

REPORT OF PROCEEDINGS BEFORE

STANDING COMMITTEE ON STATE DEVELOPMENT

INQUIRY INTO NEW SOUTH WALES PLANNING FRAMEWORK

At Tamworth on Thursday 21 May 2009

The Committee met at 9.30 a.m.

PRESENT

The Hon. A. Catanzariti (Chair)

The Hon. M. R. Mason-Cox
Reverend the Hon. F. J. Nile
The Hon. M. J. Pavey
The Hon. C. M. Robertson
The Hon. M. S. Veitch

CHAIR: Good morning and welcome to the fifth public hearing of the Standing Committee on State Development's inquiry into New South Wales planning framework. This is the third of our five public hearings in regional locations. The Committee has held public hearings at Orange and Queanbeyan and will be holding further public hearings at Ballina and Albury next week.

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 film 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 broadcasting of proceedings are available on the table by the door.

I remind everyone that any messages to Committee members or witnesses must be delivered through the Committee clerks. Could everyone turn off mobile phones if they have them. I welcome councillor James Treloar, Mr Glen Inglis and Mrs Genevieve Harrison to the Committee hearing this morning.

JAMES MORISON TRELOAR, Mayor, Tamworth Regional Council, and

GENEVIEVE HARRISON, Strategic and Corporate Planning Manager, Tamworth Regional Council, sworn and examined, and

GLEN INGLIS, General Manager, Tamworth Regional Council, 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 do take any questions on notice today, the Committee would appreciate it 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 with questions, would one of you like to give a brief opening statement or do you want to go straight into questions?

Mr INGLIS: My only comment would be that the council intends to make a submission and will address specifically the terms of reference before you. We have essentially completed that submission and after today we will send it in. One of the key reasons why we are making a submission to this inquiry is that as a regional council we believe the planning framework is fundamentally the basis of coming up with a good, prosperous regional economy. Poor planning outcomes: poor economic outcomes.

To us, an effective planning system is essential for many reasons but principally for a prosperous economy, the effective development of land and, in particular, the effective development of infrastructure and environmental protection. The key reason we do what we do is to create a quality environment for people to live in. So, as a council we have always seen it as a fundamental necessity to get the planning system right, if possible.

CHAIR: Mr Treloar, do you wish to add anything?

Mr TRELOAR: I wonder if I can just make a statement to start with so you may be able to direct further questions at a future stage. Firstly, I would like to make clear that I am not a professional planner and that any experience I have comes purely from the planning processes I have been through over many years. I also acknowledge that under the Local Government Act a local government organisation is certainly not a perfect body and it is pretty easy when there are 150 organisations in any process to find a weak link. I find it difficult that comparisons of planning processes are always made with the weakest links in an organisation. I do not think that is a true reflection of local government in its totality.

The Local Government Act that councils operate under has to satisfy councils whose populations range from 250,000 down to 2,000. That Act is often interpreted by different councils in different fashions. Fortunately, the Local Government Act is rarely legally challenged. However, when you look at planning legislation and the one-size-fits-all process that planning organisations have at the moment, that is very rapidly moving down the same path as the Local Government Act. It is not going to be possible to have a planning Act that will satisfy the one-size-fits-all approach. We are talking about the same system, of councils with populations ranging from 2,000 to 250,000, but when issues of coastal, rural, metropolitan and regional centres are thrown in, I think we are heading down a path towards enormous legal challenges whereby the planning process is regularly challenged on a legal basis. An LEP [local environmental plan] for a community should respect the community's expectations for that region, while also acknowledging growth requirements and the State's expectations for the growth of the State.

Recently, Tamworth was amalgamated and became a regional council. We now look after five former council areas. They still operate under five different LEPs because we have not been able to achieve a single LEP for that area at the moment. But in looking after those five different LEPs you quickly realise the differences between the Tamworth central business district and the central business district of an area like Manilla, Barraba or Nundle, and the quite unique expectations of those smaller communities. Under that process, we as an organisation have become very aware that even in our own LEP expectations the one-size-fits-all approach will not even satisfy the aim of the regional council. So I look forward to the outcomes of your Committee's findings. I do not envy you the challenges you face. I also acknowledge and thank you for realising

that planning across the State is a statewide process and I thank you for including regional areas in your deliberations.

