

**REPORT OF PROCEEDINGS BEFORE**

**STANDING COMMITTEE ON STATE DEVELOPMENT**

**INQUIRY INTO NEW SOUTH WALES PLANNING FRAMEWORK**

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**At Orange on Friday 1 May 2009**

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**The Committee met at 9.45 a.m.**

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**PRESENT**

The Hon. A. Catanzariti (Chair)

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

The Hon. K. F Griffin (Participating Member)

**Mr KIDD:** My name is Reg Kidd. I have the honour to be the Mayor of Orange at the moment. I have been on council for some 16 or 17 years and I am a fourth-generation Orange-ite. I welcome you to one of the beautiful cities in rural New South Wales. I have to tell you a couple of things because I believe it is important to distinguish Orange from other places. Andrew Barton Paterson was born in Orange. Kenneth Slessor was born in Orange and lived here until he was 14. Orange has nothing to do with bloody oranges—that is one fruit that will not grow here. It was called Orange after Oranje. That was major Mitchell's best friend in crime, one William Prins van Oranje, who later became King William of England. So Orange is named after King William of England.

Some of our historians have said in books that a second or third Governor General whose name was Fitzroy stood out and saw all these beautiful blossoms on the wattle trees and called it Orange. As you know, it is gold. And even in the worst of sunlight, it is still gold. Orange was originally named Blackman's Swamp. We have had lots of problems there, too. Blackman's Swamp was named after one of major Mitchell's surveyors, Blackman.

The name was later changed when it became a town, and it then became Orange. We are very proud. We have a population of about 40,000. I suppose the region started with the discovery of the first gold in Australia some 20 kilometres away at Ophir in February 1851, but later on that year they also found gold at Lucknow, just down the road. So the whole area was started, I suppose, on the back of gold, with English immigrants coming in and orcharding fruit and vegetables, a very intensive area.

The economy then changed and Orange went through being an agricultural town, then a city, then having a secondary industry with Email, which was white goods. Our economy has now swung back to being very much centred on gold. We have the Cadia Mine and lots of exploration. It is a beautiful city with all of its good seasons—as you would have felt this morning. I think we host something like 43 different nationalities in Orange. We are a very multicultural city, and we are very proud of it. We are not a city that does not have any problems, like all sorts of cities. We have a very close-knit community that does the battles through to solution, and we are very proud of that. Thank you very much having one of your inquiries here in Orange. I hope you have a nice stay while you are here. Whenever you are thinking about taking a rest, you are most welcome in Orange. Thank you.

**CHAIR:** Thank you, Mr Mayor, for those words of welcome. We are very pleased to be here in Orange today, and to bring the Committee outside what one would call the sandstone curtain. We will be travelling to other areas in regional New South Wales. We are hoping, after all that wisdom you have given us, that we will be able to learn from you people today about the planning issues you are facing and in respect of which you want us to make some recommendations to Government. Perhaps you can teach us a few things there. We will ask you a few questions and hopefully we will learn a lot. Thank you, Mr Mayor, for having us here and for your welcome. We look forward to having a cup of tea with you later.

**Mr KIDD:** Garry Styles, who will also be part of the discussions today, is our general manager. Garry is from this area; he is formerly a Wellington boy. We snagged him over here from Mudgee.

**CHAIR:** This morning the Hon. Kayee Griffin will also be participating in this inquiry. I wanted to make sure that everyone is happy with that. Kayee is quite entitled to be here and she is quite entitled to ask questions. We thank her for being here.

Welcome to the third public hearing of the Standing Committee on State Development's inquiry into the New South Wales planning framework. This is the first of our five public hearings at regional locations. The Committee will also be holding public hearings at Queanbeyan, Tamworth, Ballina and Albury.

Before we commence I would like to make some comments about procedural matters. In accordance with the Legislative Council's guidelines for the broadcast of proceedings, only Committee members and witnesses may be filmed or recorded. People in the public gallery should not be the primary focus of any filming or photographs. In reporting the proceedings of this Committee the media must take responsibility for what they publish or what interpretation is placed on anything that is said before the Committee.

The guidelines for the broadcast of proceedings are available on the table by the door. I remind everyone that any messages for Committee members or witnesses must be delivered through the Committee Clerks. I also remind everyone to please turn off their mobile phones as they interfere with Hansard's recording

of the proceedings. I welcome our first witnesses, the Mayor, Councillor Reg Kidd, and Ms Elizabeth Tomlinson.

**REGINALD ALLEN KIDD**, Agricultural Consultant, Mayor of Orange, and Executive Councillor, sworn and examined, and

**ELIZABETH MARY TOMLINSON**, Executive Councillor, and Chair, Presidential Landuse Planning Taskforce, New South Wales Farmers Association, affirmed and examined:

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

**Ms TOMLINSON:** Yes. I would like to say that today I will be giving an overview of the association's policy and our thinking with respect to planning and the current state of planning in New South Wales, and perhaps ways forward. With the inquiry's indulgence, other members of our taskforce will address local issues at other regional hearings. Today, as a consequence, because Councillor Kidd is a member of that taskforce, obviously as the Mayor but also as a taskforce member, those Orange local issues will be coming forward as well.

**Mr KIDD:** I have a written presentation that I will give to all members after I have gone through it. Firstly I will be talking about issues as I see them as a councillor and in local planning, but I will also be referring to what Liz says as far as the agricultural aspect is concerned and its effect on land-use planning.

**Ms TOMLINSON:** Might I add that we are quite comfortable with each other talking—that is, if I say something and then Reg says something, rather than speak seriatim. We have discussed that, and I think it will work pretty well. If a question is directed at me and the Committee does not mind, if Reg has something to add I am quite comfortable with that, and Reg would be comfortable also if I did so wearing my association hat.

**CHAIR:** We will probably ask questions which either one of you could answer, or add to, at any time you like. I will commence with a couple of questions to either one of you, or both. The New South Wales Government adopted the recommendations of the Central West Rural Lands Panel that councils should be able to retain their existing minimum lot sizes for rural land. Do you agree with this approach, or do you think councils should be required to review their minimum lot sizes?

**Ms TOMLINSON:** The New South Wales Farmers Association has a very clear policy on that. We believe that you cannot have a paintbrush attitude to minimum lot sizes, that different areas will have different agronomic and social issues that should be addressed. I guess the overarching policy that we have over all of our land-use planning policy is that "local" should be kept in local planning. As far as that question is concerned, we were very comfortable with the outcomes of that particular hearing, and we believe that local councils should be aware that those decisions are made in true consultation with local people, where consultation means community consent.

**Mr KIDD:** If I can add to that. I support that totally. I kept a close watch when the review and so forth was done. I think you have to be very careful that one size does not fit all. Just within a region such as this, there is quite a distinct difference between Bathurst, Orange, Cowra and Wellington. All of those are within probably 150 kilometres of here. It is critical that you have local government, through the consultation process with the expertise within your area, making those decisions. I also agree that it has to be done in a timely manner.

**CHAIR:** Will the rural lands State environmental planning policy [SEPP] reduce land costs for existing farm businesses and new farms wishing to purchase land?

**Mr KIDD:** Speaking professionally, no. I think it will lead to an increase.

**The Hon. CHRISTINE ROBERTSON:** Can you say why?

**Mr KIDD:** In areas such as this, and more intensive areas—and I will include Griffith in that—and in the Sydney Basin, going out to the Camden region, we are seeing incredible values being put on land out there which puts it right outside what it should be meant for, that is, agricultural purposes, of between \$3,000 and

\$7,000 or \$8,000 a hectare, which is beyond what a person can afford in order to make a living from farming, whether it be to produce fruit, vegetables or fat lambs, but it is still very affordable for someone who is a developer to put it into quarter-acre building blocks.

**Ms TOMLINSON:** Could I ask a question with respect to that question? I was just wondering what specific part of the rural SEPP you thought might be impacting on costs?

**CHAIR:** It was a general question to see what your thoughts were on the whole thing; it was not specific.

**Ms TOMLINSON:** Okay. Because we did have some issues with the rural SEPP, as a task force, and we had discussions with the Department of Planning. I am sorry, I am not specifically briefed at the moment, but I have done a paper on that, and I could very easily get it to you, if you would like, on what I went through clause by clause of that SEPP for our task force, and we discussed that. Reg, you may even have a copy here on your computer.

**Mr KIDD:** Yes, we do have a copy.

**The Hon. CHRISTINE ROBERTSON:** This was in relation to the one on which Planning and DPI worked together to delineate what was and was not agricultural land. Is that what you are talking about?

**Ms TOMLINSON:** There was a Central West inquiry, Garry West's inquiry, and out of that there were discussions and a new SEPP was developed that was just politically called the rural SEPP. I think it is called the rural SEPP anyway, in legislation, is it not? It separated out rural development, given different guidelines for rural development as opposed to urban development, whereas previously planning law was very generic for the whole State. I think Garry West's inquiry showed up that that really was not how it should be; that there are specific issues in rural areas—and even in regional areas that have an urban city like Orange—that could be dealt with better, and perhaps differently, than how you may deal with something in a metropolitan area, particularly where there are, for example, infrastructure issues or something like that. It is a different world. I think the rural SEPP was an attempt to address that, but we feel there were a few unanswered questions in it, as I recall from my going through it, and also some areas that were open to interpretation as well, which goes back to my previous point, I suppose. I think there were one or two things that I was very concerned about and their implications into the future. But, as I said, I apologise that I had not briefed myself on that specifically.

**CHAIR:** You might like to take that question on notice?

**Ms TOMLINSON:** I will do that.

**The Hon. CHRISTINE ROBERTSON:** Send us a paper.

**Mr KIDD:** If I could have a go at that in relation to the DPI and their involvement, all I can say is: inconsistency. I have seen this and I could present examples to you,. I believe the DPI should be very, very involved in planning with rural land and so forth, to preserve if we possibly can prime agricultural or horticultural land. I believe in that very strongly and professionally. But I see too many inconsistencies in how it is interpreted. I have seen parts on the western outskirts of Sydney, prime horticultural land that has been mainly used for vegetable and fruit growing, through to prime agricultural land in areas such as this and Bathurst and Cowra, with deep soils that could not be replaced in millions of years, go through the system, and the DPI, or the Department of Agriculture, allowed those areas to be used as industrial or urban land. Then you can find land that has a lesser classification, which would only be good for grazing, land that you could not grow productive crops on, but a person will be knocked back for doing any sort of subdivision on that block because they say it is prime agricultural land. It is terribly inconsistent.

**Ms TOMLINSON:** We have very clear policy on that as well, that where a local government area is considering perhaps opening up for future subdivision into smaller areas, the lower quality agricultural land should be where they look first. Of course, there could be other geographic restrictions on using the poor quality land because it might be almost a cliff face or something, but our policy says that that should be looked at in the first instance.

**CHAIR:** If you could get something to us, we would appreciate that.

**Ms TOMLINSON:** Yes. I have actually made a note of that. I have my laptop with me, in my car, and I am pretty certain the email that had that attached to it is in there.

**CHAIR:** There is no urgency for that.

**Ms TOMLINSON:** Okay. I will certainly get it to you within 21 days.

**The Hon. MICHAEL VEITCH:** I have an issue about traditional land use, because often it changes; you say agriculture is not static.

**Mr KIDD:** Very much so.

**The Hon. MICHAEL VEITCH:** How you accommodate traditional or historical use of land is one thing, but how do you protect future possible use of that agricultural land?

**Mr KIDD:** I think it is very, very simple in some cases, and not oversimplified. Australia has one limitation. We have a very old landscape and very, very, very limited deep profile soils. They are basically the soils that, irrespective of technology, you can grow fruit and vegetables and certain crops on. It takes millions and millions of years to develop that sort of soil profile. I can give you examples of that. Those types of soil are around Young, Griffith, Orange, Windsor, and in lots of other spots around the place. We cannot replace those sorts of soils. There is not the technology to build again what has been built over millions and millions of years. They must be protected. We are a growing population in Australia of 20-odd million now, we are still seen as a possible major exporter of food and fibre—and we have just taken this food case overseas. We must protect those lands because if we let those lands go, it will be too late to say, "Well, hold on, we can't produce those sort of things. Oh well, perhaps we can go into total glasshouse production." That is not an answer. Some people do say, "Look, we could do that with that land and just replace it with glasshouses." I mean, seriously, it is an easy thing to say, but it is not true.

So, I think in any sort of planning, State or national, it is time to sit back now and say, "Look, we have the expertise here to recognise where those lands are, let us put some sort of zoning on them now and really seriously think about it." I would put it to you, Mr Catanzariti, using the example of Griffith itself, where a lot of viticulture and citrus and vegetable growing occurs, that if we allowed it all to be urbanised, and growers had to turn around and start looking out further, we know what problems there would be. You have not got the soil and you have not got the water with it. You could not do it again. You could not duplicate it. If you let that go, it is gone forever. I am thinking that there are changes in agricultural practices and so forth, but we have to be a bit street smarter in recognising where that land is and saying, "No, hold it. We know there's a need for industrialisation or a suburb or a hospital"—or whatever it may be, I do not care—"Could that be moved around here a bit?" As an example, all the volcanic soils and those rich soils are on that side of Orange. Once you move on this side of Orange, eight kilometres away, you are on very, very shallow gravel soils. Hard to work with. I know where I would put the industrial site. There. Not on Krasnozem soils.

**Ms TOMLINSON:** Again, the association has policy covering exactly what you have raised. It is general policy—it is not in our land planning—in respect to any legislation. Because of that we are very concerned about restrictive legislation that may lock our farmers into 2009, which will be no different to locking them into 1919 technologies. We do not know what the future is and we would like to have a degree of flexibility. I know it is very difficult in setting legislation, but maybe subordinate legislation would permit some degree of flexibility to allow for what is going to happen in the future, rather than making law in 2009 that is found to be relevant and then having to go through all the processes, which are complicated processes, of changing and amending it, with people up in arms because they have got used to the old system and all the sorts of complications that came out of it. Also, that again goes back to our overarching policy of local decisions. Local people have a bit of an idea of where they are heading, a lot more than maybe somebody removed.

**Mr KIDD:** I still agree, and I make this statement, with developments of State significance. But I think developments of State significance are things like hospitals, regional waste facilities, and regional abattoirs. That type of development is truly of State significance. I do not believe a housing suburb or development is of State significance. That is of private developer significance.

**The Hon. MICHAEL VEITCH:** I have two different lines of questioning, so we will move away from land use. The first one is about the proposed accreditation of council building surveyors. Could I have your views, Councillor Kidd, on what is being proposed regarding council building surveyors?

**Mr KIDD:** I think it is a bit farcical. I believe the majority of councils, well, I would hope all councils, employ staff with the relevant and right qualifications who undertake their job in the best interests of both the legislation and the council. I believe that this is a watering down of the system that could be open to abuse. At the end of the day it will be local government, the councils, who will cop the shellacking over it if it does not work because they will not know whether they are private ones or whatever they are. But it will still come back to the councils. I know some of the arguments used for the need to do that. If that is recognised as a problem, sure, that is where you go back to local government and say things have to be smartened up in this area or else, but give them the opportunity. I do not think the solution is more private because it will just become a business. When it just becomes a business and not for the public good, business is about getting business through the door, in the door and out the door quick smart and rolling the cash over. That is what it will become.

**The Hon. MICHAEL VEITCH:** Do you have many private certifiers in Orange?

**Mr KIDD:** There are a few, yes.

**The Hon. MICHAEL VEITCH:** Do they get much work?

**Mr KIDD:** Well, they certainly are in this area, at the moment. If you look particularly at the amount of building going on in the Orange and Bathurst area, yes, they get a fair bit of work. By the way, unfortunately, I think if it goes down that track, you will find a lot of good professional staff with councils going down that track because there would be more money to be made. We lost our Director of Planning to Cadia mine. There is a big difference in \$40,000 in salary a year.

**The Hon. MICHAEL VEITCH:** My next question is to do with LEPs—local environmental plans—and aligning them along catchment farm areas. What is your view about planning along catchment areas as opposed to the traditional lines on paper?

**Mr KIDD:** I might start that one-off because it is a very passionate thing with me. We have just had all State catchment chairmen here in Orange in the last few days. I am on the Central West Catchment Authority and I represented local government on the old State Catchment Advisory Committee for 12 years. I believe in it so strongly. I think that if we do start thinking on a whole lot of things along catchment lines, water issues, biodiversity issues, planning issues, even within a catchment within a regional area, and about our hospitals, education, the whole lot, I think there is a genuine true solution.

**Ms TOMLINSON:** I cannot comment; we do not have policy on that.

**Reverend the Hon. FRED NILE:** As you know, the Department of Planning undertook considerable consultation prior to the introduction of the recent planning reforms. What are your views on the processes and outcomes of that consultation? Were you happy with it? Has the council experienced the effect of any of the recent planning reforms to date?

**Mr KIDD:** If you would not mind, could I just read this document because I think it covers some of the things mentioned, and I will leave a copy with you. First of all, can I thank you for the opportunity to address the Committee today. Some of the comments are on behalf of the council but, more importantly, I believe they are on behalf of the community. Today I want to focus on an issue that is close to my heart, that is, the planning and building approvals system. These are, after all, the areas at the front line of delivering development and jobs in regional New South Wales. When I was young I remember my father considered building a house. He went down to the local shire council and had a chat to the council officer. They said all that he had to do was bring in his plans and they would do the rest.

It is a far cry from that now. I feel for the people trying to navigate what is one of the most complex planning and building regulatory regimes in Australia. I have been a councillor for 18 years. In that time and particularly recently I have seen approval processes become more complex and onerous and I have seen a constant shift in the administrative burden to councils. These councils at the same time are struggling to contain costs, manage budgets and retain and attract skilled staff. I think it is time to press the pause button. It is time to take stock of all the change. Is it becoming easier to manage development or has the quicksand of bureaucratic burden just become deeper and stickier? Little wonder it is increasingly difficult to recruit or retain experienced planning staff.

At Orange City Council we embraced the opportunity to prepare a new local environmental plan [LEP] under the standard instrument. We were told it would be a simple conversion procedure. Well, it has been far from simple and we are now locked into a plan that has little scope to address our particular local circumstances. The so-called standard plan has been in a constant state of flux, along with all the supporting policies and procedures that are being developed by the Department of Planning. I recently wrote to the Minister for Planning, the Hon. Kristina Keneally, MP, saying we have found the process like "jumping through a new hoop every week" and that it is time to settle the new planning system down and allow time for councils to catch up and finalise their plans. The New South Wales Government clearly does not have the resources to support the planning reforms, otherwise why has the Minister threatened to withdraw support to councils not considered to be a priority? Ours was ready to go on public display. As the Central New South Wales Councils [CENTROC] submission states—and you will have that later today, and it is the combined councils in this region—we go out of our way to encourage growth in our region. But we are increasingly frustrated in our attempts to deliver quick approvals and a predictable planning framework.

Another recent experience has been the approval by the Minister for Planning of the rezoning of the Department of Primary Industries [DPI] site at south Orange. We had the LEP ready to go on public display with development, because of infrastructure and a whole range of other reasons, to the north of the city. It was 3A zoning that was approved. As I said, I am not against 3A planning approvals whatsoever. But there was no real consultation or discussion with our council on this. This development saw the approval of a large tract of land for business and residential development completely outside the framework that was given to us to develop our LEP. Here are the rules, here are the goalposts, now go and do it. You spend nearly \$300,000 and you do it in good faith with very professional staff. I would not be here today addressing you if I did not believe that I do my homework and my reading, and then wooshka, it has completely turned 360 degrees. I have trouble talking to citizens of Orange, whether they be just ordinary house builders or developers, because I cannot deal with inconsistencies.

