been raised with us. What we do find interesting, however, is that a lot of our opponents have never taken the opportunity to contact us and talk to us, yet we have made that opportunity available to them.

With respect to the link road, there is a bit of history to the link road that is worth knowing. Yesterday when we took you on a site visit, while you were not in the car that I was in, I trust that it was explained to you where that road was to diverge from John Renshaw Drive, on the Newcastle side of the BP service station, to make its way down through to Leggetts Drive. It would have been pointed out to you as you came through Pelaw Main, around the bend where it comes back in on Leggetts Drive.

Our first proposal was that that road would not come out at Leggetts Drive at that point but would come out coincident with the road into HEZ. So the road would be some 450 metres further into the bush than the current proposal, away from Pelaw Main. However, the National Parks and Wildlife Service said that it would not agree to that, because it says that the road would traverse some Kurri Kurri Sand Swamp woodland, which is an endangered ecological community. So National Parks' purview on the matter is that it does not care about the people of Pelaw Main; it wants to save the bush. Yet National Parks has directed us to move the road closer to the village of Pelaw Main.

We have taken into account the necessary ecological and subsidence studies to come up with the road proposal, which is not yet complete, which will be lodged with Cessnock City Council for a development

application, which will address the issues of undermining, which will address the issues of ecological impact, and which will address the issues of noise and visual amenity. They will be lodged with Cessnock City Council as a development application for the people of Pelaw Main to comment on. We are looking at those issues.

I cannot give you the answers to those issues, because that proposal is still being worked on in conjunction with our consultants. But it does include ecological abatement measures, noise abatement measures, visual abatement measures, and measures to cope with the undermining. But I would stress that if we had had our way, it would be another half a kilometre away from Pelaw Main.

CHAIR: I think different organisations have different purviews, and you have to take into account all the issues involved.

Mr SOMERS: I noticed that one of the matters you asked all the other witnesses about here today, but you have not asked me about—not that it worries me—is the whole-of-government approach. I think that issue alone shows where a whole-of-government approach is required. I do not want to besmirch our colleagues at National Parks. In fact, in the last year or so it has been a pretty good organisation to deal with, compared with what it was two years ago when we made the complaint through the Premier's Department. However, in my view it is folly for an organisation like National Parks to force us into a decision—based on its small purview of the world—which has a great impact on the people of Pelaw Main. A whole-of-government approach would have been a better approach there.

The Hon. HENRY TSANG: Earlier during the evidence I saw someone wave at me a plan of a subdivision, presumably prepared by your company, showing the site cleared and with buildings as large as stadiums, supposedly as your company's advertising proposal. Is it your intent to remove all the trees on the site and construct buildings as large as stadiums?

Mr SOMERS: No, not at all. We are focusing our development efforts on stage one, which is 175 hectares. What we have always said when developing an industrial estate the size of this development—and we have been consistent with the community, with council and with government—is that what will drive our development regime is meeting the marketplace in terms of what they want as a footprint. If a user comes along and requires a five-hectare footprint, that will be the parcel we will prepare. If he needs a 30-hectare footprint, that is what we will prepare. No-one has pointed this out. Because the LEP does not allow pre-emptive subdivision, we cannot subdivide 10 or 20 lots and have them sitting on the shelf ready to go to the next buyer that comes along. The only way we can subdivide land is if a user comes along, commits to the project, lodges a development application with council, gets that development application approved by council, and when he gets his development application approval he also gets subdivision approval. There can be no pre-emptive subdivision of land.

The document you referred to is what we call a master plan. I am not sure that the one you saw is even to scale.

The Hon. HENRY TSANG: It was very professionally done.

Mr SOMERS: It is a document that says this is the way the development may go, depending on who comes along, and the only infrastructure we are planning at this stage is the Spine Road. The side roads that go off that road will depend on that user. But for the sake of clarity, that plan did not show any of the vegetation that could be retained, the buffers, the setbacks around the buildings, or anything like that.

Ms SYLVIA HALE: Reverting briefly to the swift parrot, would you not agree that this inquiry has been prompted to some extent by a perception that a government department, namely the National Parks and Wildlife Service, has been inappropriately pressured to reverse a previous view, and that therefore any opinion it is advancing may be coloured by that? Would you not agree that, with regard to the swift parrot, the only body that is genuinely disinterested and does not have a stake in the outcome is the swift parrot recovery team? If you agree with that, what weight do you give to its statement in its letter of 2002 that the most significant site for the swift parrot in Australia is the spotted gum site on the HEZ site?

Mr SOMERS: What document are you quoting from?

Ms SYLVIA HALE: I am quoting from a letter that was apparently sent to Cessnock council—

Mr SOMERS: Are you not quoting from the Friends of Tumblebee?

Ms SYLVIA HALE: If you like, I will ask the council to table the letter. It is a letter that was apparently sent in October 2002 to the General Manager of Cessnock City Council. It says, "The swift parrot recovery team is concerned about the fate and habitats within the HEZ given that it is currently the most significant spotted gum site for swift parrot in Australia." I am taking it at face value; I am assuming it is a correct quote from their submission. What weight would you give to that, if it is the only group that does not have a specific interest in the outcome of this development?

Mr SOMERS: Firstly, I would like to see the letter, rather than just a quote from the Friends of Tumblebee. I think that is only fair.

Ms SYLVIA HALE: Mr Chair, would it be possible to request the council to provide that letter?

CHAIR: I suggest that under the circumstances, and having regard to the late hour, you take the question on notice. The Committee will provide you with the letter.

Ms SYLVIA HALE: My final question—

The Hon. HENRY TSANG: I have a question—

CHAIR: I will allow one more question, and please make it brief. The Hon. Henry Tsang, you interfere, with seemingly no interest in what is going on in the Committee. You simply interfere on a political level. Please let the questioning continue.

The Hon. HENRY TSANG: The whole inquiry is on a political level.

CHAIR: I have been on many inquiries initiated by the Government that have been extremely political, but I have always abided by the appropriate process. I will allow Ms Sylvia Hale one further question.

Ms SYLVIA HALE: You nominated at the outset a rubber recycling proposal as an industry that was likely to be attracted. Is it true that this is a proposal that you have spoken about since 2001? Is there any indication that that rubber recycling company could well have gone elsewhere by this time, or does it have a very long time frame?

Mr SOMERS: With due respect, that is commercial in confidence. I am prepared to reveal that to the Committee in closed session, but it is commercial in confidence.

Ms SYLVIA HALE: That would be a designated development that would require State government approval to proceed, would it not?

Mr SOMERS: I am happy to reveal that to the Committee in closed session.

CHAIR: Perhaps you could take the question on notice and provide that information to the Committee.

Mr SOMERS: I will provide that in written form.

(The witnesses withdrew)

(The Committee adjourned at 4.57 p.m.)