CHAIR: Thank you for that. What are the major planning and land use issues for Tamworth and your council at the moment? Could you elaborate on that?

Mr INGLIS: I will kick it off. The single LEP that the mayor referenced is our current target that we would like to achieve. We have had our section 65 application in Sydney now since September last year.

The Hon. MELINDA PAVEY: That is the standard instrument process?

Mr INGLIS: That is to get our new LEP up in accordance with the new requirements, so we did our regional development strategy and our biodiversity strategy for the region and all the lead-up work, and it all went very well. There was very extensive community consultation, which is often common in certain regional communities. They love to get involved in those sorts of things. Tamworth as a local economy is running very well. There is a strong desire out there in the development industry and the investment industry to get this LEP up. We have a number of even external bodies taking great interest in looking at further development of industrial and commercial lands. So, this new LEP to us is fundamental to driving forward with the prosperity of our local economy.

That application is still sitting down there. That is of great concern, not only to us; it puts that dint in investor confidence, and I am sure you understand how that can work. They need to have some surety to invest money in things. Getting back to my earlier point, as a council we see the LEP as one of the key documents of the council. Personally, I see it second to the budget. The budget is obviously the most important document but second to that for a regional city is the LEP. So, currently that is the number one thing we would like to have sorted out. There has been a little bit of movement at the station in the past couple of days but there has been a little bit of movement at the station periodically over that time anyway.

The Hon. JOHN ROBERTSON: Where is it stuck?

Mr INGLIS: It is stuck in the Department of Planning.

The Hon. MELINDA PAVEY: And at Parliamentary Counsel?

Mrs HARRISON: No, not yet. It has not gone to Parliamentary Counsel.

Mr INGLIS: So, to answer your question, that would be our current issue.

CHAIR: The 2007-2008 local development performance monitoring report noted that for Tamworth, complying development certificates made up 33 per cent of its total determinations. How do you explain that result, and will the new housing code see you increase this percentage even further?

Mr INGLIS: We have great concerns with the housing code. As you know, it comes into full swing from March or April of next year. Just by way of some local statistics, we have issued so far 60 complying development certificates since the introduction of the housing code, which was March or April of this year.

We have done 60 CDCs [compliance development certificates] and only three of those, or 5 per cent, have been under the Housing Code. Why is that? It is because people prefer the old system; it is simpler, easier and more streamlined and there is less red tape. In my view that is a stunning statistic. I cannot speak about other places, and it would be interesting to know the statistics from other council areas, but locally only three out of the 60 compliance development certificates we have issued have been issued under the Housing Code. It is fairly obvious that, locally, people find it cumbersome. It is a bit frightening to think that that is going to be the only way to do it from April next year. Maybe they will get better at it; I am not sure. I think the statistics speak for themselves so far as the local attitude towards it is concerned.

The Hon. MELINDA PAVEY: With regard to your comments about coming to the region, Mr Mayor, you may be interested to know that all the members of this Committee live in regional or coastal New South Wales, which is why we have such a strong focus on it. Returning to the LEP, you mentioned that there were five communities incorporated in the amalgamation of the councils. Does that mean you have put in five separate LEPs under the change or have you just submitted the one you are waiting on?

Mr TRELOAR: When we were amalgamated obviously the LEPs that existed were those that the regional council had to operate under. We have been trying to establish the one LEP to move that forward. As you have previously heard, we are still waiting for approval of that single LEP.

The Hon. MELINDA PAVEY: Have you any estimate of the type of investment that is being held back by this process? You are not alone. Everywhere we have gone throughout regional New South Wales this issue has been raised about the standard LEP and the delays.

Mr TRELOAR: I do not think we are holding up investment in the city as such. It is a far more difficult process for our planning staff when they are assessing things in different areas under different LEPs. I think that is challenging for the staff. The Tamworth City Council's previous LEP is still quite active and allows a fairly good process. The challenges we face now are that we would like to move to the next stage for all our LEPs. There are opportunities. We are obviously looking at the land bank we have in the city. This is one of the few regional cities that are experiencing growth and we need to reassess the land bank we have. We are still waiting for those opportunities to reassess some of those areas.