The development was never foreseen and we believe it is premature and potentially disruptive to the local development industry. Further, there will be costs associated with the development that I fear will be passed on to the ratepayers of Orange. So not only is it out of step with our planning framework, it reduces the industry's confidence in the future of our local planning system. I think it is very important to have the people out there confident and believing in your local planning system. Even though the rules may be hard sometimes and not what they wish, as long as you are consistent and they are the rules people learn to live with them. If you keep changing the rules all the time, that is when the people get more disgruntled. In my opinion, Mr Chairman, it simply amounted to the New South Wales government using its own planning system—and I mean not the present government, any government—to fill a need.

I am also concerned as to how we keep our housing affordable. At present this is not too great an issue, but if things keep going the way they are it could be. I see the best defence against rising housing prices to be a predictable planning system and a smoothly operating assessment system. I have no doubt this will help keep costs down. This coupled with improved service delivery should underpin the ongoing supply of affordable housing. Where do we go from here? I firmly believe we need to get back to basics. We need time to bed down all the changes we have seen so far. We need time to get it operating in the best possible way and we need time to take stock of what should be done next and we need time to develop it to get used to the changes. These next steps should be measured and carefully and strictly aimed at delivering clear improvement to the system that councils manage and better customer service. To do this we need to be properly resourced to implement the changes. Local government is a very poor relation when it comes to ensuring that reform comes with the resources required for implementation. I thank you for the opportunity to present these comments. It is not a personal dig at anyone. I have to represent the citizens of Orange. Perhaps some of those comments are not completely 100 per cent my beliefs, but it is the consensus view of the community of Orange.

**Reverend the Hon. FRED NILE:** In summary, do you want the new planning laws to be given a fair trial rather than being amended again in the immediate future?

**Mr KIDD:** Yes.

**Reverend the Hon. FRED NILE:** Do you see that as a two-year or perhaps five-year period?

**Mr KIDD:** I do not think that it is something you can deal with in one year. If you look at development and preplanning, right through the processes, I think you need two years minimum. I do not know what is the set maximum for bedding down. It does not matter, the best laid plans of mice and men never go according to



Hoyle. Something will go wrong, there will be some unforeseen things, but make it flexible enough that they can be fixed along the way. Then when you have worked out the humps and bumps, you can run with it.

**Reverend the Hon. FRED NILE:** You mentioned that your LEP was ready for public display and the intervention by the Department of Planning then delayed it. Would it have been inconsistent?

**Mr KIDD:** Yes, it is inconsistent. We are working with the Department of Planning. They worked on it a couple of days last week and I am just waiting on the outcomes of that to possibly isolate that from the LEP so the LEP can go ahead, because we do not want delays on it.

**The Hon. CHRISTINE ROBERTSON:** Isolate what?

**Mr KIDD:** Isolate the possible development out on the southern—

**The Hon. CHRISTINE ROBERTSON:** Isolate an individual issue?

**Mr KIDD:** Yes, it is a 3A. Perhaps isolate that from the LEP.

**Reverend the Hon. FRED NILE:** Would that be the way to go?

**Mr KIDD:** I think that would be the solution.

**Reverend the Hon. FRED NILE:** Then you can put your LEP on public display.

**Mr KIDD:** Yes.

**Reverend the Hon. FRED NILE:** It is preferable not to have a delay.

**Mr KIDD:** No. I have written to the Minister. A letter went to the Minister last week on that. I think that is a possible solution.

**Reverend the Hon. FRED NILE:** Were you advised that the Minister was going to make that decision?

**Mr KIDD:** Certainly, yes.

**Reverend the Hon. FRED NILE:** You had consultation on that?

**Mr KIDD:** We certainly had consultation.

**Reverend the Hon. FRED NILE:** Did you object to it? In principle did you agree with the decision?

**Mr KIDD:** We have a new hospital going in on the southern side of Orange, which I am over the moon about having built and which the whole region will be extremely proud of—not only proud of, needed. The southern side of Orange has been recognised for growth and development medium to long term within our LEP. That is what it says within that LEP. Thus, the majority of our infrastructure, that is, water, sewerage, electricity, natural gas, roads and access, is to the north and west, which is the short and medium term within our LEP. You are looking at possibly 800 houses and some commercial development. You have to think about that infrastructure within there, and certainly I believe in the long term there will be development out that way with a hospital and auxiliary services to it. I can live with that. I would have hoped that we had a few of the things settled down first, the infrastructure needs. I am in the process at the moment of advertising and looking at doing an infrastructure review in that area. I want to know how much it is going to cost this city to put in infrastructure out there. I think it would be amiss of me if I did not.

**The Hon. MICHAEL VEITCH:** When you talk about infrastructure out there, what are you talking about—sewerage?

**Mr KIDD:** Mainly water, sewerage, natural gas, electricity and roads.

**The Hon. MICHAEL VEITCH:** What about public transport needs and things like that?

**Mr KIDD:** When I say transport, that is all part of it—roads, public access, and out here we are talking about buses mainly, the whole works. When you came in from the airport you went past the hospital site and you would have noticed that nice dogleg going over the railway line. That will become a very busy street in Orange, and we cannot have that because it will become a safety hazard. The other things are your major things, your water, electricity, natural gas and so forth.

**Ms TOMLINSON:** If I could comment, I have read Reg's presentation before we came in today and it is completely in line with our policy. There is nothing outside. The local issues, of course, we do not deal with because they are not on the State level. I would like to add as the question related to consultation, when we first set up this task force in 2005 our staffer got in touch with the Department of Planning and they seemed to have a real issue with why on earth would the New South Wales Farmers Association want to know anything and have any interaction with them to do with planning? How does planning impact on the farming community? We were a bit taken aback by that, as you could imagine, given the massive amount of land that we own and how planning impacts on what we can and cannot do on our farms to produce our income. But we have been working and we are building up a rapport with the department at reasonably high levels. We have been working at that. If I may, because you asked a question about consultation, I will read a little bit of our policy, which says:

Regional strategies and local environmental plans are developed with full community consultation and the results of the consultation are in fact reflected in the final plan.

I go round saying that if you have consultation that is fine, but consultation does not necessarily equal community consent. I believe that is really what we should be looking for. If you have a system that is bottom up rather than top down it is going to be a system that is going to work better simply because people will feel they own it. That is where, I believe, at times the consultation process has been abused, not necessarily by any specific person within the Department of Planning but just the overall use of consultation at times has been abused. I think that is a shame because I think the model, if used properly, is a very good one.

**Mr KIDD:** To use an example, and I would like you to have a look at this while you are here, when I leave here this morning I will be on television and radio, and I have been since five this morning, about a set of traffic lights going in in Orange just here over near the Department of Primary Industries. There was a block of land there on a corner in Orange called the Five Ways. Pretty easy, it stands to reason that Five Ways is going to be a dangerous corner. It always has been. When it was a dirt road with horse and sulky there were people killed there. Everyone knows that in this region. There was a development application—and I can say the name, I think, without fear of retribution from them—from Woolworths to put a petrol station on this corner. They played the story good. It would lead to cheaper petrol in Orange, and we have very high price petrol here, like Tamworth. That came through council here and I can remember the debate that went on in the public and the council chambers. We knocked that application back on safety reasons, number one, an incredibly bad corner, and a whole host of other reasons. We ended up in the Land and Environment Court; it cost a lot of money. Woolworths beat us; the big end of town beat us.

That corner since that garage has gone in has had some very serious accidents. It has been an absolute joke. You get bank-ups of traffic coming out of Email and DPI in the afternoon and near misses with tankers. We said in the Land and Environment Court that that would happen and showed them photos and traffic studies that we had done, and we said what will happen is it will get that busy and that bad there that you will have to put in a set of traffic lights. Well, guess what? Those traffic lights are going in there today, which will mean in less than 100 metres in a country town you will have four sets of traffic lights. It will exacerbate the problem. I have to go over and face a heap of shop owners and business owners in that area at the moment that have just lost 80 per cent of their parking because you have to have a clear line of vision into those lights. I have to explain to those people that I know their business has just been knocked to high heavens.

We never decided to put the lights in there; that decision was made by the RTA. They can make that decision over any sort of council. These are some of the inconsistencies that actually happen to you. One thing I will do in the media today is that I will be stating that the decision that was made for that development has been inappropriate. I know the one thing that I will be able to sell is that people will click back and remember, "Yes, we all agreed that that was silly. Forty thousand people said that that was stupid, and people who live outside the region said it was stupid. The decision was made outside our hands." That is the only defence I can put in there now. I do not know how you can get around this inconsistency.

The other thing I can say to you, and I think it is important for your inquiry, is about right-to-farm legislation. One of the real problems you have—and I do understand the need for increases in urban centres, and

for industrial centres and hospitals, and that sort of thing—is that, again, it is like a cancerous growth or a domino effect. We have to bring in some sort of legislation that has included in it a right to farm. I live on a farm. I do not mind you coming in here with some sort of development. But what is happening under the rules at the moment is that this area is rezoned for whatever reason and I am farming here. All of a sudden, I cannot farm here because people object to, say, noise, or cows mooing, or ducks quacking, or farmers loading fruit at night.

People here load fruit at night, before going to the markets early in the morning. We have had objections from people about that. On the forklifts, you have to have flashing lights and the dingle-dingle noise when the truck is moving. I would love them to have a look at this right-to-farm legislation, which says we can cohabit in our planning and living. But we really do not have it tied in. What is happening is that a lot of our productive agricultural lands go out of production and simply become the next part of urban extension or whatever, because you just cannot farm there. Someone gets in with the cows, and all sorts of things happen. That is happening here. I know that is happening in Griffith, and I know it is happening in Young. I think it is something we really have to take on board.

I know that in the United States and parts of Europe that I have had the opportunity to visit, specifically looking at this area, they have built within their legislation this right-to-farm type of legislation. They allow the planning and say, "If you are going to develop this urban development here, there have to be some buffer zones." It must be made quite clear to the people who want to buy and build there that over here the land use practice is farming, and that cows moo, sheep bleat, and tractors make a noise.

**The Hon. CHRISTINE ROBERTSON:** How would you deal, in right-to-farm legislation, with the complexities of, for example, an intensive fowl shed being set up in a small farming community, like a 100-acre community? When you talk about right-to-farm legislation, such legislation has to also deal with an incredibly intensive type of farming being plonked into a community.

**Mr KIDD:** I think it is important to point that out. You can still have caveats there. We have caveats here. Where my farm is—

**The Hon. CHRISTINE ROBERTSON:** They would all be in court, would they not?

**Mr KIDD:** No.

**Ms TOMLINSON:** "Right to farm" is not what you are saying. That is the issue. The right to farm is to permit continuing use.

**Mr KIDD:** Yes. It is not to set up a farm; it is continuing use.

**Ms TOMLINSON:** Planning law and other laws are very specific when it comes to intensive agriculture.

**The Hon. CHRISTINE ROBERTSON:** But this is a new piece of legislation you are wanting to—?

**Ms TOMLINSON:** No. This new piece of legislation would not be in conflict—it could not be in conflict, unless those other pieces of legislation are in conflict with existing legislation which restricts intensive agricultural development. What we are looking for is something that will allow that—and continuing use is something that legislation allows currently. However, as Reg has pointed out, when you get a new urban, semi-urban or peri-urban development, suddenly you have lost what should be a fundamental right, which is continuing use. The preservation of that continuing use is the type of legislation that Reg is talking about—not suddenly opening up the whole of New South Wales for anyone to be able to put a chook farm wherever they want to put it.

**The Hon. CHRISTINE ROBERTSON:** What if you have broadacre sorghum wheat and you decide you want to have cotton?

**Mr KIDD:** Again, that still has to go through the planning instrument.

**The Hon. CHRISTINE ROBERTSON:** How does it?

**Mr KIDD:** For instance, with one of my places, the caveats on that are because I am in a water catchment and I am close to urban development. There are certain things that I cannot do on that land. I can apply to do so, but it would be highly unlikely that they would give me approval. That includes any intensive activities, such as a piggery, a dairy, feedlot, and so forth. I would have to apply.

**The Hon. CHRISTINE ROBERTSON:** I am trying to think of the sort of right to farm legislation you are talking about.

**Mr KIDD:** I am sorry, I am just using that term because I know they use it—

**The Hon. CHRISTINE ROBERTSON:** We have heard the argument before. In another inquiry we dealt with this issue. At that time it was specifically in relation to access in regional centres to small-acre farm areas, to attract professional persons to regional areas. Owners of small-acre properties do not want to be on sand and gravel; they want to be on prime farming land so that they can grow crops and graze animals on it. I am not arguing either way; I am trying to understand how you dealt with these contradictory issues in relation to planning rules.

**Mr KIDD:** I think you can. One of the last points I want to bring up relates to lifestyle blocks. Do I have any problem with them? No, I do not. I think some of them become quite intensive and good. They are growing their own vegetables; they might run a few sheep, horses or whatever it may be. It is not part of this planning legislation, but I think you have to think about the legislation in other areas, to ensure it does not create issues with invasive species and things like that. The requirements of the people regarding feral animals and weeds must be the same across the board. Farmers and so on have these requirements and pay rates for invasive species, and someone can be on a smaller block and could have every weed known to man on his block and that could be the core area for that weed and they have no responsibility.

I think you can put that even within your own local governance ordinance, and we certainly work on that here. In areas with Land and Environment Court decisions, you have to think of the effect it has on the jobs and livelihoods of your local and regional economy. I think they are some of the issues that have to be considered in an area. It is very complex. I do not think there is a simple solution. But, again, I really believe that here you may have some overarching sort of legislation but with local input on how it works at the local level. I could not give you one-hat-fits-all across the State. It would be quite different in Windsor-Richmond from what it would be here and from what it would be perhaps in Griffith.

**The Hon. CHRISTINE ROBERTSON:** Or Narrabri?

**Mr KIDD:** Or Narrabri, yes.

**The Hon. CHRISTINE ROBERTSON:** Which is where that issue first came up for this Committee.

**Mr KIDD:** Yes. That is Liz's town.

**The Hon. CHRISTINE ROBERTSON:** The private certifiers issue has been around for a long time. Country Labor had a long debate about this when it first came in; we related the issue to the lack of certifiers in the country for such a policy to be implemented. Given that there are not many private certifiers in country areas, have the local government bodies continued to handle their issues internally?

**Mr KIDD:** All I can say is that my understanding of it is, yes. But that would be a question better asked of our general manager, who will talk to you later. He is on CENTROC and he is on a working party looking into that area, and I think he would be more capable of answering that question.

**The Hon. CHRISTINE ROBERTSON:** With regard to council certifiers becoming a registered part of the process under the new positions, is that not of assistance?

**Mr KIDD:** I think that will help. I have no doubt that it will help.

**The Hon. CHRISTINE ROBERTSON:** I understand that government organisations get a lot of their best people—

**Mr KIDD:** Headhunted. Yes, they do. There is no doubt about that, I can tell you. It is a terrible thing to say, I suppose, in light of the economy at the moment. It happens to us in farming too, by the way. Mining has a lot of good farmers working for it at the moment. They are coming back to farming at the moment if they are in coal.

**The Hon. KAYEE GRIFFIN:** To continue on the private certification process, has Orange City Council had any major issues with private certification and then having to try to resolve the development issue?

**Mr KIDD:** I think there have been a couple of examples, but I will leave it to Garry Styles to give you the details of them.

**The Hon. KAYEE GRIFFIN:** Orange's mean determination time for development applications is 43 days, which is quite a reasonable turnaround. What do you attribute that to, in terms of the good results you are getting?

**Mr KIDD:** I would like to say, a great council. I attribute that to a bloody good council and good staff, to be quite frank. I think we do work together well. When you can work together well, you can look at issues—and they are highlighted to us if there are any delays. Obviously, with some developments they become more complex and things happen. Sometimes people are a little bit naughty; they do not quite give you on time the paperwork they are supposed to give you, and then they will run out to the media and press and say that council is holding it up or the government is holding it up. It is: "I don't open my mail on Monday" or "I didn't get that email." I know all those excuses, coming from a teaching background and waiting for assignments.

Planners, builders, and even just the local citizen building a carport do that sort of thing sometimes. But we do keep fairly close track. We have a very good internal system that tracks through. For quite a few years one of our KPIs related to looking at development applications. When there is a glitch, senior staff are right onto what the glitches about. Then they use the other door: they are dealing with the professional staff, and the next level is to deal with your councillors. But it is always comforting, when they ring up and they say, "So and so has come to see me, can you tell me", to be able to say, "Yes, the letter went out on such and such a date". They happened to be away fishing and they have just come back and it has become a hot issue with them again.

So you can talk with people. Ninety-five per cent of the time it works really well. I think we are moving downwards. You referred to 43 days. I would hope we are moving downwards. But you have to average it out. Some matters are incredibly complex. When you start talking about issues with hospitals, or about having heritage precincts and so forth, some of those issues become a little more complex, particularly when they have to go out for public display. But I think it is a pretty good average.

**The Hon. KAYEE GRIFFIN:** In terms of some of the development applications that come in—and obviously in some instances not all the information has been lodged by the applicant—how do you manage the times, for example, if you have to go back to the applicant? Do you have a pre-lodgement assessment?

**Mr KIDD:** Yes, they do. The staff have a protocol in that sort of area. They fairly quickly get onto them, either by letting them know via email or post, and/or both, or verbally by phone, that "It is lax here", or "You have not done this", or whatever. I can quite honestly say that in a small place such as this you really do have a bit of an open door policy. It is fairly easy for people to pop in here, or to pop out of here. We do have staff who know where someone lives or where they are working, and sometimes they chase them up. We are a bit fortunate there in comparison with the city areas. I think there are some good protocols in place there. By the way, that has come down. It used to be a lot higher than that.

**Ms TOMLINSON:** That common activity between the community and the planning staff I think is pretty general across the State with rural councils, from what I have experienced in different areas and from talking to different people. Because people know each other, I suppose, being a smaller community, they can go and have a look. They feel more comfortable going in and talking to the staff.

**Mr KIDD:** Could I just say this to you, and I am being quite honest, when I first came on council, it was a bit of a controversial area and, again, I think it was council and senior council staff working together, part of it was just about logistics. We moved all the relevant people into the same area where some of them were upstairs and some were downstairs: simple as that. They had to talk together. They saw each other and people could say, "What's the hold up?", instead of things going up and down and all this sort of thing. That was a move by a previous council and mayor's initiative. That certainly worked and we are all the time looking at

ways of improving it, I can tell you, all the time. In fact, right down to some of the information that we have on facts sheets that are both on our website and available over the desk that go out with rates notices informing people about systems, what to do: "This is what you've got to have. This is what you've got to bring in." Reinforcing it all the time, but just to let people come in and say, "I didn't know that."

**Reverend the Hon. FRED NILE:** Ms Tomlinson, you are the chair of the association's task force for land use planning?

**Ms TOMLINSON:** Yes.

**Reverend the Hon. FRED NILE:** What key issues are being examined by the task force? Do you have any recommendations for the Committee?

**Ms TOMLINSON:** Thank you very much. I was hoping I could get to this. There are three key things that I really did want to raise today other than what I have already addressed. As I said, our overarching objective is the decision making having a lot more local input, but the three key things is that for well over a decade and perhaps even back to 1979 New South Wales has been attempting to address issues to do with the planning framework. The whole thing has just become a hotchpotch. When I did my law qualification I did it in planning, and the number of legislations that impact on planning is ridiculous. It is absolutely phenomenal; I have pages that I listed of the different legislation that was relevant to planning and that was just based on a planning model for rural New South Wales let alone the metropolitan planning. One of the things was that we sort of thought perhaps maybe there could be a master natural resources and planning Act that could establish core processes and principles and authority for allocating and managing land, water and biodiversity with some subsidiary Acts.