Mr INGLIS: In relation to your specific question, we have a couple of people who are waiting for some significant commercial and industrial areas to be rezoned in the new single LEP, so certainly that is being held back. Currently in the city, in particular the urban environment of Tamworth, there is a shortage of industrial and commercial land. There is a large chunk proposed to be rezoned adjacent to our airport, so that is being held back. I cannot quantify it in dollar terms, but is it holding back an important area of investment for the city? Yes it is.

The Hon. MATTHEW MASON-COX: What about the scope for doing spot rezonings under your old LEPs?

Mr INGLIS: We did a few of those. There was a very significant one in the sense of our next major residential population growth corridor, referred to as Hills Plain. We have got that one up through a separate process. If that had not got up we would have had some real dramas on the residential front as well as the commercial and industrial front. As the mayor said, Tamworth is lucky—you feel lucky when you have growth west of the Great Divide because you have to work hard for it. That is another matter. But when you have that investment energy wanting to come your way—I believe a council has many roles but one of its fundamental roles is to ensure that you have created a local environment to stimulate others to take action and in particular people to invest. Without that you go nowhere. Again, these matters are important.

Mr TRELOAR: Spot rezonings are a very temporary solution. It is not a solution to have it in an LEP that is reviewed to a minor degree every five years and reviewed substantially every 10 years. Those are the principles that the planning process would like but they cannot get their house in order to do it. I do not think spot rezonings are the solution. The solution is to have a process where the planning review can take place to a minor degree every five years and substantially as is required, about every 10 years. Looking at spot rezonings is a piecemeal process.

The Hon. MATTHEW MASON-COX: I agree. I have a couple more questions about your current section 65 application, which has been in Sydney since September last year. It is with the legal branch of the Department of Planning, but what do they say is the delay?

Mr INGLIS: I will answer that in two ways. One is our perception of the delay and the second is the reason for the delay that has been given to us. Our perception is that they simply do not have enough resources. How many LEPs have been approved so far in Sydney and across the State? My understanding is there are two or three. Give me a break! That is terrible.

The Hon. MATTHEW MASON-COX: How many pages is yours, including maps?

Mrs HARRISON: There are 100 maps covering 9,500 square kilometres and the document is about 50 pages.

The Hon. MATTHEW MASON-COX: Your perception is that there is a lack of resources in the Department of Planning to process the plans. What are they telling you is the problem?

Mrs HARRISON: One of the issues is that we do not fit the standard template. There are a number of local issues that we are responding to through our LEP and we are attempting to craft local clauses to address those local issues that we have in our existing LEP framework. They are not in a standard template so they require a further level of assessment by the legal branch.

The Hon. MATTHEW MASON-COX: What are those issues that you are tailoring locally?

Mrs HARRISON: The major issues relate to the retail hierarchy of the Tamworth regional area and the current provisions that protect the integrity of the central business area of Tamworth in relation to other areas. They preclude major shopping centres outside the central business area of Tamworth. They relate to the airport. We have a fairly major investment in Tamworth Regional Airport and currently have a zone that reflects that activity. We are trying to achieve a standard zone now through this process that does not quite fit the airport.

Mr INGLIS: I notice aviation is one of your specific terms of reference, so in our written submission we will give you a good example of how that standard template does not work in some cases. Tamworth is the tenth busiest airport in Australia. British Aerospace has a very significant pilot training operation there.

The Hon. MATTHEW MASON-COX: We saw the Hornet there when we arrived.

Mr INGLIS: The Hornets are not normally there. That one broke down the other day. They often fly here to utilise the airport in training. It is a significant airport and we will give you a good example of the difficulties that presents with the standard template. There has been a planning framework around the airport for at least 15 years that has worked very effectively. Our submission will highlight one of the great faults we see in the standard one-size-fits-all approach. It sounds wonderful from a theoretical perspective and trying to come up with reduced red tape and streamlined standard approaches, but it turns up a lot of ugly things as well. A regional city like ours is a good case study to highlight some of those deficiencies in the one-size-fits-all approach.