There have been times before when restructuring or replacing of planning laws has been attempted and usually it has been, well, it has always been rejected as just being too daunting. We just believe that it can no longer be deferred. We have had piecemeal renovation resulting in confusing ailment rather than functional systems. That is my own wording. It is like having some sort of ailment instead of having something that should be just clear functioning. Planning should be clear and should be functioning, but it is not. When our submission goes in and you get that, that is something that is really expanded on. I will not take up time on that, but I would like to draw your attention to that.

Is the Committee aware of the section 149 certificates that have to go out? I will just read what our policy actually says. It says that we believe that there should be a mandatory part of that section 149 certification that warns prospective buyers of the potential loss of amenity from agricultural activity and notes that the local environmental plan requires the consent authority to protect and maintain land for agriculture, and explains to prospective purchasers the purposes of any buffer zones as well as the advantages of maintaining buffers into the future. That is an issue we would like to see addressed. If people know what they are going into, well, at least they know what they are going into, whereas I think a lot of people go out and they just have no idea what they are getting into and that creates issues. The other thing is that I would like to see a lot more use of the GIS. Is the Committee aware of what GIS is?

My source is Wikipedia, but in this instance I believe Wikipedia has got it right. GIS is a geographic information system, which integrates hardware, software and data for capturing, managing and analysing, and displaying all forms of geographically referenced information. You can have database view, map view or a model view. How I have seen it work in a forum or a workshop is that you have layers. You can have a map and then people put different plastic layers on top, when you do that layering. In planning in America and Europe they are using it a lot. There are examples in America and, again, it was when I was researching my paper that I came across this, where they said, "Okay, under the existing model of planning"—in this county of the States they were using a system similar to what we have got now—"this is what the outcome would be." They had a map. They said, "Our consultants went in with the GIS and interlaid all the different factors from the community." They had a community meeting and asked "What do you think's important?" They got in other people like we would get in the DPA or whatever. They put the layers over and they came up with a totally different form of mapping for into the future.

Planners know about the GIS. It is just that, I guess we get comfortable in the pair of shoes we are wearing. I just think it is wonderful. Why not use the new technologies that we have, the computer-based technologies? Apparently in America now at a Federal level their new President has introduced a system that is going to be a one-stop shop where you go into this little website that is called "My Environment" and it has all

the things that could impact on you if you lived there. If I were going to move to Orange, I would go into "My Environment" even though currently it is not, okay, and I want to go and live out on a little farmlet, so I would look it up and it will show the chances of getting cancer in that area or any other diseases. So it will go into health, it will go into education. One web page will show me what the results from the different schools have been, so I know if my children are more likely to do well at their HSC or whatever. It is all there in one place. I just think that is so exciting. We have the technologies, so why are we still using systems that are really old?

**The Hon. CHRISTINE ROBERTSON:** So some of the data you have actually suggested be included requires large area data to be relevant, for example, the cancer statistics?

**Ms TOMLINSON:** Yes.

**The Hon. CHRISTINE ROBERTSON:** How do you balance this out? When you hone down into small area data often you make the data no longer scientifically relevant. The regional data could be relevant, because of the population base and the geographic area, but when you hone it down into a small area—

**Ms TOMLINSON:** Presumably the people setting up the websites are web masters and also the people providing the data. If I go in just to look at a block of land, that is going to be totally different to the data I am going to look at for the whole town, which will be different when I am zooming out instead of zooming in, so I will zoom out to the region. This is the data for the region. It is working. It is being used in other nations in the world. Why is Australia not there? Why are we not out in the forefront? Why are we lagging? We used to be out the front in technologies.

**Mr KIDD:** What you are saying I agree with. I know within the catchment management authorities that a lot of the high-spot imagery and so forth that they are using can get you down to this scale, but you still have to ground truth it. I think that is the answer. What you actually do, you can really get down to here, but there is still the need for ground truthing. For instance, if we are looking in this area we can get down to this area, say in the krasang nez om soils, which are on that side of Orange—on this side of Orange they are certainly not—but maps that we have at the moment would show this whole area with krasang nez om soils, and ground truth the people at Bathurst and farmers and councils and all that know the soil types in the different areas. So you can landscape it to that, ground truth it.

One other thing before we go: I believe in the regional panel system. I think it is quite good, as long as they are regional panel systems made up of people from the region with the relevant expertise. We do have a draft of something that was suggested come through this council yesterday. They are going with that model, but for out in the western part of the State the regional panel is three experts from Sydney. I will tell you what, I am not an expert on Sydney and I live here. I cannot see how you can be a regional expert in Sydney talking about development in the western region.

**Ms TOMLINSON:** We also have major problems with the lack of the use of rural people on these expertise panels. We have a major, major problem with that because how does somebody who has never gone any further west than Parramatta know what a farming area is like at Griffith or wherever? They are experts.

**CHAIR:** We have to conclude. We could continue asking questions all day and we will have further questions for you, if you do not mind providing the answers within 21 days.

**Mr KIDD:** That is fine.

**Ms TOMLINSON:** No, that is fine.

**CHAIR:** If you wish to add to your submission and put in some points that you may have picked up here today that you want to give to the Committee, please make sure you do that and send it on.

**Mr KIDD:** Thank you very much.

**Ms TOMLINSON:** We will be putting in a full submission, too.

**CHAIR:** I thank you both for your contributions this morning. It has been quite good for the Committee. Certainly we look forward to making some recommendations.

**Ms TOMLINSON:** Thank you for giving us the opportunity.

**Mr KIDD:** Thank you.

**(The witnesses withdrew)**



**KENNETH CRAIG FILMER**, Director, Planning and Environment, Young Shire Council, Locked Bag 5, Young, New South Wales, 2594, sworn and examined:

**CHAIR:** Welcome, Mr Filmer, and thank you very much for coming this morning. Would you state your full name, your job title and your agency for the record?

**Mr FILMER:** My name is Kenneth Craig Filmer. I use the name Craig Filmer. I am the Director of Planning and Environment at Young Shire Council.

**CHAIR:** Are you appearing in that capacity today?

**Mr FILMER:** I am here in that capacity and also as a qualified health and building surveyor.

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

**Mr FILMER:** If I may, there is a covering letter, which I believe has been handed up to you. I would like to make some of the points in that letter which are the issues I am comfortable speaking about with regards to the wide range within the terms of reference. I start off with a thank you, and I have given you a copy, which will be handed out, of our original submission to the exposure draft of the bill, which originally was handed to our local member and also Mick Veitch. In broad terms, my staff and I, as well as my current and former councils, have had concerns in the following key areas. The first point is that reform agendas are being pushed through with limited or lip-service consultation but no real listening to the practitioners at the coalface. I refer to the commentary, which I have provided, on the exposure bill and the lack of meaningful response or reaction despite the gravity of some of the submissions. The second concern is trying to make planning systems easier by amending or adding layers to faulty legislation. It is easier at front of shop, yet complex in the engine room. The third point is that turnaround times as a measure of development application [DA] performance are not definitive and only useful for political media sound bytes. The system is and continues to become more complex, yet why are faster responses required?

The fourth point is that building surveyors are a small profession by total numbers, even in New South Wales. By privatisation and now accreditation, complications are arising through eroding a once strong and allied professional ethic. It now has deep divisions and resentment, leading to further unproductive relationships. The fifth point is local government continues to have a higher standard of ethical obligations, layers of management and policy, and intense public scrutiny of its building surveyors and development professionals. The argument even being entertained that certifiers have it tougher is not up to par. Unlike certifiers, council staff do not have the monetary reward, the ability to veto jobs, the lack of scrutiny or the chance to do anything but clean up what is left to them. How can the playing field ever approach that level? The sixth point is that council building surveyors should never have to answer to two masters—council as well as a body like the Building Professionals Board. The employer should be accredited and then have a duty of care to employ, train and keep training its staff.

The seventh point is the sincere belief that the current Environmental Planning and Assessment Act is now so convoluted and misconfigured in intent that replacement legislation should now be drafted, as was the Local Government Act. This has the real potential for being at the vanguard of the COAG [Council of Australian Governments] terms of reference and leaving Australia with a model piece of legislation, thus wiping away our old and layered problematic system. Keeping development simple but sustainable should essentially be the prime term of reference for the regulatory reform committee assigned this task—tying together all development aspects into one legislation; respecting a zoning by giving it the right approval process; and making plan processes, local environmental plans [LEPs] and the like, simpler and less unwieldy. The eighth point is to allow for systems that will work in Sydney and the coastal strip as well as in regional and remote New South Wales. Most centres west of the Great Dividing Range with fewer than 20,000 population probably have not seen too many, if any, private certifiers or building surveyors. Service delivery to locals is what local government is about. Did the competition policy review and the thought of price neutrality get this right in the bush?

The ninth point is that LEPs, interactive and online, front-of-shop web pages, e-planning, electronic DA lodgement are all fantastic ideas. I want to be a part of them and so does my council, if you can afford them or the staff or to resource them. Consistency across shires will mean that the money flow from State to local government needs to increase. Lastly, the spirit of all 152 local government areas doing their LEP at the same time was admirable for a fresh whole-of-New South Wales start. But did anyone consider what resources were out there in both staff and money to do it? Young shire is now approaching \$240,000 out of pocket, not including its own staff costs, to produce, and we have written our own strategy and done the standard instrument work ourselves. The loss of valuable time, money and resources to this process in every shire and municipality at once is massive and was desperately ambitious. The reform funds have not been consistently returned to the effort proportionally made by individual councils. I thank you for allowing this council a say.

**CHAIR:** Mr Filmer, has Young Shire Council's LEP been recently updated?

**Mr FILMER:** We have a 1991 urban LEP and a 1993 rural LEP. We are currently at section 64—in other words, we have requested the regional department to give us a certificate to go on exhibition. That has been with them for approximately four weeks. We are anticipating a response or a certificate to exhibit at the end of May, start of June.

**CHAIR:** Have you received any funding from the department for that?

**Mr FILMER:** Yes, we have. We have received two applications. I think we are up to about the fourth or fifth round of funding of the planning reform now. We applied in two and I believe even at the fifth. Some councils still have not got money. We received \$21,000. We only applied for that because that is all we had paid in DA tariffs to the system to start with and we received a second dose of \$100,000 a bit over a year ago.

**CHAIR:** So you have received what you asked for?

**Mr FILMER:** We have received what we asked for and what we were reasonably advised we should shoot for.

**CHAIR:** How does the council view its responsibilities to manage natural resources through the planning process? Does council have sufficient support from other authorities, such as the Department of Environment and Climate Change or the Catchment Management Authority, to manage these issues?

**Mr FILMER:** I believe resources and the ability to service is increasing with every day. Relationships now are better than they were 10, 15 years ago. That is not to say that everything is absolutely wonderful. In our mapping process, for example, with the new LEP we have been involved in the environmental layers of water, land and biodiversity that we have been obligated to under our mapping. They will form a renewed strength towards natural resource management efforts within our planning process. Whether we have the number of staff to do that as well as we should becomes an issue.

**CHAIR:** Is there a shortage of staff or is it a matter of financing the staff?

**Mr FILMER:** I will qualify my answer first. You will see a response from CENTROC, which we are a member of, but we are also one of the smaller councils. Within our microcosm of the State we are a big brother council to the smaller councils around us. Essentially we have in our team one professional in each section. I have one development control planner, one strategic planner, one building inspector, one health inspector, one ranger, and I have experience and qualifications in all those areas as well as trying to be a director and manage the council. If one of them goes on leave for any reason, I go. I did an inspection on the way up here today.

**CHAIR:** Does the council see the supply of sufficient zoned residential land as a reasonable mechanism to manage housing affordability?

**Mr FILMER:** Yes, I do, but I worry that the LEP process is too complicated to get to that end. We started our process when Mick was a councillor. 2003 was our first resolution to reform our current plans. We are getting on exhibition in 2009, for a number of reasons, not all of them council. We had a boom in 2003-04, as most regional areas did. We had less than 5 per cent available residential land at the time, developers ready to go and a shift in values. So that the normally cheaper residential blocks within regional towns, there was enough margin for a subdivider to have a go. Did we have the land? All the worst parts of town had to be usurped. So

we have had hilly subdivisions and poorer quality lands. I will not name them so that I do not malign the developer. We had take-up of that last 5 per cent. We need residential land. Our town is growing over the last three census periods at 1 per cent annually. We are the only shire west of the Divide to show growth on growth on growth. We needed quick, smart reforms. We could not get them. The market has dictated to go and use what land was left.

**Reverend the Hon. FRED NILE:** Thank you for coming to our inquiry, Mr Filmer. I note in your written submission, which you just read, that you said that Young Shire Council is now approaching costs of \$240,000, not including its own staff costs. How do you make up the \$240,000? Is that for consultants?

**Mr FILMER:** Yes, they are consultants. But before we use the old adage of consultants telling us what to do locally, Young had a number of local and geographical problems it had to resolve. We have a regionally significant abattoir that is on the hill immediately above Young. It has had an interesting history of compliance and non-compliance. It grew from 10, 15 years ago as a 15-employer abattoir up to over a 400-employer abattoir. So we have had to manage odour of the site and so on. We had to establish buffers. We have had to spend sixty to seventy grand on odour consultant work around that to get an informed planning decision. We did a rural land study for our shire because we have such a diverse shire with cropping, grazing, eggs, pigs, cherries, stone fruit, summer fruit, you name it.

**The Hon. MICHAEL VEITCH:** Mining.

**Mr FILMER:** Mining. You name it we have got it. We could not say, "She'll be right. Let's move the 1(a1) zone over to an RU1 zone." That was not going to be acceptable. We are in a partnership with three of the other councils around us and bit by bit, after the rural lands inquiry up here on the SEPP [State environmental planning policy], several of those have opted straight for the conversion LEP and pulled out of doing that regional study. So we were left with a seventy to eighty grand rural study, which between four shires may have been \$140,000, \$150,000 for the lot. We have dipped out because the regionality did not happen. In those two studies alone there is the bulk of the money that I have assured you of. There is \$20,000 in mapping costs. Every shire is facing updated mapping costs. Mapping consultants and private planners are making a fortune out of this process, if there are enough around to service that.

**Reverend the Hon. FRED NILE:** I suppose it is difficult to estimate what the costs would have been for your own staff contribution. Would that be another \$100,000?

**Mr FILMER:** As I said, we have been going for at least seven years. At least two years out of that I have had to pull my strategic planner out to cover maternity leave for the development control planner. Two to three years at one time a strategic planner's wage and also, more than likely, half of my wages are directed at actually doing planning issues.

**Reverend the Hon. FRED NILE:** When you made the submission for those grants—and you referred to the \$21,000 and \$100,000—did you indicate that you had that extra burden when you were left carrying the cost?

**Mr FILMER:** I believe we were honest in our submission. On the \$100,000, I think we did apply for more. But the bucket is only so big; it has to be spread around. Other shires have needs as well.

**Reverend the Hon. FRED NILE:** You did ask for more?

**Mr FILMER:** I believe so. I stand to be corrected. I have not checked that paperwork in the last six months or so.

**Reverend the Hon. FRED NILE:** It would be a good argument for you to get extra money because of that \$70,000?

**Mr FILMER:** Yesterday I was knee-deep with my staff doing estimates and budget for next year. I now have to prepare a section 94 plan, a development control plan, to support my LEP. I am asking council for another \$50,000 or \$60,000 for next year. Again, that does not include staff costs; that is the material cost to achieve it.

**Reverend the Hon. FRED NILE:** You have expressed some pretty strong views in your submission. The Department of Planning has claimed that it did conduct consultation prior to the new planning reforms. What are your views on that consultation?

**Mr FILMER:** Firstly, I am a health and building surveyor, and I think you will walk a long distance before you will find a health and building surveyor without an opinion. In essence, lots of councils west of the Divide put in very strong submissions. When I read through the response on the exposure draft, I believe a lot of those were softened or dismissed in the way that there was an approach almost as though this legislation and these reforms were going through, that it will happen, and that we will catch what we can out of the submissions, rather than a good lesson and good interaction on it.

Another recent example of that is probably Housing Code Mark I and Housing Code Mark II. Housing Code Mark I was vastly notified in regional seminars. Some feedback came back: yes, it did change, but there was no lead time to consider it again; it was executed and done, it was in. The seminars to those were nothing more than a two-hour flash: Here it is. This is nothing against Chris Johnson. Chris flew into Wagga Wagga virtually to talk to us for 20 minutes at the end of the seminar. That is not training us how to use the housing code; that is just: "Here it is, the grand launch. Go hard, guys." It was a *fait accompli*. What I need from my guys is on-the-ground training. What are the impacts of this on my policy? I virtually have to throw my policy manual on my exempt and complying code out the window now, when it was SEPP 60 with local flavours.

**Reverend the Hon. FRED NILE:** You made a strong argument that if you divide up New South Wales—you say most centres west of the Great Dividing Range have populations of fewer than 20,000—as to whether the new planning laws, although it may have been impossible, should have had some principles on the coastal side of the Great Dividing Range, and an adaptation for the small regional areas west of the Great Dividing Range.

**Mr FILMER:** I come at that—and this may be a little bit radical—reading the legislation as more performance-based, as opposed to prescriptive: a blend may need to occur. In, say, the last five or six years since certifiers have been a very real reality, I think we have seen one in Young, a town of 10,000 people. The private certifier that come to do your nursing homes, your shopping centres, or whatever, are ringing us and contracting us to do the physical inspection for them so they can report back to us at the end of the job.

**The Hon. CHRISTINE ROBERTSON:** Do you get paid for that, though?

**Mr FILMER:** Purely the inspection rate that we advertised for compliance certificates. Whereas, for them, for example, the one who was doing the ABC childcare centre when it was built, I think he was engaged from Lismore. For him to come down for each inspection from Lismore would be a little bit more than the \$88 that I charge for inspections.

**Reverend the Hon. FRED NILE:** And it would probably be a fairly big fee—

**Mr FILMER:** It is none of my business. My staff were engaged to do a job. At the end of the day, ethically we are not meant to advertise ourselves as a viable alternative; we are the stand-by for construction certificates and compliance certificates, and to catch all at the finish should everything else not be there.

**Reverend the Hon. FRED NILE:** The buck stops with you?

**Mr FILMER:** Yes.

**The Hon. KAYEE GRIFFIN:** On the private certification issue, I think you said in your submission that there probably was not a lot happening with private certifiers in some of the councils in western New South Wales. If you were doing the inspection for a private certifier—and I take it there would be more than one instance of that, even though there is not much private certification going on—on top of everything else, how does that impact on the workloads of you and your staff when you have to do those things on the side?

**Mr FILMER:** I understand your question. We live each day as though there is not going to be a certifier, and therefore we expect most of the work to come our way. This year we are anticipating something like 350 development applications, of which 80 to 90 are probably housing. With one building inspector and everything else they ask of him—both compliance-wise and regarding upgrades of fire safety, essential services, the septic tank register, the swimming pool register, and all of that—he has a workload. I am a health and

building surveyor. When he gets swamped, he then throws a few files my way—not that I have the time for it. It is all hands to the wheel, and I have a great team at the moment. But I have had to rebuild that team two or three times in the seven years I have been there, and getting quality applicants is tough.

**The Hon. KAYEE GRIFFIN:** Is it becoming tougher than it was? I know there have been issues with qualified staff in local government for some considerable time in terms of planning and so on. Is it getting better, or is it getting worse?