The Hon. MELINDA PAVEY: In consulting with the Department of Planning do you deal locally with the regional office or do you have to deal with Sydney?

Mrs HARRISON: No, we are dealing locally but they then need to confer with Sydney in regard to legal issues in particular.

The Hon. MELINDA PAVEY: Do you think it would be better if they had more power locally? Do you think the system of total Sydney control works?

Mrs HARRISON: No, I find there is a discrepancy with rural issues, particularly rural subdivision and rural dwelling entitlements. Those sorts of issues are not terribly well understood in the metropolitan region. That is one of the areas of the LEP that we are grappling with as well—not understanding the breadth of the whole rural entitlement and rural subdivision issues.

Mr INGLIS: That is why I find it fascinating that the joint regional planning approach of the Western Division of New South Wales, which is an interesting name because I notice it includes Bathurst, Orange and Dubbo, is not going to have a JRPP [Joint Regional Planning Panel]. It is going to be done by the Planning Assessment Commission [PAC] in Sydney. I feel that that lack of understanding—I think it is philosophically wrong anyway. I think it is setting up two planning process systems for JRPPs. Our region, for example, will have a regional-based panel. They get out of synch, particularly for major developers. Regional cities are very competitive in New South Wales in the sense of chasing development and getting major developers in. Often you will sit down with developers and one of the opening lines I use is, "Who else have you spoken to?" They have had a chat to the people at Wagga and a chat to the people in Albury. They are shopping around. That is fine. That is wonderful. It is a matter of who produces the best offer and the best arrangements. Under the new joint planning system I hope we do not get a two-tier system where there is a perception among developers that they are better off in the Western Division—I am talking about major developments here, principally above \$10 million—because they will get their application in and it will be heard in Sydney and it is much easier to get it through that system than through the JRPP up at Tamworth or the one at Ballina. We will point that out in our submission as well. That seems to be the way it is going.

The Hon. MATTHEW MASON-COX: How long did it take you to formulate your LEP and can you give us an idea of the likely cost of preparing that document? Were consultants used in its preparation?

Mrs HARRISON: Consultants were used in the preparation of the regional development strategy, which provided a platform for the LEP, so that was a cost. We received additional funding from the planning reform process—a meagre sum. It was in the order of \$120,000 to develop the regional development strategy. The LEP process was prepared largely in-house over six months and probably cost another \$80,000 to \$90,000 of staff time and resources.

Mr INGLIS: What did the biodiversity strategy cost us?

Mrs HARRISON: Another \$30,000.

Mr TRELOAR: There was also extensive consultation with the community. I think we met for six nights.

Mrs HARRISON: Correct.

Mr TRELOAR: Each member of the public who made a submission was able to give a presentation to the elected council and staff in terms of their concerns about any of the issues in the LEP.

The Hon. MATTHEW MASON-COX: So it has been a very rigorous, time-consuming and costly process and it has been in Sydney now for eight months. When are they telling you that you will get approval for your LEP?

Mrs HARRISON: Each week it is imminent.

The Hon. MATTHEW MASON-COX: It is imminent. And how long have they been telling you that it is imminent?

Mrs HARRISON: Since January.

Mr INGLIS: Since Christmas. You have to understand the dynamics of this. You have a bureaucrat ringing a bureaucrat so they get the lingo going and "imminent" is a standard, stock phrase for a bureaucrat speaking to a bureaucrat. It is not just the department; that is common.

The Hon. MATTHEW MASON-COX: So you are pretty frustrated with that process.

Mr INGLIS: No, because when you work in local government for longer than a short time you get used to frustration and delays so you do not allow yourself to get frustrated. It is more you get annoyed, I suppose, rather than frustrated because, as I said at the very beginning, these matters are quite important. Whilst we understand that and we try to do things to make things happen in, you just get annoyed—you just sort of feel as if everyone else should share your own enthusiasm to move these matters forward and it does not always work like that. Clearly, it is resources. I do not know whether we can say this but my understanding is that the Department of Planning will be making some announcements shortly where they will stand up and say that there will be a whole lot not happen in a reasonably long period of time. Is that your understanding?