**Mr FILMER:** It is getting worse. I will give you the example of what has happened in our area and then possibly an analogy where we as a profession need to contemplate our navel. In the last three years I have had to advertise twice for my key district/senior building inspector. A quick market poll of Tuesday's *Sydney Morning Herald* will reveal that coastal councils are employing building surveyors for approximately \$55,000 per annum, with a leased back car on top of that for which they have to meet costs. A year and a quarter ago, to even attract applicants I had to offer \$70,000 plus lease fees of probably less than coastal councils. And then I did not get swamped; I got two or three quality applicants that I got to pick from. Cootamundra got one of those, and I got one of those.

The neighbouring shire, Harden, has not bothered to advertise any more. If somebody comes knocking on their door they will have a look at them. They are at \$75,000 plus, and trying to work rent and car deals. In the past six to 12 months I think West Wyalong put on a guy who was in my chair at Shoalhaven after I moved out to the south-west slopes. I think he was attracted for approximately \$85,000, plus car and house. So it is: "\$55,000 and enjoy your lifestyle on the coast." There is a market premium that we have to try to get an applicant with \$20,000 to \$30,000 more for building surveyors and planners. That is the casualty of living west of the shale cliff face.

**The Hon. KAYEE GRIFFIN:** In your submission you talk about the Building Professionals Board. Basically you say that council building surveyors should not have to answer to two masters; their employer should be accredited and then have a duty of care to employ, train, and keep training staff. You mentioned that at the beginning of the hearing. Do you want to say anything further in relation to that, as to how it is an issue for your council, and further outline your concerns about the Building Professionals Board?

**Mr FILMER:** First of all, professionally, I am a member of the Australian Institute of Building Surveyors, which is my professional body, and I am also a member of my union, which is the Development Environment Professionals Association. Regarding the institute, the majority of the executives are private certifiers now; they do not represent necessarily totally local government any more. They do try to be mindful of the wider picture. I think Bill Byrnes has made submissions to your reform agenda in the past and has tried to talk more on a "Where are we going Australia wide?" COAG-type approach. That may not necessarily represent local government building surveyors at times. Our union secretary is Ian Robertson. You would not have missed his submissions; you probably had a laugh in the back rooms about how blunt Ian is at times.

As I have explained, I have one building surveyor and me as a health and building surveyor. More than 75 per cent of my time is spent on management. Have I got the time to go out and gain my continuing professional development [CPD] points? If you are going to require them for my council's particular need, I will need to. My building surveyor, as I have explained, is very busy. To attract 30 CPD points per year, I think we were working out that with the poor regionality of offering of courses and things that attract points, I have at least nine lost working days a year. Then you have to include travelling and overnight stays to get to some of these things. It is unreasonable for me to expect a staff member to go from Young to Epping for a four-hour seminar—where a lot of these are held—and then try to make it back. Four hours on the road, four hours at a seminar and four hours to travel home is a big ask for a staff member. You have to look after them.

**The Hon. CHRISTINE ROBERTSON:** Who runs the training?

**Mr FILMER:** The training is offered in many different forms, including from the Department of Local Government. Our institute also arranges it. If it is of an accreditable nature, it gains CPD points. I believe if some of the reforms get through, acting in higher capacities in a number of work-based competencies will attract CPD points as well. Attendance at a council meeting for the director and things like that will attract CPD points as well. But it is a tough ask mapping out a training plan for that particular staff member. If it is coming for health and building surveyors, I would gather it is probably going to come for planners in time, too. The next thing you know, in a small council where I have one of everybody, seven to nine days of each year trying to hunt down CPD points—

**Reverend the Hon. FRED NILE:** The figure is not realistic in that respect?

**Mr FILMER:** No, it is not. But I think that can be overcome a lot more in offering regional offerings of these seminars. That is what I talk to in some of the dollar flow from State to Federal. If you want us all up and confident, open the purse a bit and get them out to regional seminars. If it is the Department of Planning putting a course on, make sure they are no more than two hours from the widest number of councils that could be applied.

**The Hon. CHRISTINE ROBERTSON:** For the functioning of your council, would it be more appropriate for specific planning processes to have a system of block release, such as two days or a whole day? It would be better to have it in a regional centre close to you. But would it be more appropriate than having to waste eight hours travel time for a four-hour session, for the planning processes to always consider that issue, so that you might have eight hours travel but you then get a full day or a full two days?

**Mr FILMER:** Yes, I am prepared to take that on board. A good example of that—and it attracts something like a third of your bonus points—is attending a professional conference. Since I have been at Young council I have tried to allow budget so that each professional can attend their State conference for not only the seminars that are available but also the networking, to overcome isolation issues.

**The Hon. CHRISTINE ROBERTSON:** Conferences are fantastic. I am an ex-public servant and I know how important they are. Sometimes new skills training is what is being asked for because there is huge change going on.

**Mr FILMER:** Yes, two days short and sharp, and well spaced. I can work with that, and I can staff that.

**The Hon. CHRISTINE ROBERTSON:** As a rural local government body, how and what do you expect from your regional planning department processes?

**Mr FILMER:** That is a good question. Essentially my planning staff are servants of State Government. They are preparing plans. At the end of the day, delegations have been revoked to create and make LEPs at a local level. They are servicing their State planning body through their regional office and they are paid by council. If you want to look at it as streamlining—

**The Hon. CHRISTINE ROBERTSON:** What do you get back? Do you not get anything back?

**Mr FILMER:** You do get localised flavour, but with a standard instrument we are talking about a State system—a herding of all 152 councils into a commonality of system. I say that but I do not mean it derogatively. Commonality has worked for the Building Code of Australia, for example, so one of the COAG terms of references was that. I worry from what I hear that there is consistency between each of the regional offices. With the carriage of my LEP, I think I am up to about my seventh individual controller from regional office. I started off with Queanbeyan, I am now over at Wollongong office. That may be of greater State reallocation of resources to planning offices. I understand some of that but the message is getting harder to decipher when all we want to do here is deliver a clear agenda to our locals. It gets muddled as you pass it up the line occasionally.

**The Hon. CHRISTINE ROBERTSON:** Do you believe the role of the regional planning processes in country New South Wales is not very well defined?

**Mr FILMER:** I do not know that they have the delegations within a clear system. I think you should have more office. Queanbeyan is looking after a third of the State geographically. Dubbo is looking after probably the same. So do it better and within clearer delegations, but smaller regions may be the approach.

**The Hon. CHRISTINE ROBERTSON:** But have they not just dismantled that?

**Mr FILMER:** They may have dismantled it, but I am offering a suggestion to your question, sorry.

**The Hon. CHRISTINE ROBERTSON:** I was not arguing with you.

**Mr FILMER:** Sorry, I am thinking as I am answering.

**The Hon. CHRISTINE ROBERTSON:** Yes, so was I. I am going to ask this next question of the CENTROC representatives. How do you define a region? We have had quite a heavy suggestion from several witnesses in relation to catchment management authorities becoming in the future regions for all things. I will ask a leading question because I have written it down.

**Mr FILMER:** I know what you are asking.

**The Hon. CHRISTINE ROBERTSON:** I want to know whether you think that the social, industrial and financial catchments of water are all mixed together?

**Mr FILMER:** Yes, I agree. Possibly catchments are the best way to go in terms of the State servicing its regions. Our greatest frustration at the moment for Young council is that we answer to the RTA in Wagga, we answer to the Lands department in Goulburn, we answer to the EPA in Queanbeyan, and we answer to Health in a number of different ways or regions. We answer to, you name it; it is like an interlocking set. If the State was just an even grid and each department was serviced on that same even grid, but that is too idealistic. But with that even grid being catchments, for example, and your EPA, your Health, your this, your that, all go on catchments or multiple catchments, I believe that the State could service its local areas far better.

**The Hon. CHRISTINE ROBERTSON:** So you are defining "catchment" as the water catchment.

**Mr FILMER:** Yes, as in what your catchment management authority is based around. It is a logical environment.

**The Hon. CHRISTINE ROBERTSON:** So when you look at some parts of the State the water catchment actually is an incredibly isolated small town component that would be very difficult to run as a region.

**Mr FILMER:** Multiple catchments within a region.

**The Hon. CHRISTINE ROBERTSON:** So draw the lines including catchments, but whole catchments?

**Mr FILMER:** Yes.

**The Hon. CHRISTINE ROBERTSON:** It is a very complicated question.

**Mr FILMER:** Yes, I understand where you are coming from. Say the Murrumbidgee is broken into three regions: upper, mid and lower regions. They may be serviceable catchments in their own right. We happen to be in the Lachlan catchment. We draw our potable water supply from the Murrumbidgee catchment. There are complications and anomalies all through it, but some commonality that each government department services a catchment from one regional area would make sense. It is currently frustrating trying to get to your regional directors.

**The Hon. CHRISTINE ROBERTSON:** How you define the regional area is the question.

**Mr FILMER:** Yes, I agree. I do not have a definitive answer but catchments may be a start, or multiples of catchments.

**The Hon. MICHAEL VEITCH:** You may have been in the gallery when Liz Tomlinson from New South Wales Farmers was providing some comments around the prospect of, or even the need for, master natural resource legislation. She was talking about the plethora of legislation and how there may be a need for a master legislation. What is your view about that?

**Mr FILMER:** That is the first time I had heard it as wide ranging as that. You have seen in my covering letter that I actually believe everything to do with development should at least be in one Act. That was the spirit of why the EPA Act assumed building controls out of the Local Government Act. But it still left behind septic, it still left behind all the other things and the lady who was sitting here was speaking about the amount of differences. Natural resource management may be the main umbrella which divides into either

several regulations to give effect to it. But we redrafted the Local Government Act because the ordinances were grinding to a halt, everything was becoming unwieldy and the Department of Local Government was seeking reforms. Now is the time.

I speak with a lot of other smaller council guys. It may not reflect big council attitudes, but if you made the Act simpler, if you were able to deliver locally, at the end of the day I have got to stand at the counter and explain to—I think Jenny uses the term in her submission—Joe house builder or Joe average. We have got to explain complex legislation and multiple layers. By the time you work down from the Act, SEPPs, REPs—regional environmental plans—if they apply and LEPs, then you are talking designated, integrated, State, local exempt and complying, local exempt and complying, then further down again. You talk to Joe house builder and he does not want to know about all that: "Give me a form and let me apply."

**The Hon. MICHAEL VEITCH:** We asked for a simple schematic to help us work through all that and received six pages.

**Mr FILMER:** I was going to ask how many pages.

**The Hon. CHRISTINE ROBERTSON:** What would happen if we kept saying that this is all far too confusing and someone decided it would be a wonderful idea just to stick a regional plan on everyone?

**Mr FILMER:** I am a fan of a regional plan. Take a look at the five or six councils around my area. They have all got broad-scale, broadacre farming issues. They have all got this. I would love State direction in that regard. It helps us frame our local instruments. Whereas you will hear in a lot of submissions that they do not want regional plans. The State does not want REPs and we are breaking it down from REPs.

**The Hon. CHRISTINE ROBERTSON:** Why?

**Mr FILMER:** I have seen some of the submissions, but I think they lose touch too fast and to give the energy and the resources to keep that current is half the battle. Whereas out our way farming is going to be in your face. It may have led to a precursor saving of the central rural lands inquiry.

**The Hon. MICHAEL VEITCH:** At a previous hearing we heard evidence from a couple of different organisations that their view was that the Environment Protection Act actually needed throwing out and redoing and there actually should be two completely separate Acts, one for planning and one for assessment. What is your view on that?

**Mr FILMER:** That would be a good start. I am not saying it is a definitive answer. If I sat and applied ours to it, no, but maybe even three: one for plan making, one for how you use those plans and one for the actual development control at the coalface with people doing development. I see that as an exciting challenge: framing a new legislation like that. It could be New South Wales' answer to the COAG reforms: our hat in the centre of the ring towards delivering a code of Australia-style uniformity mechanism. Why should we be so complicated in Young and be very different in Bunbury, Western Australia—same with health, same with police? That is probably a personal view, but why should I expect a different level of care healthwise in Young than I do in Kalgoorlie, Western Australia? I am an Australian.

**CHAIR:** Would you like to add anything further?

**Mr FILMER:** One last concern that was not covered—I have not dug too far into it because it will come up eventually—is panels, JRPs and stuff that are going to come our way. As I said, we are probably a bigger council in the microcosm of our little region, but not within the wider CENTROC context. I worry that Federal politicians are elected to make laws, State politicians are elected to make laws, yet local politicians are being elected and they are not allowed to touch development control. That seems to be the spirit behind the legislation. I believe everybody has been tainted a bit with a couple of bad eggs that may have happened in other shires. Be careful with panels, especially in the bush, because someone such as me is probably going to get dragged across to a panel in a neighbouring shire. You are going to lead to inefficiencies in your already lean management structures and lean council structures. It is just a comment in that regard.

**CHAIR:** Thank you very much. The Committee may have further questions for you and would appreciate it if you could provide your answers within 21 days.



**(The witness withdrew)**

**GARRY BEVAN STYLES**, General Manager, Orange City Council, Byng Street, Orange, and

**JENNIFER ANNE BENNETT**, Executive Officer, Central New South Wales Councils, sworn and examined;

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

**Mr STYLES:** I am here in my capacity as the General Manager, Orange City Council, and also as one of the executive general managers on CENTROC.

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

**Mr STYLES:** Yes, to address the heads of consideration. Prior to doing that, as CENTROC we would like to submit that it is our view in the medium term that a complete redraft of the legislation for the planning of New South Wales should occur. We do not see a good reason, particularly given the link to management of the environment and economic development, that there should not be a redraft. It is an old legislation that has been amended many times. It has had the imposition of court decisions rather than having clearly thought out, strategic amendments. We think that we should be aiming for a best of breed that leads the pack in Australia for the planning legislation in New South Wales. Having said that, one of the heads of consideration is the amendments that may be necessary over the next five years.

First up, we would like to point out that there has been so much amendment and so little settling that a number of the planning staff particularly are getting amendment fatigue or uncertainty fatigue. Orange council is at the certification stage of its LEP having accepted the time frame set by the Government a couple of years ago, and being at the certification stage we are still settling amendments to the template.

The latest and greatest is floor space ratios and height limitations in a regional city like Orange, which has never, ever had to deal with that. If you look at our development it is probably unlikely. Were there some things that might be a bit tall, we would like to entertain them because they might actually be good. Some of the amendments are really grinding us, having been through the sledgehammer of the local environmental plan [LEP] and the template. I heard the previous speaker speak about complexity for mum and dad developers. It is out there. We can cite cases as well of that great cascading list of everything from plan making to our complying development, the State's complying development and having to explain that to people who are not routine developers and trying to shepherd them through a process. It is complex. Later on we talk about housing affordability. The more complex, the more difficult, the less money that is available for these people to put into bricks and mortar. So it is complex for mum and dad developers. I understand how it would work well for companies who do a lot of development, who are right on top of it, who know the process inside out and can have their own private certifiers. But a lot of our customers are not like that.

In relation to efficient plan making, we think there need to be some improvements with the Parliamentary Counsel process. This idea that we will do all the stuff to produce a plan and settle it down and then it will go to Parliamentary Counsel who will come up with some amendments and we have to readvertise is not, in our view, the right way to do it. We think it should be the other way around so that we can get something that we can settle and put on exhibition with the input of Parliamentary Counsel. Of course, that needs to be resourced. I might get shot for the idea of councils making a contribution so that all this can happen more efficiently and more quickly so it can be resourced, but that is an option. We would like to make a few other points. You will have heard about the national broadband network recently. As CENTROC we put to the Federal Government over the last couple of years the need to bring broadband into greenfield development sites. We are very happy with that. We know they are talking about it and we would like to see whoever, so there is no duplication, either the State or Feds but one of you groups get together and come up with straight up and down how we do it in terms of a regulatory sense.

We have a major problem with business zoning in the standard template. It needs amendment. We have issues delaying our current LEP bringing the old 3 (b) zoning into the (b) zonings in the new template. The 3 (b) zoning is the fringe CBD zoning. It is not easily fitted and we are experiencing problems. In rural and regional towns the hierarchy of retail and the CBD is very important in the structure of the city and this global thing

across the State is not working in that sense. So we think that needs amendment. We believe there needs to be a capacity for commonsense minor amendments for development applications [DAs] as examples of works, executed plans or the release of DAs where things do not quite match up and you have to then go back through a modification. We do not believe that should sit with private certifiers because the councils do the DAs and are the independent group that can handle that. There needs to be a more streamlined setup to do that.

We are really happy with the idea of protecting State environmental planning policy [SEPP] 64 in heritage and conservation zones. It should be protected, but it does need a little bit of flexibility when, for argument's sake, in the CBD of Orange people cannot advertise the phone number of their business. That is an issue for us. Private certification when it goes badly is an issue for us. We are not here to talk about the merits of past decisions. We have got private certifiers, a number of which do a good job; but when we get bad ones we have had bad experiences with them. There is one between three councils who has been reported 43 times and the Building Professionals Board is not, in our view, doing an adequate job of managing discipline.

**The Hon. CHRISTINE ROBERTSON:** Can you give us an example?

**Ms BENNETT:** Bushfire. Cowra reported a bushfire situation where there was not compliance. That person is going to have significant problems, especially given the Victorian situation.

**Mr STYLES:** A lack of inspection of things that should be inspected is another example. They do not keep adequate records for follow-up. You would have heard from numerous councils. I have heard the position of different council bodies. We have a few roles in it. The private certifier gets to pick the cream and we get to do the regulatory stuff. If there is a mess, non-compliance and so on, we get to clean it up and it is usually at the ratepayers' expense. That takes resources to do.

**CHAIR:** Do you think there should be regulations that the private certifiers have to follow? How can we do it?

**Mr STYLES:** I think it needs greater structure around it because ideationally it has happened, and I understand the reasons why it has happened—to free things up, to get things happening. But the application of it has not worked too well when it goes bad. There need to be greater consequences for failure. If you are managing staff in a council we occasionally get things wrong, of course. If there are major problems, say, three or four times with an individual, you make a business decision about that. But when it is repeated and there are significant problems the problems can lead to major issues. When I talk later about conflict between the planning and building stuff there is an example on fire regulation. It is a good example. It can cause people, particularly mum and dad developers, lots of grief and loss of funds. There needs to be a better system with which to manage the competency of these guys and there needs to be some consequences for failure to do the right thing.

**The Hon. KAYEE GRIFFIN:** What consequences did the particular certifier face?

**Mr STYLES:** Trivial fines.

**Ms BENNETT:** Between \$1,000 and \$4,000 worth of fines. I think it might have been a total of four grand. Meanwhile you have got council staff spending weeks chasing around. It ends up with council staff. The Building Professionals Board does not have the resources to find that evidence. So the council staff have to find the evidence. Then there is the legal issue of whether a council officer can. In fact, legal advice has been provided to council staff that they cannot be the ones going onto people's property looking for evidence. So then you are peering over people's fences taking photographs, if you can get the neighbour to agree. It is just a tangled mess. The bad private certifier issue is a big issue for us out here at the moment.

**CHAIR:** Do they not have accreditation, which could be looked at?

**The Hon. CHRISTINE ROBERTSON:** Who is in charge of accreditation?

**Mr STYLES:** The Building Professionals Board.

**Ms BENNETT:** Everything is in place but there is nothing happening at the sharp tooth end to turn around and bite these people when they are doing it wrong.

**Mr STYLES:** And it does a disservice to the good private certifiers as well.

**CHAIR:** What would you do to remedy this situation, or do you think it is just a bad apple?

**Mr STYLES:** In our view there needs to be some sort of bond or funding held to clean up the mess on developments if it occurs. Secondly, there needs to be greater consequences of deregistration of errant private certifiers. Currently the Building Professionals Board is the mob that does that. If they are not going to do it adequately perhaps someone else should.

**The Hon. MICHAEL VEITCH:** Would they have professional indemnity insurance?

**Mr STYLES:** Goodness, I have been down the track with professional indemnity insurance. The objective of an insurer is to deny liability to start with. By the time you might get to the end of it the issue is gone and done. If you have got a conscience you get in and fix it before that happens. It is not an effective thing. If it is a major big dollars thing the person against whom the negligence occurred is the one to take the action, which is the developer or the mum and dad developer, and that is a pretty tortuous path. I think some sort of system where a bond is provided that can be utilised to meet the costs of compliance in circumstances of failure is one way to go. I guess we are not here as the controllers of the architecture of the planning legislation or the system but as the users identifying where it is not working.

**CHAIR:** But it is a major problem. If a mum and dad developer has to go through the court system that is the last thing you would want for them.

**Mr STYLES:** Yes.

**Ms BENNETT:** Or worse, when they have to bulldoze their house because it is non-compliant.

**CHAIR:** It is an issue that has to be looked at very seriously as to what steps should be taken.

**Mr STYLES:** Yes.

**CHAIR:** It is an important issue.

**Mr STYLES:** The consequence of cleaning up messes is cost shifting to us. We are meeting that out of what the ratepayers provide in rates rather than picking it up from the development somehow. So it is not coming from the right source, in our view. Council staff accreditation under the system of A3 to do with minor structures is a bit of a problem. In fact, it is a big problem. Take a look at this council. We have dealt with development here over donkey's years, big, small, otherwise, yet for some reason our health and building surveyors have been given a lower level accreditation. The Department of Planning in the last two years has delegated to us two 3As, major hospitals, worth \$300 million to do the assessment and provide the report-back to the Minister. Yet the same staff are going to get an A3 accreditation which does not fit. I am sure you would have heard comments from other people about the cost of accreditation, the portability of accreditation and all that. They are all legitimate issues. There needs to be proper recognition of prior learning or organisational capacity and all that stuff so that it reflects reality. Just look at the record of some of the councils and what they have done. That is a bit of an issue for us.

There is an emerging issue that I became aware of this week. There is a discussion paper from the Department of Planning where they have been through all these reforms and the controversy over joint regional planning panels. There is a discussion paper out that is proposing no joint regional planning panel for western and it all goes to a planning assessment commission [PAC], which is three bureaucrats appointed by the department—none of the two councillors on the local regional planning panel or any of that. That is a major issue for us. It is a huge step to get to a headspace of a regional planning panel, let alone doing it at the council level. Then for a discussion paper to have it slip to a PAC in Sydney is really not acceptable in our view. It is short-changing us. We may not have the continuity, quantum or scale of development of some of the metropolitan and coastal regions, but planning and development is a very key issue in our region. To just propose that it is not going to happen, after the controversy about getting regional planning panels, is not kosher in our view. I heard my colleague from Young mention a skill shortage. It is real. We do pay a premium: it is hard to attract staff. With the onset of private certifiers there has been a lot more demand, particularly for planning and health and building staff. It is a real thing that we experience and it is an ongoing difficulty.

Moving on to further consideration about the COAG submission and moving through those issues, the Building Code of Australia [BCA] we are generally happy with regionally in CENTROC. We suggest there could be some more stuff brought into it with an expanded BASIX component, but broadly we are quite happy with it. Key performance indicators [KPIs] for State agencies would be really good because often major development that requires concurrence or notification is slow due to tardiness of some of the agencies.

**The Hon. CHRISTINE ROBERTSON:** Key performance indicators that you have for time and so on?

**Ms BENNETT:** Yes.

**Mr STYLES:** I do not want it just to slip to times because if someone is going to tick a box and say they have sent a letter back to us with motherhood-type stuff in it, it is not going to serve us well. It needs to be both timely and quality.

**The Hon. MICHAEL VEITCH:** When you talk about some agencies being tardy, which ones are they?

**Mr STYLES:** Broadly, the Roads and Traffic Authority is quite good.

**The Hon. MICHAEL VEITCH:** The reason I am asking is that it could be the nature of the department's responsibilities that makes it tardy. For example, with the Department of Primary Industries it could be agricultural interface with urban spread issues. The Rural Fire Service may have specific issues that will slow it down.

**Mr STYLES:** Having dealt with them over a lot of years, there is a baseline in view of lack of resources in State government. You guys have financial constraints, just like everyone else, and pitch your services at a level. I think that the priorities they are experiencing in other areas often draws them away from this responsibility. The KPIs would be a good thing to resolve. It may have an impact on the resourcing requirements because they have all got other jobs to do.

The response to us on planning is only one component of what they do. If you want, I could rely on my staff to provide you with a list separately on what some of the examples are. But, publicly, I have said what I want to say about that.

**The Hon. MICHAEL VEITCH:** Another council clearly targeted the Rural Fire Service.

**Mr STYLES:** Okay. We think e-planning is a good idea. We support it. A number of us have started to implement it. There is not a big take-up as yet, but we do hope that improves in the future. Consistency across all States from COAG is an enormously ambitious thing, because your planning legislation overlaps with a vast number of other bits and pieces, and to get that sort of consistency would be massive reform. Ideationally it is quite good, but it would be massive reform. With regard to climate change and natural resources issues, water resources in this region is enormously difficult, more so for some councils than for others, in meeting the demands for growth and industry. With regard to opportunities in agricultural regions for carbon trading, we are interested in that if there are opportunities for our stakeholders. We would really like to see that facilitated through any legislation.

**CHAIR:** Mr Styles, if you do not mind, I think members may have a few questions to ask you. If you could give us the document to which you are referring, that would be helpful. I think we will now take questions, unless you want to refer to a couple of brief matters.

**Mr STYLES:** I will just go through a couple of key matters, if that is all right. We have a written submission.

**Ms BENNETT:** We have a written submission, but basically Garry is adding to that. We will hand this to you.

**Mr STYLES:** With regard to competition policy, we see from some ACCC documentation in July 2008 that there seems to be some sort of idea that commercial activities can be taken outside commercial

zonings. Our view on that is that it would be catastrophic. Earlier I spoke about the hierarchy, the need to preserve the CBD, and that sort of thing.

**The Hon. CHRISTINE ROBERTSON:** What about the example of the corporate store killing all the small stores?

**Mr STYLES:** That is permissible within zoning for CBDs anyway. In my view, councils need to do a retail study to work out what the turnover is, what floor space they can stand, and to facilitate that floor space. Whether it be corporate giants, little people, or whatever, they should not preserve a false business environment for a heap of small stores. But neither should they provide an abundance of floor space that is above and beyond what the retail turnover is within their region—

**The Hon. CHRISTINE ROBERTSON:** You are saying it is a good idea to include competition policy in the planning process?

**Mr STYLES:** Yes, but you need to balance it up with a proper retail study. That information is out there; you can get it through the census. It is easy enough to do. Moving along, adjacent to airports is not an issue here. Parkes is going very well as an intermodal hub. We believe that is a very positive thing for our region, and anything that would support that in a legislative sense is probably a reasonable thing.

**The Hon. CHRISTINE ROBERTSON:** If you run your own airport—

**Mr STYLES:** We certainly do.

**The Hon. CHRISTINE ROBERTSON:** If you had a spare shed and an industry decided it would be a very good idea to breed chickens in it, what sort of decision would you make?

**Mr STYLES:** That would not fit within our zoning at this stage. If there were ancillary uses—

**The Hon. CHRISTINE ROBERTSON:** You can change that, though—someone did.

**Mr STYLES:** Putting a chicken shed next to airports is an odd thing. Mind you, we have a lot of agricultural land next to our airport.

**The Hon. MICHAEL VEITCH:** On that, within CENTROC do most of the shires run their own airports?

**Mr STYLES:** Yes, there are few. Most of them do. The larger ones do. The ones with regulated passenger transport are Orange, Bathurst and Parkes. They have Rex, I think. But the others all have airstrips and things like that. Cowra has one as well. With regard to inter-relationship, planning and building controls, pre-lodgement is a major positive thing in our process here, where we can talk through with people and get it right. For smaller councils, you then have to conflict that staff member out of the assessment role in the development application; they do not have the resources to do it. In Orange it is not such an issue, whereas with smaller councils it is. Take away pre-lodgement, complicate the system more, and it costs more money.

**Ms BENNETT:** We would not support that. We are very pro-development out here, and no councillor would support that.

**Mr STYLES:** With regard to fire upgrade stuff, when we do it we have to consider a whole building. When private certifiers do it, they only have to consider the element that is being changed. If that change is a classification of the whole building, there is a problem with the way that cascades because it can lead to the wrong provision of fire equipment within a building.

**The Hon. CHRISTINE ROBERTSON:** Why is it different?

**Mr STYLES:** I do not know the answer to that question. But, in fact, that is a risky thing. The last issue is housing affordability, which is not broadly an issue. But you must understand that the Department of Housing, in every town here, provides an important role. There is a demand for that sort of affordable housing. They are moving away from a cluster-type arrangement to a salt-and-pepper arrangement. That needs to be

provided for. There is demographic change. They have all these three-bedroom things where they need two-bedroom stuff. That needs to be facilitated.

**The Hon. MICHAEL VEITCH:** Previously this morning we heard comments about the need for master natural resource management legislation. What are CENTROC's views on that?

**Ms BENNETT:** We do not have any policy particularly in that area.

**Mr STYLES:** Ideationally, I think the idea of an umbrella that provides an overview for a number of bits of legislation that interact together is a good idea. I suspect that is what they are talking about with master legislation. To give it that sort of flow and interpretation I think is important.

**Ms BENNETT:** We do have issues with who actually governs things like a riparian zone on a river, where a number of agencies, for example DECC and CMA, all put their two bob's worth in and that can be quite challenging for local government. If you had something that cascaded down from a master plan, at least it would provide some direction about what the level of authority was over varying parcels of land, and that would be useful.

**Mr STYLES:** It would almost be like an efficiency flow arrangement.

**The Hon. MICHAEL VEITCH:** Previously to today we have also heard from a number of organisations the view that the current legislation should be pretty much thrown out and that there should be two clearly separate pieces of legislation, one for planning and one for assessment.

**Mr STYLES:** As I said at the start, we support the idea of starting again and getting the best of breed. If that was best of breed I would be satisfied, but I would also be surprised. You might split them up, but they are still going to have to interact.

**Ms BENNETT:** The process that we support is: Have a good look around nationally and perhaps elsewhere and see how things go, and then come back and talk to us. We are very keen that we be engaged. I can tell you that the people out here—I had some challenges even getting staff involved in this process because they feel so disengaged from what they see as a Sydney-centric planning situation.

**Mr STYLES:** If you want to get into microeconomic reform, start from scratch: get the best of breed.

**Reverend the Hon. FRED NILE:** Jenny, following up on your role in CENTROC, are there any barriers to your providing an effective service for your member councils? Is there anything that we should recommend to assist?

**Ms BENNETT:** Regarding planning?

**Reverend the Hon. FRED NILE:** Yes, or any other services that you provide.

**Mr STYLES:** I think that comparatively the take-up and participation in ROCs is the problem broadly for ROCs. In CENTROC we are aware that we probably cooperate a lot more than others. That is the only broad issue like that that I can think of.

**Ms BENNETT:** There has been some discussion, I suppose, around regional plans that may be useful for our members if there was some sort of consistency. There has been some discussion around the idea of some sort of regional compliance triage out here. We have all these things that local government has to be compliant with at State and Federal level, and maybe there could be some sort of triage person that worked on a regional basis. Another barrier, particularly to my offering services out there, as Craig was saying, is that there are so many different boundaries. A recent example is that we are trying to do a regional economic study out there at the moment. We have spent six months waiting for the negotiations over Regional Development Australia boundaries before we can even proceed.

Yes, it is very challenging about how you decide where a region is. Take Orange for example. We are straddling a couple of catchments here. It has to be, obviously, some composite of catchment of community of interest and NRM, I would suggest. It is doable; I just think that people have to do it. The idea of having a

statewide grid where we all talk to the same people would really be sensational. It could be a risk, though, for State Government.

**The Hon. CHRISTINE ROBERTSON:** The reason I keep asking this question is that people seem to be forgetting the complexity of defining a region. They are saying very comfortably: let us have the catchment management authorities. When you look at them, they are not necessarily catchments of anything but water.

**Mr STYLES:** That is right. It is not going to work. You have multiple catchments which you need to resolve.

**Ms BENNETT:** Having worked regionally now for a number of years, I think you are going to have to do a lot more thinking around it than just talking about catchment. You are going to have to do a composite of NRM and community of interest, I would suggest.

**The Hon. CHRISTINE ROBERTSON:** Defining what "catchment" means.

**Mr STYLES:** We are on the top of a catchment. Thirty kilometres away are other towns that are in Lachlan, and we interact a lot with them. So it just does not fit like that.

**Ms BENNETT:** At the moment we are having a big challenge. You might be aware of the Gellatly report that is going out about water utilities out here. It has divided the CENTROC region into two, which is quite challenging for us as a region because at the same time we are cooperating on developing a water security plan. Those sorts of things are chronic for us—that we have to deal with this chronic lack of what a region is.

**Mr STYLES:** In terms of coordination, the State has gone to the trouble of doing metro strategies and various coastal strategies but there has not been too much about doing a regional strategy out here.

**The Hon. CHRISTINE ROBERTSON:** It is difficult, though, because country councils have so many boundaries, delineations and arguments about—

**Mr STYLES:** You would get support to do a CENTROC-based one.

**Reverend the Hon. FRED NILE:** Who do you recommend should make the decision about where the regions are?

**Ms BENNETT:** I think you would be looking at quite a long and protracted conversation about it first. But once you have that conversation, I think you could start putting some lines on a map. At the end of the day, it is whoever has the jurisdiction to make that decision, but it needs a really long conversation in the first instance.

**Mr STYLES:** The State provides where resources are deployed. So it is obviously going to be something arising out of that, with input from people like us, or the councils that we represent.

**Ms BENNETT:** It could be just a different way of seeing how you resource things. At the moment, obviously you get pressure from one State member to put a particular—

**The Hon. CHRISTINE ROBERTSON:** How do you get the politics out of it?

**Ms BENNETT:** You get, say, the DPI in one town, something else in another town, and something else in another town. That is obviously part of the pressure. But if you could change it around to be mini-regions or many-State governments—it is just a thought.

**Reverend the Hon. FRED NILE:** Do you get any extra funding at CENTROC, or would you want extra funding?

**Ms BENNETT:** Always. Everyone wants funding.

**Reverend the Hon. FRED NILE:** Do you make an application for it?



**Ms BENNETT:** We apply. Our members pay for central New South Wales councils, and we apply for grants. Obviously, because we work regionally and we speak with one voice about a number of things, it is very easy for the State and Federal governments to talk to us, so it is not that challenging to get funding. Often things are dollar for dollar. That can be very challenging out here. At the moment councils are pretty cash-strapped. We all have these issues with finance currently, and I suppose you guys are in the same spot. Regional programming would benefit from 100 per cent funding, rather than dipping into our councils' budgets as well as other budgets.

**Reverend the Hon. FRED NILE:** Did any of that Federal funding flow to CENTROC?

**Ms BENNETT:** It has flowed on to local councils. I would find it very difficult to put up a submission to compete against one of my members.

**CHAIR:** Mr Styles, you said earlier that CENTROC works better than most others. Why do you say that?

**Mr STYLES:** I would say, energy mostly. If you can coerce the Executive to have a can-do attitude and actually put the time and effort into it, it goes very, very well. There are other good performing ROCs around, but there are plenty of gaps as well. We have certainly found that from our lobbying efforts with the current Federal Government, the previous Coalition. In feedback on things like the telecommunications lobby, we have been closely involved with NBN and its predecessors. We have been closely involved in trying to push infrastructure projects on things like that, and the feedback is that they rarely see ROCs. We certainly have regular meetings with Ministers. There is a summit going on in Bathurst on 22 May and we are organising that.

**The Hon. KAYEE GRIFFIN:** I suppose most of those questions have been answered already. The only question I have refers back to earlier evidence in relation to having to contact Queanbeyan and Wollongong about a range of things. In terms of not just State issues but as a ROC dealing with some Federal issues as well, I suppose in some ways there are imaginary boundaries where you are dealing with either the Federal Government or State Government and those boundaries do not mesh terribly well. How do you manage? Do you have any comments? Obviously, some sort of different regional structure may help, but would that also better manage some of those Federal-State issues where as a council or as a regional organisation of councils you are trying to deal with either level of government? Would it be simpler if boundaries were not as diverse?

**Mr STYLES:** The current proposal to coalesce what used to be the Central West Regional Development Board and the ACCC boundaries into the RDA is a good-sense thing. We are happy with that. It does not quite fit with our CENTROC boundaries right now because we have gathered more members as time has gone on. The ability to talk cross-boundaries and to resolve things is important in that and should be a feature of any of the RDAs, in my view. I guess from an Orange perspective, there is less of the problems that were described by Young in terms of having to go here, there and everywhere for things. Prior to my time here I was the General Manager at Mudgee and it was certainly similar to the Young experience in having to go over there and down here and all that sort of stuff. Mudgee, in fact, had some country that was involved with some of the Hunter-type stuff. So, I could easily believe that it is an issue to go here, there and everywhere, but the flip side of that is with the expertise and sometimes having that in Sydney is workable. You do need your regional presence, but some of the extreme specialist stuff I do not think you are ever going to get here or within this region.

**Reverend the Hon. FRED NILE:** We keep discussing what a region should be. It would be idiotic to have new regions that cut across council boundaries. In other words, it would be better to have a region of three councils with established boundaries than the Federal Government drawing something on a map, as happened with the Aboriginal land councils, et cetera, which are all over the place.

**Ms BENNETT:** Whole of council. We would support there being LGA boundaries of some type.

**CHAIR:** I would like to ask you, from the CENTROC perspective, the same question I asked the mayor this morning. The Government adopted the recommendations of the central west rural lands panel that councils should be able to retain their existing minimum lot sizes for rural land. Do you agree with this approach or do you think councils should be required to review their minimum lot sizes?

**Ms BENNETT:** You have to answer as CENTROC.

**Mr STYLES:** The CENTROC resolution supported the finding of the rural lands inquiry. There is quite a lot of pressure on the politicians here with various parties having a view of superannuation to continue to subdivide rural land. If you were to ask me my personal professional view on that, I would have a different view.

**Ms BENNETT:** There was also a big push at the time and they were talking about preserving rural communities and farming communities. In order for young people to get into and retain rural communities out here and in order to not go down the American model of having the super farm, they were suggesting that you need to have these smaller parcels of land as opportunities for people to step into. Accepting the fact that people will have to have off-farm income to run those types of places, it is a first step on the way to becoming a full-time farmer. So, that was the rationale, which has merit.

**The Hon. MICHAEL VEITCH:** I would be keen to hear Mr Styles' personal view.

**Mr STYLES:** If you look at all the other factors of production driving agriculture, they are driving larger and larger farm units with capacity to invest more heavily in infrastructure and machinery and stuff like that for productivity. In my view, the carve-up of agricultural land, if it is for step-farming, that is great; if it is for lifestyle blocks, it is not great because it makes it too expensive to acquire for any sort of rate of return on the farming component of it. So, you are sort of betwixt and between with people having purchased farming land under plans that might go back 10, 20, 30 or 40 years where they had some capacity for rural dwellings and you fast forward to a time now where lifestyle blocks with rural dwellings are worth a lot of money. So, reconciling their property rights in that circumstance is very difficult.

But if you have an eye on productivity and economic development and sort of micro-economic reform, the right to farm, the ability to farm and to work it so it is efficient is important. Personally, I am not a great supporter of rural subdivision, broadly or anywhere, uncontrolled. There are ways to do it and I read the policy document of the New South Wales Farmers, which is pretty close to the mark. Put it on the lesser country, bring it in close to the towns, provide proper buffers for land use conflict, in my view, is the way to do it. To broadly have it across vast areas where it can merge in the middle of fantastic agricultural land, where there are then fights about vermin and lack of care with weeds and all that, does not seem to be productive.