Mrs HARRISON: There is a reprioritisation process currently underway. We have been very apprehensive about not being on the priority list that is being developed.

The Hon. CHRISTINE ROBERTSON: Reprioritising individual—

Mrs HARRISON: Individual LEPs throughout the State.

Mr INGLIS: Rather than be telling everybody it is imminent, they will stand up a little bit more and be counted and say, "Yeah, look, we are looking pretty wishy-washy with this 'everything's imminent' comment. We will just have to stand up and say, look, it is going to take longer". The word for "is going to take longer" is "reprioritisation" and you will know that you are in the reprioritisation". So in other words "don't go ringing us every week, because you know you are in the reprioritisation and you are down the track". Personally, I find it

astonishing if that happens, because, as I say, these matters are important so why can't they simply—I mean, I understand the whole situation in the State like everybody does.

Mr TRELOAR: Can I just add to that a little further? I think in a regional centre, particularly in an area that has been recently amalgamated, where we are still operating under the LEPs of previous councils, and where the usage requirements have changed on a lot of land, we are just not getting the opportunity to re-look at the required changes of land usage, and you are talking about LEPs that are 17 years old.

Mrs HARRISON: The oldest one is 1987.

Mr TRELOAR: So even more than 20 years old. You cannot operate a local government structure that is 20 years old, but that is what we are being expected to do, and to have staff assisting with development applications that were lodged under a LEP that is 20 years old.

The Hon. MICHAEL VEITCH: So that begs the question: What would you indicate to us would be the lifetime of a LEP even with regular review?

Mr TRELOAR: I think the guidelines they came out with some time ago were that there be a five-year review of it and a significant review as required but maybe within a 10-year period. I think that would stand the test of time. Some might not even need those reviews; they might be simply a rubber-stamp review because not sufficient has changed. But I can tell you in some of your areas things are changing quickly.

CHAIR: We have heard some evidence that some of the councils believe that they want some stability, they want a longer term arrangement.

Mr TRELOAR: A review does not mean that something has to change. A review gives you the opportunity to change if that is required, but if change is not required then you do not have to change LEPs just because you are reviewing of them. But you need that review to give you the opportunity at least to re-assess some of the issues that have changed in a five-year period.

Mr INGLIS: My other comment is that it is important when you talk to the development industry to understand that they have certain expectations about going ahead, and often people come in and ask where is the city going over the next three years or five years. Often people come forward with really good ideas and you look at those ideas and say they are good. Spot rezonings were commented on. They in themselves are quite an arduous process. So it is always nice to be able to say to the development industry that our LEP is up for review in such and such a year so they have something that they can look to and plan to. But as to the requirements about a review period, you just have to be cautious about that because the need for, say, Tamworth Regional Council to do an LEP review and the requirement for, say, Walcha Council to do an LEP review are entirely different. As the mayor says, a review of an LEP could take one day for a council if the circumstances suit but for another place you might want to take five weeks on it. But reviews are important and review periods I think are important to the development industry to know that it is coming up for a review. So I like the idea of actually having a statutory review period.

Mr TRELOAR: If you want to look at the changes that are now required in assessing development applications, you look at the Environmental Planning and Assessment Act and the Local government Act, and at native vegetation, contaminated lands, protected environment, and the new waters legislation, the various areas that have changed. Threatened species is another good one that they throw in every now and then, and bushfire protection lands. All those things have now changed, and you would think that an LEP needs to change with that change in legislation. If your LEP is not changing with that legislation you are basically playing a game of football with the rules changing but you are still dealing with the old referee. And it just will not work. You actually need to have that opportunity to change with the legislation as it changes. We have requirements to have indigenous inspection of various lands and things. I do not have any problems with it; it is all probably in the interests of planning a good process, but if your LEP is not able to change with it you are stuck a long way behind.

The Hon. CHRISTINE ROBERTSON: You have been bringing up the perception that Tamworth is a region in its own right. In dealing with the planning process we have had quite a lot of evidence in relation to the State Plan, strategic statements, regional plans, strategic plans with further principles thrown in and then the local level planning process. How would you define a region?