**Reverend the Hon. FRED NILE:** Close to services would be required?

**Mr STYLES:** Yes, rural services the councils have to provide.

**The Hon. CHRISTINE ROBERTSON:** In some areas, not for everyone.

**CHAIR:** The rural lands SEPP removed the ability for concessional subdivision of rural land?

**Mr STYLES:** Yes.

**CHAIR:** Will this help to reduce land use conflict?

**Mr STYLES:** For those concessional entitlements that were not taken up, it will. In my time at Mudgee we put a sunset clause on the concessional lots a few years back. That provided time for people to use it or lose it. There was not a huge take-up of them. So, that sort of latent impact on agriculture disappeared with that. So, it will reduce land use conflict in some circumstances.

**CHAIR:** Did it impact much on the communities?

**Mr STYLES:** I guess those who take an approach of change of verse, it impacted on those in the community debate at the time. It was a difficult thing to do and there was quite a bit of debate on it. Ultimately, it did not prove to be such a huge issue.

**CHAIR:** Do you have any further comments to make?

**Mr STYLES:** No.

**CHAIR:** The Committee probably will have further questions. We would appreciate if you would provide the answers within 21 days.

**Ms BENNETT:** Would you prefer this document to be tabled now, or we could email it to you?

**CHAIR:** You can table it now.

**Ms BENNETT:** We will table it now and if there is anything further you would like us to add, you can forward us some more questions.

**Document tabled.**

**CHAIR:** If you wish to add some of your further information, you could email it.

**Mr STYLES:** We will send an amendment through.

**CHAIR:** Thank you both very much for your contribution this morning. Good luck with your ROC.

**(The witnesses withdrew)**

**DAVID ROSS SHAW**, Director, Environmental Planning and Building Services, Bathurst Regional Council, sworn and examined:

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

**Mr SHAW:** Yes, I will make an opening statement. I was flying a bit blind here today; I did not know what was expected of me, so I made my opening statement sticking to the broad and fundamental principles of planning and I have covered a succinct number of topics that I wish to cover. The views expressed in this statement are those of Bathurst Regional Council and not my personal opinion. In saying that, I have submitted a number of reports to council and council has given consideration to those reports and adopted a position based on the recommendations that I have provided to the council as a professional planner.

It is not my intention to drill down to the micro level because I do not work at that level. I have a number of staff who do work at that level. It is my intention to concentrate on the broader principles of the planning system in New South Wales and, in particular, the local environmental plan-making process, private certification, the certification of local government building inspectors on an individual basis as opposed to the certification of the council itself, and the establishment of the Planning and Assessment Commission, the Joint Regional Planning Panels and the Independent Hearing and Assessment Panels. This is basically or broadly in accordance with the submission that the council lodged with the Committee on 30 October last year.

Firstly, I will concentrate on the plan-making process. Bathurst Regional Council's position now, I think we are in the fourth year, is that the move by the Government to centralise and standardise the local plan-making process is fundamentally flawed. I will give some examples why—it fails to accommodate in a simple format that the people out there on the street can understand local planning provisions. Council is presently in the process of preparing a new comprehensive plan and has been for a number of years since the amalgamation in 2004. That plan, of course, is based upon the new standard template. The result is an LEP similar to those that existed in the 1980s when I first moved into the planning profession, which means more zones, more maps and less flexibility, and that is the critical thing.

An LEP that is not user friendly is certainly not going to be user friendly to the public, particularly when local provisions have to be included to offset the standard provisions not appropriate to the local government area.

A further result is excessive definitions that do not necessarily reflect the wishes of a local community in regional New South Wales. For example, Bathurst uses one definition for medium density housing, not the suite of definitions and sub-definitions applied in the template that the people out there in the street would not fully understand or know how to use. A more positive reform might be to provide the basic essential provisions and zone types and provide other provisions and definitions as a tool box to be applied or altered to suit local circumstances.

Another result is that a move towards standardised local environmental plans [LEPs] and State environmental planning policies [SEPPs] and less reliance on development control plans [DCPs], for example, for exempt and complying development, delays the plan-making process and invariably makes those LEPs and SEPPs less user friendly because of their legal language, which is a requirement of the Parliamentary Counsel, and in the case of exempt and complying development all relevant considerations cannot be given in an LEP or SEPP. That is one of the fundamental things of planning.

Bathurst Regional Council has had its present comprehensive LEP in place for in excess of 10 years with less than 10 amendments. It is a flexible instrument that is basically based on the Wagga Wagga instrument of the late 1980s/early 1990s. It has worked extremely well and has been extremely well received by the community. This is not to say that it would be successful in coastal areas or, in fact, metropolitan areas, as they would have different planning pressures to deal with than regional New South Wales, in particular, an older city like Bathurst. But it works extremely well for Bathurst. Bathurst Regional Council's position is that it is absolutely imperative that local provisions remain in a local environmental plan, as the word implies. I understand that there are provisions in the template to insert local provisions, but once you have to insert those

local provisions to offset what is a standard provision in the LEP the instrument gets longer, it gets more cumbersome and it gets less user friendly.

If an LEP is going to be successful, it needs to be as user friendly as it can be, notwithstanding that it has to have the right legal jargon, for the want of a better word, in that instrument. I can understand why the Government is trying to standardise LEPs to an extent, but I think the problem is more city-centric, not regional New South Wales. I think another part of the problem is there are too many councils in metropolitan Sydney. It is as simple as that. If you amalgamated those councils you would not have the trouble where you have one council on one side of the road and one council on the other side of the road. But that is another issue, so I will not go any further into that.

Presently Bathurst Regional Council's exempt and complying developments are located within its development control plan. This has worked extremely well for 10 years. It is simple, everyone understands it and the public accepts it. For Bathurst the proposal now is to place exempt and complying developments in the LEP. That will make it extremely difficult for a council to either add to its exempt and complying developments or to change them or to change the standard because you now will need to change your local environmental plan to change your exempt and complying developments. Everyone knows that going through the LEP process is slow. It can be frustrating, it is cumbersome, and it takes a long time. It takes a long time to get it through the Parliamentary Counsel. Whereas having the exempt and complying developments in its development control plan, if the council wants to change its standard in consultation with the community, which is how the DCPs were developed in the first place, it is a relatively quick process.

Bathurst's exempt and complying developments go well beyond those that are contained within the State environmental planning policy, which came into force on 27 February this year. As a result of that State environmental planning policy, Bathurst Regional Council is now forced to process at a minimum—and we can provide these figures—300 more development applications per year. I fail to see how that is streamlining the planning system. Having said that, the council has made representations to the department and to the Minister and the Minister has agreed to give Bathurst Regional Council an exemption from that State environmental planning policy until its new comprehensive plan is gazetted, which we thought was going to be the end of this year but due to the resetting of priorities it may well be a number of years away—no fault of Bathurst Regional Council.

That being the case, the question must be asked: Why does the SEPP not exempt those provisions within a local government area where the council goes beyond the standards in the State environmental planning policy? It is not unique. It is a very simple process. I cannot understand why that cannot happen. If there is an agenda that local government generally does not know about, then I can understand the Government's position. If there is not and it is a genuine attempt to lift the number of complying developments, then that is fine. At Bathurst Regional Council—and this was given to me by the executive director of the departments—complying development certificates are at about 23 per cent.

The Government's position is that it wants to lift that to about 40 per cent of all applications. I accept that and I can understand that. But the reason Bathurst Regional Council's complying development certificates [CDCs], et cetera, are so low is because its exempt developments are so high. I can give you a simple example in Bathurst. Under the SEPP, garages, et cetera, are 20 square metres. Bathurst Regional Council's standard for exempt development on garages, pergolas, carports, all of those things, is 45 square metres. Obviously that is not going to show up as a CDC because it is exempt. In the new comprehensive LEP Bathurst Regional Council wants to lift that figure to 65 square metres for garages. I can understand that may be a problem in some areas in metropolitan Sydney. It is certainly not an issue with Bathurst Regional Council.

The council has slowly increased its number of exemptions over a number of years via consultation with the community. The community accepts that it is 45 square metres to build a shed or a garage, subject to a number of criteria. You cannot just go and do it; you have to be a certain distance from the boundary, not over a sewer main, not over easements, all of those exemptions. There is a page of them. If you meet all of that criteria, and I know this is not legal but we have a notification sheet where the applicant comes to the counter, ticks the boxes, the council is notified of the exemption, it places it on the record. If anyone rings up and says, "Dave Shaw's building a shed in his backyard", we get the file, there is the exemption, everyone is happy.

In relation to council's attempt to lift that to 65 square metres—which is a relatively large shed, not big but relatively large for even Bathurst Regional Council—we go on public exhibition with that towards the end of this year hopefully and if the community does not accept that, then the council may take a different position.

But if the community accepts that, then why does the SEPP that came into vogue on 27 February say, "No, you can only have 20 square metres"? It may be okay in Woollahra, North Sydney, Manly or somewhere down there, but it does not fit with Bathurst Regional Council. But in all fairness we are going to get an exemption from it.

I will touch briefly on private certification. I need to state right at the outset that the council is not opposed to competition. Competition is good. Everyone knows competition is good. That is how our whole capitalist system works. But the competition needs to be on a level playing field and private certification certainly is not. The private certification system is, without argument—and I know this is around and we accept that it is in—fundamentally flawed and no amount of tinkering around the edges is going to change that fundamental flaw. The system lacks any form of integrity. It has few checks and balances that are actually applied by the Building Professionals Board. I listened with great interest to what Mr Styles was saying on behalf of CENTROC. It is the council's position that the Building Professionals Board must lack resources because it takes little action where things are obviously wrong. Again, I agree with the previous speaker that in cases where private certification has not worked ultimately the public find the council responsible for it.

We have numerous cases, and I would have signed—I have not counted them—50 letters to the Building Professionals Board where private certification has failed the applicant, with minimal or no action from the Building Professionals Board. In fact, it does not even bother to answer the correspondence. Yesterday I set in train a formal complaint, which goes through the whole statutory declaration process. The reason I did that is because it involves swimming pools that have been privately certified that do not even go close to complying. Bathurst Regional Council has a zero tolerance on swimming pools. As one of my health surveyors said to me, "I would rather be explaining to the court why I have forced them to comply with the requirement rather than to the Coroner why I didn't." That has stuck in my mind.

**CHAIR:** How can private certifiers be properly accredited so that they can do their work? You say that you do not mind the competition.

**Mr SHAW:** Not at all.

**CHAIR:** In your view, how can we ensure that private certifiers perform their duties in the proper way? What should be put in place?

**Mr SHAW:** I should qualify what I am saying. We have lost very little work to a private certifier and the work we lose does not bother the council. I do not think it is necessarily a problem with the certification process. It is a problem with checks and balances. An example in this region is where a private certifier made some pretty drastic errors, did not re-seek certification and, it has come out in the report, deliberately tried to mislead the Building Professionals Board and got fined \$4,500—the cost of doing one job, I would take it. Having said that, the fact that they did not seek recertification means there are now nine buildings and there is no legal mechanism in place for someone to finish those buildings. When one of the applicants approached us, because one of them was in my area, I said that there is no legal mechanism whereby council can now take it over. We wrote to the Building Professionals Board and said, "How are you going to address this issue?" I have not had the courtesy of a reply.

I take a pretty firm position that if it is privately certified then it is privately certified and the council is not going to pick up the cost of fixing the errors. That is an unfair to the ratepayers because they never picked up the fee to do it in the first place. In answer to your question, it is a matter of better policing and better checks and balances because, no doubt, particularly in metropolitan areas there are some good private certifiers who do an excellent job.

**CHAIR:** Who would do the checks and balances?

**Mr SHAW:** It would have to be the Building Professionals Board.

**The Hon. CHRISTINE ROBERTSON:** Who is the Building Professionals Board?

**Mr SHAW:** The Building Professionals Board is a statutory authority of the State government that is put in control of private certification.

**The Hon. CHRISTINE ROBERTSON:** So the Minister appoints persons to the Building Professionals Board?

**Mr SHAW:** Yes. It comes under the portfolio of the Minister for Planning, I understand. I have met with the Building Professionals Board about the private certification of council health and building surveyors, and I will cover that in a minute. There needs to be some teeth given, or they need to use stronger controls on private certifiers, as people do on local government.

**Reverend the Hon. FRED NILE:** Did you raise with them why they do not answer your correspondence?

**Mr SHAW:** I did. I have raised a whole number of issues. But what I concentrated on mainly was the proposal—and I will cover that in my statement—to individually certify council health and building surveyors, including what were the benefits, how it was going to work, and who was going to cover the cost. The answer that the council received was—and I would say that this would be correct—that no decision had been made at that time. There had been a change of Ministers. We had Frank Sartor. Kristina Keneally is there now, so the whole thing might be rethought. We have not received any further correspondence. I have not chosen to make further representations until some paper comes out on where that is going to go. When that comes out, I will certainly report to my council and I will certainly make further representations.

Getting back to my statement, it is a system that has all the procedures in place to encourage corruption. It lacks checks and balances, as I said previously, and most importantly it fails the end owner of the structure involved. We should go back and ask: Why do we have the certification of buildings? I have only ever built one house in my life. I was not involved in planning then; I was a private surveyor. I did not have any idea about the certification of buildings; I did not even know it happened—99 per cent of the people out there that we deal with would not. Certainly the big companies do, but most of the people would not. The certification of buildings is not there to assist the builder increase its profits by taking shortcuts; it is there to make sure that when Dave Shaw gets his house it is built to BCA standards. That is why it is there—or that should be why it is there. As I said before, most people would have no idea that certification even exists or why it is there.

It is appreciated that the certifier is appointed by the owner, as I said. I know that the certification of a building is appointed by the owner, but how many owners know that? I would say that percentage would be less than one. Certifiers are appointed by the builder. I have checked this on numerous occasions. I said to my neighbour two houses up, "Who are you going to get to certify your house?" She said, "I didn't even know it had to be certified. I signed the paper, and it is appointed by the builder."

One particular builder in Bathurst with whom I have a good relationship with uses a private certifier all the time. He met with me one day and said, "David, I am very happy to use the council; you provide a good service. But I want to use the one health surveyor all the time to do my inspections." He based it on consistency. Of course, there are different interpretations from different health and building surveyors. I never let the one health and building surveyor—or building inspector, if you like, for the purposes of this Committee—deal with the one person all the time. I said to that person, "That's fine. We would like to do your work, but I am not putting in place a procedure because that is a procedure that could quite easily lead—I am not saying it would—but it sets the person up for corruption allegations, whether they are true or false. I am very happy to do your work, but it will be done on the roster process that I have in place at council to minimise any problems in the foreseeable future."

We have not got the work. That is fine; I do not mind. But no system is going to work in the long term, and it is going to breed corruption where the certifier has a direct financial relationship with the builder. That is the fundamental difficulty. It has been around for 10 years; it is never going to change. If Dave Shaw is being paid by Gary Shaw to certify his buildings all the time, and that is my income, how can that not lead to shortcuts and corruption? It has to in the long term—and it does. Bearing in mind the reason why it is done, certification undertaken by local government—or government; it does not matter what level—cannot be undertaken without any financial relationship between the certifier and the builder. With government there are many checks and balances, which are in place with local government.

As you would all be aware, we have codes of conduct, the Ombudsman, the Department of Local Government, the Department of Planning—we have all those checks and balances in place. From time to time those checks and balances pick up errors, corruption, and so on. But those checks and balances are in place. With private certifiers you have a system where one person is paying another person. I know without doubt,

though we could not provide the proof, a certifier who issues complying development certificates without even going to the site. There is a builder that uses us at times, and every time he uses us, repeatedly he never books the inspections. Why does he not book the inspections? Because he does them with a private certifier.

**CHAIR:** We would like to ask you a few questions. Do you have much more to go there? Rather than asking you questions, we could incorporate—

**Mr SHAW:** You can ask the questions as you go or when I finish. It does not matter to me.

**CHAIR:** There may be questions in relation to different issues.

**Mr SHAW:** Okay. I will go through this quickly. That is all I can say on private certification. I will move on to the accreditation of council health and building surveyors. I call them health and building surveyors because they do both, but let us say building surveyors. Bathurst Regional Council is opposed to the accreditation of building surveyors employed by councils, for the following reasons. There is already in place sufficient supervision, management, oversight and mentoring—checks and balances—of council's building surveyors. I have just mentioned some of those. Each council within regional New South Wales is structured differently in terms of its levels of oversight, and accordingly it is difficult to determine a one-size-fits-all approach. Currently it is the domain of the elected council and the general manager to determine the level of delegations. As you would all be aware, delegations go to the general manager, and the general manager sub-delegates because the council itself cannot delegate directly to its officers.

The accreditation of individual council employees and the limitations of their ability to undertake work on behalf of council directly impacts on the delegation powers of the council and the general manager. If a health surveyor were accredited and he approves something, regardless of what the general manager says that diminishes the power of the general manager. It must be remembered that there is a critical difference between the majority of private certifiers and the majority of council certifiers, in that council certifiers are typically part of a team of building inspectors with varying degrees of qualifications and experience. I have some who are halfway through their degrees, I have some with 20 years experience, I have some who have just started, and I have some in between. But they will interact as a team, so they get cross-pollination of information and experience. The majority of private certifiers are in single-person ventures. So that cross-pollination is not available to those people. They do not therefore have the internal mechanisms in place to enable information to be passed from one building surveyor to the next.

This is a very important point. Parallel accountability of council building surveyors to council and the Building Professionals Board is unnecessary as council deals quickly and expeditiously with complaints and disciplinary matters in accordance with the Council Code of Conduct, which all councils must adopt and all councils have in place. Local government is at present principally responsible to the Department of Local Government; it is not responsible to the Building Professionals Board, under the Local Government Act. It is ultimately that department's responsibility to ensure that councils fulfil their obligations under its charter, including responsibilities relating to building standards. It is the State Government regulating local government.

It is council's opinion that there are already sufficient oversight mechanisms available through the department to ensure that council and its employees have the systems in place to meet its obligations. Notably, councils already have in place a code of conduct, a code of committee conduct, delegations registers that clearly establish the powers available to its officers, recruitment and selection policies, and pecuniary interest provisions. Likewise, the department has an oversight provision available to it through its Promoting Better Practice process, whereby it investigates and reports on the functions of individual councils. This process is considered more than adequate as it provides a vehicle for examining the council's functions in much the same way as the "reporting on practice" recommendations given to the certifiers through the disciplinary process.

The critical difference between this process and the Department of Local Government's process is that the department's audit occurs in the public domain with the report being a public document, having to be presented to open council and the council having to report back to the department on the implementation of its recommendations. So there is your transparency. Whether there is scope for strengthening the Department of Local Government's review process is a matter that should be further investigated, rather than having the imposition of a further layer of bureaucracy.

Another extreme concern to regional councils is the prohibitive cost in money and time to council of the accreditation process and continuing professional development with no net increase in productivity. As



Mr Styles said, councils have been certifying buildings for 100 years. The proposals have not considered the cost to councils in time and money of the accreditation process and continuing professional development. The anticipated costs to council will include the following: the annual accreditation fee; the time involved in preparing an application for accreditation, which is possibly a week; the time and cost involved in accreditation assessment involving travelling time; the cost of training; the cost of time involved in this training; and the potential impact on council's insurance because of the implications of accreditation.

Bathurst Regional Council is currently considering allocating up to \$1,000 per employee to cover this additional cost of accreditation. This means an additional \$56,000 cost to Bathurst Regional Council for absolutely no net benefit. Council considers that any continuing professional development program must acknowledge the internal transfer of information between staff. For example, council would typically only send one of its employees to any one single course or seminar. The information is then passed back to others through discussions, reports, cross-pollination, et cetera.

One of the significant lessons to come out of the Wollongong ICAC investigations was to ensure that council maintained sufficient levels of oversight of its employees. This is where the accreditation process will have some impact. What happened at Wollongong, as you all know, is that the delegation went too far down the line, and accountability was lost. As we all know, it stemmed straight from the general manager. The extent of individual liability is unknown, which is of concern to my building inspectors. This uncertainty impacts on the potential for recruitment of building surveyors and, importantly, the exposure to personal financial loss. Council's current building surveyors are concerned about potential exposures associated with personal liability and punitive damages associated with breaches of the Act through the Building Professionals Board. This is perhaps heightened with the recent introduction of penalty infringement notices for various offences relating to procedural matters under the Act.

An extremely important point is that the maintenance of existing service levels—which is what local government is there for—will be extremely difficult as existing staff will not be able to perform the current range of work. I have a number of building inspectors that go right through a whole range of work, because they are able to do that and they do it being supervised by a more senior person. As the current building surveyors employed at council will be limited in the work they can perform by their accreditation levels, management of staff and the maintenance of existing service levels will be difficult, if not impossible. We must remember that council cannot pick and choose what work it does. Mr Styles touched on that. If someone hands an application over the counter at a local council, it has to accept it. So, if council does not have a building inspector certified to deal with that work, what does it do? In particular, absences from work and delays during the recruitment process will limit council's ability to perform the functions it is ultimately obliged to do. I just touched on that.

It is widely acknowledged by all that there is a shortage of building surveyors entering the industry. In particular, many smaller councils have operated trainee programs and have recruited either newly or near-qualified building inspectors to fill positions. How is that going to work under the accreditation system? Under the proposed accreditation scheme these programs and these employment opportunities will be extremely limited. The pool of accredited people to fill a position is limited by their accreditation as the position may call for an accreditation level higher than the potential applicants. I am almost finished. This is the critical point.

The proposal's only provision for a B2 certifier to gain experience as a B1 supervisor is under the supervision of a B1 certifier. If council does not have a B1 certifier or an existing B1 certifier moves or resigns, there is no way for a B2 certifier to move up the level regardless of qualifications or experience. That is an extremely difficult situation to deal with. This will create staffing pressures for council as the need to have a B1 certifier on staff will be imperative, particularly for the bigger councils. If there is none on staff, retaining B2 certifiers will be hard because they will have to move to gain the necessary experience to become accredited as a B1—simple, but extremely important for councils the size of Bathurst, Orange, Dubbo, Tamworth, Armidale and so on.

A solution that council sees is that council become a body corporate. Council's preferred option would be for the Government or the Building Professionals Board to abandon the current proposal to accredit local government building surveyors on an individual basis. If an accreditation process of local government is imperative, council suggests that councils be accredited as a body corporate, similar to the way it works today. Each council would be accredited to carry out a range of activities and functions, and councils would exercise the right to make judgements, as they do today about who does what. Councils would continue to supervise, monitor and regulate their staff to ensure a quality result for the community. The Building Professionals Board would have a role in monitoring the accreditation of councils; a role in how supervision, training and mentoring,

et cetera operated; and a role in carrying out random audits of certification by council staff. This should happen now, but it does not. This could be achieved in conjunction with the Department of Local Government's Promoting Better Practice process, which it recently put in place.

Finally, I refer to the establishment of the Planning Assessment Commission, the Joint Regional Planning Panels and the Independent Hearing Assessment Panels. Bathurst Regional Council is opposed to the taking away of its powers in the determination of development applications by the establishment of the above committees as they again remove accountability. They will become political appointments—everyone knows that—and will have no accountability to any constituents. Additionally, council has seen no research—we certainly have not—that shows that the outcomes would be any better in the longer term. People presently have recourse to the court if they are not happy about a council determination. Again, there is no transparency and accountability associated with the above system. In addition to the above, they will be expensive to administer and this cost will again be picked up by local government—a cost it can ill afford. Council has been provided with no information on how it will recover its costs associated with the system as proposed. I understand there is a paper out now which is confidential that goes into—

**The Hon. CHRISTINE ROBERTSON:** We keep hearing about it. We would like to see this confidential paper.

**Mr SHAW:** I tried to get it too, but apparently it has only gone to the directors of the Department of Planning. So, I cannot elaborate any more and you probably do not want me to. New South Wales has a system of local government—rightly or wrongly, a separate debate—and its elected representatives are accountable to the people they represent. The system itself is accountable to the Department of Local Government. It is fundamentally wrong to introduce a system where important decisions are taken by a faceless committee that has no transparency and no accountability. That is what these committees are. Ultimately, it will be the elected representatives who will be held accountable, at the ballot box, for the decisions taken by the above committees because ultimately people will think it is the council making the decision, whether it makes it or whether it does not.

**The Hon. CHRISTINE ROBERTSON:** How many \$10 million decisions would Bathurst council have made?

**Mr SHAW:** We probably get one or two a year, I would say. There is a part 3A approval just on the eastern side of Bathurst, which I continually field complaints about. I fielded one coming up here today about that particular development and it is no jurisdiction of Bathurst Regional Council; it is a part 3A.

**The Hon. CHRISTINE ROBERTSON:** For those who do not work in local government, what is that?

**Mr SHAW:** It is the State Government where the Minister makes a determination and once the Minister makes a determination it is almost open slather for the developer. Bathurst Regional Council is opposed to any system that lacks transparency and accountability. I have a copy of that statement for the Committee.

**The Hon. MICHAEL VEITCH:** In your address you mentioned the impact Parliamentary Counsel has on the LEP process?

**Mr SHAW:** Yes.

**The Hon. MICHAEL VEITCH:** Can you take us through your view about why Parliamentary Counsel has a negative impact on the LEP process?

**Mr SHAW:** There are a number of ways where it does and we have been trying to prepare our LEP now for a long time. We have met with the Department of Planning on several occasions. We have clauses in our LEP now that we presently use, which the feedback that we get from the department is, "Oh, you can't use that clause, the Parliamentary Counsel won't accept it." Clearly, the impression that we are getting at Bathurst Regional Council is that the planning system is being written by the Parliamentary Counsel at the expense of local provisions. Now, I can understand why, because it would save the Parliamentary Counsel a lot of time that they would not have to check each LEP as it went in. Local environmental plans are for local provision; they should not be driven—and I am not going to accept it—by the Parliamentary Counsel. We put in our instrument what we want—"we" being the council. It is the Parliamentary Counsel's role to make sure it is legally written,

not change its intent. It has gone to the stage where the Parliamentary Counsel is trying to change the intent rather than look at the legal wording, which is not its responsibility.

**Reverend the Hon. FRED NILE:** It seems like a good idea to have somebody else do it rather than the Parliamentary Counsel because, obviously, they are the ones who draft legislation and that is their mindset?

**Mr SHAW:** Yes.

**Reverend the Hon. FRED NILE:** It is a different mindset to local government, is it not?

**Mr SHAW:** Totally different mindset, yes. But this is recent. It has been brought about by the template. The Government wanted to standardise everything right across New South Wales. It just cannot work. If they want to put part 1 and perhaps part 2 of a local environmental plan standard, you could get away with that. But you need the local provisions. Bathurst Regional Council has Mount Panorama. How do you standardise Mount Panorama? I listened to Mr Styles when he was saying about some of the zones. A lot of the zones, which the council is forced to use because they are standard, do not suit Bathurst Regional Council. There is no standard zone that suits Mount Panorama. It is unique in that it needs to be protected as a motor racing circuit. We are continually getting circulars, we are continually getting changes to the template all the time where my planners are so frustrated because they have written it three or four times and we have been at meetings with senior people in the department.

Janet Bingham, who is my senior strategic planner, said, "I've used this clause because that's in the"—whatever council it was—"gazetted LEP." They said, "Oh, no, you can't use that. We've changed that now." The difficulty is if you have a standard clause apply right across the State and they change it for some reason, it impacts on the rest of the State. Whereas if they had a toolbox there—trying to be constructive rather than critical—that the councils could draw on, the smaller councils that do not have the resources to put the time into this would be able to use that toolbox and apply it to their local circumstances. But the instrument has been driven by legal people, not planning people.

**Reverend the Hon. FRED NILE:** Just to clarify something you said earlier about wanting to increase the exempt area to 65 square metres?

**Mr SHAW:** For that one particular template.

**Reverend the Hon. FRED NILE:** The current size is 20 square metres?

**Mr SHAW:** Yes.

**Reverend the Hon. FRED NILE:** Do you believe someone would block you increasing it to 65? I understood the 20 square metres was the minimum?

**Mr SHAW:** No. If it is 21 square metres now, today, you need to lodge a development application or a combined development certificate. Under Bathurst current local environmental plan we have 45 square metres. So, if you came in on 26 February, you are exempt; on 27 February you needed to lodge an application.

**Reverend the Hon. FRED NILE:** Who would stop you from having the 65 square metres? Are you saying it would be the Department of Planning?

**Mr SHAW:** The Department of Planning, yes.

**Reverend the Hon. FRED NILE:** What would it say?

**Mr SHAW:** We are stopped by the State environmental planning policy, which came into effect on 27 February. That overrides all local provisions.

**Reverend the Hon. FRED NILE:** I understood that the Government would have liked to have had more than 20 square metres?

**Mr SHAW:** Yes.

**Reverend the Hon. FRED NILE:** But there would have been some community protests?

**Mr SHAW:** The Government wants to increase, and rightly so, the number of CDCs—combined development certificates—and exempt developments. But because it has applied it right across New South Wales, those councils that are beyond the standards required by the Government now, Bathurst is one of them, have been dragged back. Now, in fairness to the Department of Planning, we have made representations directly to the Minister. They are in the process now of exempting Bathurst Regional Council from that State environmental planning policy.

**Reverend the Hon. FRED NILE:** That is what I was getting at.

**Mr SHAW:** There is no reason that cannot happen.

**Reverend the Hon. FRED NILE:** You are not going against the Government's policy? The Government will agree with what you are trying to do?

**Mr SHAW:** Reluctantly, the Government has agreed that until we bring in our new comprehensive plan, which we have all been directed to do. But it would be very easy to write the State environmental planning policy itself—I think it is clause 9 or something—where it says, "This environmental planning policy overrides any LEP" or words to that effect. You could easily have the wording in that State environmental planning policy that where the local provision is of a better standard than the SEPP, then the local LEP applies. It is a simple, simple process. I do not know why they will not do it.

**Reverend the Hon. FRED NILE:** Have you requested that?

**Mr SHAW:** We have requested an exemption totally from the whole thing.

**Reverend the Hon. FRED NILE:** Have you requested that that provision be incorporated?

**Mr SHAW:** Yes.

**Reverend the Hon. FRED NILE:** So any council would still be able to—

**Mr SHAW:** No. The department is afraid—or "concerned" would be a better word—that all councils will write in. If you get all the local amendments for each council and you change the SEPP itself, then the integrity of that SEPP is going to be lost because there will be so many amendments to it. I think we worked out that to bring the SEPP into line with what we have got in our local environmental plan we needed to make 90 amendments to the SEPP. So, it is much easier to exempt Bathurst Regional Council from the State environmental planning policy.

**The Hon. CHRISTINE ROBERTSON:** Has Bathurst council experienced issues regarding duplication of processes under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 and the New South Wales planning environmental and heritage legislation? Have you had issues regarding overlapping of that legislation?

**Mr SHAW:** I would have to take that on notice, but I do not think so because, from memory, I think the Commonwealth legislation was going to bring in—I do not deal with this directly—biodiversity plans, et cetera.

**The Hon. CHRISTINE ROBERTSON:** That would be a useful question for you to take on notice.

**Mr SHAW:** Yes. If you send me that, I will take that on notice because I have three environmental scientists on staff who deal with that type of issue.

**CHAIR:** Mr Shaw, thank you very much for your contribution. There may be other questions the Committee has for you that we did not have time to ask today. Would you mind addressing those on notice and providing your responses within the 21 days?

**Mr SHAW:** It would be my pleasure.

**(The witness withdrew)**

**(Luncheon adjournment)**

**GREGORY ALLAN COOPER**, Director, Environmental Services, Cabonne Council, PO Box 17, Molong, 2866, sworn and examined.

**CHAIR:** Welcome, Mr Cooper, thank you for attending this afternoon. What is your full name and job title?

**Mr COOPER:** Gregory Allan Cooper, Director of Environmental Services at Cabonne Council.

**CHAIR:** Are you here in that capacity today?

**Mr COOPER:** I am.

**CHAIR:** If you should consider at any stage that certain evidence you may wish to give or documents you may wish to tender should be heard or seen only by the Committee please indicate that and the Committee will consider your request.

**Mr COOPER:** Thank you.

**CHAIR:** If you take any questions on notice today the Committee would appreciate it if your responses to those questions could be sent to the Committee secretariat within 21 days of the date on which the questions are forwarded to you.

**Mr COOPER:** I will.

**CHAIR:** Would you like to make an opening statement or would you like the Committee to go straight to questions?

**Mr COOPER:** I am quite happy to go straight to questions.

**The Hon. CHRISTINE ROBERTSON:** How does a shire such as Cabonne deal with competition policy issues in planning and development group will processes?

**Mr COOPER:** I would probably say there are very little issues in dealing with it. I think it is to do with the rural base of the shire whereby most things are only a one-off anyway because there is not an adequate population demand.

**The Hon. CHRISTINE ROBERTSON:** The corporates are not aiming to set up at different places to knock off their competition?

**Mr COOPER:** Not at this point they are not, no.

**The Hon. CHRISTINE ROBERTSON:** It is an important issue because Cabonne is different even from a regional centre.

**Mr COOPER:** That is right.

**The Hon. CHRISTINE ROBERTSON:** What is your impression of the differences, duplications or conflicting issues in relation to the Commonwealth Environment, Protection and Biodiversity Conservation Act 1999 and the New South Wales planning, environment and heritage legislation? Do you perceive conflicts or doubling up?

**Mr COOPER:** Doubling up is probably the way I would put it, rather than conflicts. There are straight duplications between the multiple pieces of legislation whereby you need to get approval under both pieces of legislation for effectively the same activities. The issue with that is they have slightly different heads of consideration. So instead of doing a particular piece of work once you have to do it about 1½ times to make sure that you cover all the issues that have been raised.

**The Hon. CHRISTINE ROBERTSON:** Do you have an example of the differences emphasised?

**Mr COOPER:** Probably not, not from Cabonne anyway. In a previous council I worked with we had an example to do with native vegetation clearing. They needed to look under the Threatened Species Conservation Act of New South Wales and the Commonwealth legislation. Therefore they needed approvals under both.

**The Hon. CHRISTINE ROBERTSON:** When developing their proposal they had to look at both pieces of legislation in order to ensure compliance with both?

**Mr COOPER:** That is correct.

**The Hon. CHRISTINE ROBERTSON:** The current Council of Australian Governments [COAG] discussions in relation to planning across Australia, if it became consistent across Australia, would address that. Would it cause a shire such as Cabonne another set of issues if you were trying to comply with an Australia-wide Act?

**Mr COOPER:** Obviously, without seeing what it was, I would suggest it would simplify matters. It would certainly make it a more consistent approach. Also, in terms of administering legislation it is a lot simpler. You would only have to go to one piece of legislation to identify whether or not approval was required.

**The Hon. CHRISTINE ROBERTSON:** How would you get consistency in a planning proposal for Port Pirie, Woollahra or Cabonne? How would you get an Act that covered all—

**Mr COOPER:** —the varying types of development?

**The Hon. CHRISTINE ROBERTSON:** Yes.

**Mr COOPER:** Not easily, I would put. There is lots of other Commonwealth legislation that covers all eventualities. I think it would be a matter of addressing the various heads of consideration that you would need to put into the Act. When you think about it now things like Newcastle port, Cabonne or the centre of Sydney are all still covered by the same piece of planning legislation, whichever particular Act it comes under. I have no doubt that you could do it. It would not happen overnight but you could do it.

**The Hon. CHRISTINE ROBERTSON:** Do you think it might be a good idea?

**Mr COOPER:** I think it would be an excellent idea.

**The Hon. CHRISTINE ROBERTSON:** The current changes in New South Wales that have attempted to apply consistent rules and regulations right across the State are causing amazing ructions in several areas. I will give you an example that I have had to deal with. Out west there are a whole lot of towns that have 95 per cent flood-prone areas. I know that the Local Government Association negotiated that the process be deferred for a while. It would have meant that every single development application that came into the shire had to have a full description of what they were trying to stop. An exception was made. So at a New South Wales level that has happened. How do you think that could be addressed so that that would not happen and to stop it from getting more complicated on the ground?

**Mr COOPER:** It is only my opinion, but I think you have overarching legislation which would be Commonwealth legislation and from a local viewpoint you would look at it within your local environmental plan [LEP] and came up with a local solution but still meet the overarching objectives of the Commonwealth legislation.

**The Hon. CHRISTINE ROBERTSON:** So an objective process rather than a prescriptive one?

**Mr COOPER:** It is hard to say. In some instances it would be objective and in some instances it would be prescriptive.

**The Hon. CHRISTINE ROBERTSON:** Do you have an example?

**Mr COOPER:** At a higher level it would be objective. The Commonwealth legislation—or whether it was six pieces of State legislation or similar—would be a more objective-based legislation, whereas the local one would probably head down some form of prescription. The benefit of prescription is that it allows a large

amount of certainty for landowners and prospective landowners. The disbenefits are that sometimes it does not have the flexibility you need. If you look at flexibility or objective based, one of the problems you have there is it complicates matters. It makes it more expensive to do things because you have to go out and find solutions. Usually the average resident or average member of the community does not have the capabilities. So you end up bringing in additional consultants, or councils have to be better resourced to be able to do the work for their local residents.

**The Hon. CHRISTINE ROBERTSON:** I have one further question, which relates to several witnesses who put great emphasis on the regional planning process. A few of the current councils are pushing that the catchment management authority [CMA] is a definition of a region. How would you define a catchment? Is it a population catchment, an environmental catchment, a water catchment, a business catchment, a service catchment?

**Mr COOPER:** I think you have to know what you are trying to achieve when you are setting up the catchment. That is not to say that you have different catchments, one for business, one for environment and everything else because you do need some consistency in approach. The best way I can probably do it is I can look at it as an example. Cabonne is part of the Central West. In itself it is a very diverse unit because you basically go right over to the edge of Sydney. But if you look at it in terms of our planning strategy we are actually working with Blayney and Orange. That is actually a good catchment or sub-region because they are directly influenced by what happens in Orange. You have a population of people that relate to Orange, other than some fringe areas which head off south or west, and they have the ability to deal with common interests.

**The Hon. CHRISTINE ROBERTSON:** A demographic catchment?

**Mr COOPER:** Yes, it is demographic but it is also economic and social. The downside is when you go to Cabonne: Cabonne is 50 per cent in the Lachlan catchment and 50 per cent in the Central West catchment, which is Macquarie-based.

**The Hon. CHRISTINE ROBERTSON:** That is water.

**Mr COOPER:** That is water. There are some differences but it has been that way ever since Cabonne has been around, since 1977, and we deal with it. We have a different person attending different catchment meetings and they deal with things differently. I actually think you can manage the natural resources with a split catchment a lot easier than you can manage the community's interests on a split catchment.

**The Hon. CHRISTINE ROBERTSON:** If some bright spark suddenly decided the CMAs became the new regions with the responsibility for all service provisions, what would you think?

**Mr COOPER:** Just do it. If that were the outcome you would set up the system to be able to do it—because basically at the end of the day whatever changes come in you work up a system to deal with it.

**The Hon. KAYEE GRIFFIN:** Mr Cooper, a number of submissions from regional councils have raised the issue of proposed accreditation of council building surveyors by the Building Professionals Board. Is this an issue for Cabonne? If so, could you outline the concerns of the council and your concerns?

**Mr COOPER:** It is an issue. One of the major concerns that comes about is the long-term viability of building surveying within councils. If the decision was made that council did not need to undertake building surveying activities it would be a lot easier to deal with. If council were allowed to not undertake building surveying activities you could actually opt out, which you cannot at the present time. That would be easier to deal with than just having it as requiring to have accredited building surveyors. One of the comments that people make is that councils have allowed unqualified building surveyors to undertake inspections and approve various things over the years. The reality is they may not have qualifications. They might be part way through their qualifications but the reality is they get a significant amount of training and they are not allowed to step outside that training. For example, we may have a trainee who is two years through his four-year course and he might have been out with the qualified building surveyor 100 times to look at a frame inspection, just looking at the very small picture. That building surveyor may determine that he is perfectly qualified to undertake frame inspections. We would not send him out for slab inspections or for anything else, just to do what we believe he is adequately trained to do.



**The Hon. CHRISTINE ROBERTSON:** Does the trainer take responsibility for the trainee's decisions?

**Mr COOPER:** Yes, he would still have the final sign off, the issue being that once your accreditation comes in that person would still take responsibility for the trainee's decision-making. But the implications would come back on that individual building surveyor rather than back on council. Council is and always has been very happy to take responsibility for the decisions of its employees. We screen them, we train them, and we get to the point in time where they are perfectly capable of doing their jobs. The accreditation may not end up with the same result. They would be their own master to a certain extent in that they could tell council what they would or would not do or what they would be prepared to do. There also is the possibility that they may refuse to become accredited and we would have staff that could not do the job for which they were employed. The dollars and cents come into it. I hear a lot of arguments about the cost of training and the cost of accreditation. I actually do not think that is quite as significant as other people say. If councils cannot find \$3,000 to \$5,000 a year to have properly qualified staff there is an issue with the council, not with the actual costs.

**The Hon. KAYEE GRIFFIN:** One of the issues with some councils—and obviously Cabonne is not one of those councils—is that there is one individual, a health and building surveyor or a building inspector, who is doing a lot of specific work and the cost of accreditation might be part of their concern. As part of this, a number of councillors have said that the issue of trained staff has changed substantially over, say, the last 10 years, with town planners, health and building surveyors and so on. If you do not have the issue of training and so on, do you still have issues in relation to trained staff at the moment without looking at the accreditation side of training new town planners, health and building surveyors, or whatever it might be?

**Mr COOPER:** The simple answer is yes. We have had an enormous amount of trouble over the last five years attracting appropriate staff, whether we were looking for a trainee or a qualified person. In saying that, the market seems to have freed up a little bit in the last, say, six to nine months. We have been quite successful in attracting people. I do not think Cabonne has suddenly become a better place to work or live; it is just an economic reality that when things are going very well people leave local government and when things get tough in the private sector they come back to local government. I think the more farsighted people saw the economic issues—maybe not as bad as what it might be, but they saw it coming—and they made some decisions some time ago as to where they were going to be.

**The Hon. KAYEE GRIFFIN:** The mean determination time for development applications for Cabonne was 95 days. Do you have any comments to make in relation to that turnaround period?

**Mr COOPER:** I have some questions about how that was calculated, first off, but that is not what the question is about. I actually know why the figure was there. What happened is that in 2005 we lost virtually all staff out of the department over a period of about six months. Council was in the throes of attempting to do away with concessional lots—a term you may be familiar with. We got a huge influx of applications for subdivision whilst we had no staff. We actually used consultants to assess those applications. Virtually the whole lot of them got put on hold. The local consultancy industry could not cope with the demand either. They started to come back on line over the last 18 months or thereabouts, so they all got dealt with. Lots of them had been around for two or 2½ years, with nothing actually happening with them. They were in stock basically at that point in time. That is where I question the 95-day figure, because I believe that is a gross figure, not a net figure.

**The Hon. KAYEE GRIFFIN:** So the clock was stopped on them for a long period?

**Mr COOPER:** For a couple of years, yes.

**The Hon. KAYEE GRIFFIN:** Do you do pre-lodgement assessments?

**Mr COOPER:** We do if people are prepared to do it, yes. We encourage people to come in. There are really three consultants that deal with us. Two come in and one does not, and he does the majority of them. He rarely comes to see us.

**The Hon. KAYEE GRIFFIN:** The 2007-08 local development performance monitoring report notes that for Cabonne complying development certificates made up 26 per cent of its total determination. You might wish to comment on that. Secondly, will the new housing code see you increase this percentage result?

**Mr COOPER:** Yes, that is a high percentage, I believe, for complying development. We had a building surveyor who had been with council for 23 years and he left in about 2005-06, or somewhere around that time. He has a very loyal following amongst the builders, so therefore a lot of them have gone through him rather than coming to us. A small percentage of those complying developments probably are not of any great significance—the departures. In terms of the new legislation, once the old SEPP 60 drops off in February or March 2010 we will have a decrease in complying development, for two reasons. Firstly, most of it is either in a rural zone and it will not be applicable or it is in the zone village and new dwellings, for example, will not be applicable in the village zone.

**Reverend the Hon. FRED NILE:** In regard to preparing a new LEP, have you had any particular problems under the new legislation?

**Mr COOPER:** Fortunately in one way, we have not done a lot of work on it up until this point in time.

**Reverend the Hon. FRED NILE:** Where is it at the moment?

**Mr COOPER:** We are about 95 per cent through the strategy. We have just engaged a planner to do the LEP; he is just doing the work plan. So we will start the formal drafting within the next two to three months.

**Reverend the Hon. FRED NILE:** Have you encountered any particular problems?

**Mr COOPER:** A lot of them have been ironed out. There were some early ones that we looked at in terms of definitions and how they might have fitted rural areas. It is a very city-centric document, if I can put it that way. The natural resources issues in the coastal and Sydney areas are significantly different from ours, and some of the standard clauses we will have a struggle fitting with. We have not really gone down the path a great deal at this point in time.

**Reverend the Hon. FRED NILE:** Could you take on notice to let us know what you think should be some of the changes to the legislation?

**Mr COOPER:** I can do that, yes.

**Reverend the Hon. FRED NILE:** There are two approaches. One is to maintain the existing legislation, perhaps with some amendments, and the other is to scrap the legislation and start all over again. Do you have any views on that?

**Mr COOPER:** I believe that the time is about right to redraft the entire legislation. I do not know that you would start from scratch, though. I think you would look at it as a major amendment to the entire document, rather than starting from square one. I think there have been a lot of changes. We are 30 years down the track basically, and it has become clumsy and reasonably unwieldy. In terms of the local environmental plan, the standard instrument, a number of councils, including Cabonne, pushed very strongly that there should be two standard instruments, one of which is basically a city-based or a metro-based instrument—not just for Sydney, but it might even be applicable to Orange, for example. We also think there should be a new rural plan—very similar to the way it was back in 1980. They brought in a standard rural plan and a standard urban plan.

**Reverend the Hon. FRED NILE:** You think it is very difficult to try to embody those in one piece of legislation?

**Mr COOPER:** It is, because they are very different. There are a huge number of components to the standard plan that really just are not relevant. Rural areas are extremely complicated, but they are also very simple. A small number of controls based on some sound reasoning can actually control a whole lot of activities.

**Reverend the Hon. FRED NILE:** We were discussing earlier that Bathurst has had a lot of problems with the exemption question, exempting development applications of 20 square metres and so on. Do you have any problems with that? You do not have those historical buildings?

**Mr COOPER:** Our biggest problem is probably the numbers within the exempt and complying document. In a rural area no-one wants to build a 20-square metre garage, so you really do not get any exempt development. In reality, if your property is 1,000 acres, or in modern terms 400 hectares, if a guy builds a six-

car garage he has to get consent to do that. But if he builds an agricultural shed 10 times bigger, you can just go ahead and do it. That is one of the anomalies that I think where it is coming from does not address.

**The Hon. MICHAEL VEITCH:** I am keen to explore a little further your suggestion that the time is right to recount the legislative framework for planning. We had it put to us that there could be two different pieces of legislation, one to deal with planning and one to deal with the assessment process. Do you have a view on that?

**Mr COOPER:** When you say the assessment process, do you mean the assessment of everything from development applications through to houses—?

**The Hon. MICHAEL VEITCH:** Two separate bills. Rather than having the Environmental Planning and Assessment Act, have two separate pieces of legislation.

**Mr COOPER:** I have not thought about it for a long time. There would be some benefits. I think the benefits might be greater in the longer term, whereby you can amend things a little easier because you can amend the planning legislation without having to amend the assessment legislation. But other than that, I probably do not have any comments to make.

**The Hon. MICHAEL VEITCH:** We also had it put to us this morning that there probably needs to be a master natural resources legislation, an umbrella over all the existing legislation. What are your thoughts about the benefits or otherwise of that?

**Mr COOPER:** There would be some benefits, in that you would be encouraging people to look at the natural resources before they start looking at what they want to do; you would iron out the issues early on. One of the disbenefits I see—and it happens occasionally—is that when you have a coordinated or integrated approach, when you pull one part of that out it becomes less integrated and you are actually elevating one component of the assessment above others—which might not be a bad thing but you just need to be really aware that you are doing it.

**The Hon. CHRISTINE ROBERTSON:** You need to make a positive decision.

**Mr COOPER:** That is right. But you are doing it for a reason, and that is where the legislators want to go. If that is where they want to go, that would be a good solution to doing it.

**The Hon. MICHAEL VEITCH:** Do you think it is one of the things the Committee should look at recommending?

**Mr COOPER:** Yes.

**The Hon. MICHAEL VEITCH:** My last question relates to the uniqueness of Cabonne shire because of the number of small villages, et cetera. You spoke about the diversification within the shire for planning. Cabonne is unique in its make-up. How do you go about providing education and consultation to your communities, the villagers et cetera within Cabonne?

**Mr COOPER:** In reality, a lot of time is what it becomes. For those who are unaware, there are eight population centres, ranging from about 300 people to 1,500 people. We also have another three areas that consider themselves to be villages, which is Nashdale, Mullion Creek and Borenore. Mullion Creek probably has very valid reasons for putting it there. It does not have a commercial centre, but there is a school, a hall, and a lot of people. There are probably 800 or 900 people out there, within a couple of kilometres of the centre.

As an example, we have just finished a round of focus meetings within the shire. We finished last Tuesday night. We did 13 consecutive Tuesday nights. Whenever we want to do educational consultation that is the process we have to go through. If we want to advertise something; we have seven newspapers we have to put advertisements in. The administrative centre is Molong, which is geographically the centre of the shire but it is actually the easternmost village. It is funny, west of there where all the villages are, they are all in population decline. East of there, which is supposedly the rural end, is actually booming in terms of population. You also have geographic differences where there are tablelands, slopes and plains. Not that many councils actually have the three quite well-defined areas.

We spend a lot of time and it costs us a lot of money to educate. As I said, we go to seven newspapers if we want people to come and see us. Eugowra is probably a good example, which is right on our western boundary. It relates most strongly to Forbes. There is no local newspaper. The progress association puts out a newsletter, but it is only monthly. So we go into the Forbes newspaper and the people of Forbes are always sort of saying, "Well, why are you telling us about this?" So we go into a Forbes newspaper in order to catch 300 people in Eugowra. So, you are always juggling time frames with community newsletters. It is very difficult.

**The Hon. MICHAEL VEITCH:** There is the consultation process you followed, then the consultation process that took place around the development implementation of the housing code that commenced on 27 February. Do you think there was an adequate consultation process? Have you been able to convey the changes to your own community?

**Mr COOPER:** I do not believe it was adequate, in the first instance, to answer the first part of your question. For example, I think our only opportunity was to go to Dubbo as a council. In terms of the community, we have done very little education at this point in time simply because when they brought in the new housing code they maintained the original SEPP 60. So most people would be working under the SEPP 60 because learning is not the right word but it is actually much more appropriate to the rural nature of Cabonne. So most people work within that framework and those who are interested have a bit of an understanding. But come this time next year there will be a need to do some education, as SEPP 60 drops off and the new code starts.

**The Hon. MICHAEL VEITCH:** So it is really a transitional arrangement.

**Mr COOPER:** Yes. That has let us off the hook to some extent.

**CHAIR:** How is your council dealing with responding to climate change and natural resource management issues through its planning framework?

**Mr COOPER:** We are not small-small, but like most smaller councils we have struggled with it, to put it bluntly. We are utilising the Wellington Blayney Cabonne alliance at the moment. We held a workshop. We got the LGSA involved to run a workshop probably two months ago with some councillors from three councils and some key staff. This is in regard to climate change specifically. From there we have put together a working party to look at the issue to do some more training. They have put in some application for grant funding not to do anything but to actually enable us to put together an action plan, for want of a better description. We do not want an action plan that is unachievable; we want some simple outcomes in the initial instance—get people more enthusiastic through having some wins. As for one specific thing we have done in council, you would all be aware of the way councils provide lease-back vehicles for a range of their staff. We have a range of charges based on the vehicle that is used and we have adopted the green fleet 3½ star minimum. If you get one of those vehicles, it uses less fuel and you pay less on a weekly basis. It is a small one just to start to get people thinking about it.

In terms of natural resource management, we engage with the two catchment management authorities. We have undertaken, again, not a huge amount of activities because in reality we run a very lean organisation. Anything that is extra—and, believe me, natural resource management is considered to be an extra—we struggle to resource adequately. In saying that, we partner them in some projects. We have done some willow clearing and a whole range of other issues along creeks to try to improve water quality and we do assist our landcare organisations. We have a small amount of money in the budget every year so that if one of them comes to us and wants us to do something, we are actually able to assist them. In terms of land-use planning themselves, our LEP is dated 1991. It is well out of date. We still consider all the matters that are relevant under the legislation, but we probably do not have any policy documentation that would guide people as to where we believe they should go.

**The Hon. CHRISTINE ROBERTSON:** What sort of climate control issues are you looking at in your geographic region?

**Mr COOPER:** It varies, again. In the western area, which is the plains, we are looking at probably less rainfall. In the eastern area, on the tablelands, we are potentially looking at less rainfall but we could be looking at more intense rainfall events, greater storms, particularly in regard to the higher country around Mount Canobolas and those parts of the area. The obvious one is less water in the creeks, less water for farming and less irrigation water, which we cannot deal with but we act as an advocate body to try to assist our community.

**CHAIR:** This morning I asked the Mayor of Orange a couple of questions. I would like to put those same questions to you to give me a bit of a feel as to how your council is affected. The Government adopted the recommendations of the Central West rural lands panel that councils should be able to retain their existing minimum lot sizes for rural land. Do you agree with this approach or do you think councils should be required to review their minimum lot sizes?

**Mr COOPER:** I do not agree with the approach. I believe councils should be required to do it. We are doing it. As a council we do not like our figures at the present time. Ours will be revised upwards in terms of minimum lot sizes. They will be based on geography and enterprise activity. So there is a plains, slopes and tablelands approach to it. Different activities and different farming activities require different amounts of land. We are not talking viable; we are just talking about setting reasonable management units. The ability of councils to maintain their figure is an opt-out; it is a solution that does not meet the needs of the land. The clear examples of that were where you have a road being a shire boundary on one side that is different to the other. One could be 40 hectares, one could be 100, one could be 400, or you go to Dubbo and it is 800. That decision does not respond to the needs of agriculture.

**CHAIR:** Another question I put to the Mayor of Orange relates to the rural lands SEPP. Will the rural lands SEPP reduce land costs for existing farm businesses and new farmers wishing to purchase land? How will that affect your area?

**Mr COOPER:** In terms of the fact that it got rid of concessional lots, it will assist farmers to expand on the basis that land values, anecdotally if not scientifically, were inflated in value on the basis of what you could achieve on a new subdivision basis. Therefore, the old existing holdings have disappeared in their effect. The downside of that is every time someone is able to subdivide a larger holding into a smaller one, like a 100 hectare minimum, and you build another house, the ability of the farmer next door or any farm in the region to acquire is significantly impacted upon. Rural agricultural land has a value. It might be \$1,000 an acre. You bring in the ability to put a house on it and it suddenly jumps to about \$4,000 or \$5,000 an acre. And that is what is happening.

We have a Cabonne Rural Strategy Group, which is a group of landholders who represent about 140 farmers—not concessional holders, real farmers. They fought very hard for the rights of the farmer, which is what they should be doing, I guess. But talking to individuals, they recognise the implications themselves. One of them on there is a viticulturalist who has quite a large holding and he wants to expand and cannot because he is basically surrounded by small lots with houses on them. As he said, "My next option is I've got to go back 20 kilometres", which impacts pretty heavily on the efficiency of his farm.

**CHAIR:** Is there anything further you wish to add?

**Mr COOPER:** I do not think so. Probably just a very quick statement as a little bit of an overview, but not quite a summary. There is a benefit from having local solutions in planning, as long as the way in which those local solutions are devised meet an overall framework that comes from above. I do not like the fact that the however many States and Territories there are in Australia all have different frameworks. I firmly believe—I could be called a centralist—there should be a framework for planning legislation from the Commonwealth down, whether it is through the DAF arrangements or however. But it is not about what is in the plan; it is about how the plan is put together or how the assessment is undertaken because what you start to get is some consistency.

I previously worked on a border council at the bottom of New South Wales and saw what happens where you get towns across the border. If someone wants to run a business on one side of the river to the other, not only do they need two approvals, they need two totally different types of approvals. So if they have to get a consultant involved, they have actually got to go and get two consultants in effect—pay for two reports. If the frameworks were the same, it would be one report. There might be a few more words in it to address the assessment criteria, but it would still be applicable. I think that actually applies with all our planning legislation. I see no reason why we cannot have a generally uniform approach throughout the country.

**Reverend the Hon. FRED NILE:** You have not mentioned private certifiers. Would you have any problem with that issue?

**Mr COOPER:** We have private certifiers.

**Reverend the Hon. FRED NILE:** Do you have a problem with that?

**Mr COOPER:** We have three who work in Cabonne. One is not a problem. One we have very minor issues with but they are not significant, and one we have fairly substantial problems with.

**The Hon. CHRISTINE ROBERTSON:** Why can you not fix that? I am not challenging you; I want to know your answer?

**Mr COOPER:** That is okay, I understand. The process to formalise complaints is extremely complex. It is not just complex; it is time hungry. We simply do not have the resources to do it and there are other better resourced councils in the region that are already putting in a multitude of complaints about that same person. Nothing happens. It is as simple as that; nothing happens.

**Reverend the Hon. FRED NILE:** To whom are the complaints going?

**Mr COOPER:** The board.

**The Hon. MICHAEL VEITCH:** The BPB?

**Mr COOPER:** The Building Professionals Board. Nothing happens.

**Reverend the Hon. FRED NILE:** It does not seem very active.

**Mr COOPER:** No. And I know they are under-resourced right from the start. I appreciate that. But the issue is why have them if they are not going to do the job?

**CHAIR:** Thank you for coming this afternoon and giving that evidence. It certainly helps us to look at things differently. Hopefully, we will come up with some recommendations.

**Mr COOPER:** Thank you for the opportunity. Enjoy the rest of your investigations.

**The Hon. CHRISTINE ROBERTSON:** It was very impressive evidence.

**The Hon. MICHAEL VEITCH:** Yes, it was good.

**(The witness withdrew)**

**(The Committee adjourned at 3.08 p.m.)**