Mr INGLIS: I will kick off. That is a hard question because it depends. I will speak about it from a bureaucratic perspective rather than a political perspective. When you look at things like planning, for example, and you are trying to define a region, let us say for an economic region—and we have a regional economic development plan—when you sit down and look at that you look at things like economic catchment boundaries, for example. You might be looking at a retail catchment boundary—in other words, the people who shop in your city or town. Where do they come from? As you know, for Tamworth I think I can suggest that people come from Moree to shop in Tamworth. People come from quite long distances because we are a regional centre in the north-west of the State. So from an economic perspective our regional boundaries are quite large.

If you look at it from the perspective of social catchment, again there is an entirely different sort of boundary. So when you say "define the region" it is not an easy question to answer because it depends on what type of region you are trying to define. So as to economic, social and environmental implications, for example, we are in the Namoi CMA and that is based on watershed zones and such things. It is an attempt to define us in the sense of an environmental region—again, entirely different to our economic catchment areas, far different to our social catchment areas. Again, they are all different. So to define us—and this is one of the great difficulties I think in coming up with local government boundaries—when we talk about amalgamations everybody has a different view about where the boundary should be for a local government area. There is no perfect answer to that question. In my view it is just trying to capture all those things and come up with the best balance out of all of that.

Mr TRELOAR: From a planning point of view, I think the region would be better described from its environmental catchment area. You look at the watershed area, you look at the air flows and all those sorts of things, and I think that will give you a better planning opportunity and also in terms of local government boundaries. For too long they looked at rivers as a good local government boundaries. I think we did it at a State level too when we were looking at State boundaries. They were an atrocious boundaries.

The Hon. MICHAEL VEITCH: Why do you say that?

Mr TRELOAR: There is always a question of who is looking after which side of the river the best. It is like using a road as a boundary. It is not a good boundary line. If you can use the ridge line rather than the valley line, it is a much better boundary line in terms of the natural environment because everything is encased in that area. Rather than having the bottom as the dividing line, you have so many things that affect each side of the river but you have different authorities on each side of the river, so I think in terms of boundary alignments the ridge line is much better than the river line.

The Hon. CHRISTINE ROBERTSON: So that excludes the economic and social planning processes?

Mr TRELOAR: I do not know. It is just one of them. I am not saying you exclude them; I am just saying that our local government boundaries tend to follow the ridge lines and the watershed but in terms of our economic planning and our planning process a lot more things had to be taken into consideration.

The Hon. CHRISTINE ROBERTSON: How much participation do the local government bodies have in the State's decisions about what is a region?

Mr INGLIS: Very little.

Mr TRELOAR: None.

The Hon. CHRISTINE ROBERTSON: Where is this area in a region in the State?

Mr TRELOAR: It depends whether you look at us as a tourist region, in which case we come under that magnificent north-west area. If you look at us as a medical region, I suppose we form a different area. If you look at us under the roads authority, I think their office is Grafton based. I do not think you can define us as a region—

The Hon. CHRISTINE ROBERTSON: You are west of the State's divide.

Mr TRELOAR: We are the other side of the Great Dividing Range.

Mr INGLIS: Yes, north-western is a term that is used a lot. It just depends on which one you are talking about. The first attempt I think to seriously define regions in New South Wales from a State perspective, in my view—you may remember Plan First. Seems such a bygone era, doesn't it? A lot of serious work went into that, and personally I was disappointed when it got dropped; I am not sure about the mayor's view. I thought it was heading in the right direction for the first time.

The Hon. MATTHEW MASON-COX: And then came "Still More to be Done".

The Hon. CHRISTINE ROBERTSON: No, it was long before "Still More to be Done".

Mr INGLIS: It was a shame to see it shelved. Obviously, politically, it got shelved—I do not know why, but personally I felt it was heading in some interesting directions for the first time to actually try to encapsulate the regions and, more importantly, put a focus on regions. If that had happened, I think it would have taken us to a whole new level in a sense—

The Hon. CHRISTINE ROBERTSON: It was a nice booklet.

Mr INGLIS: No. Philosophically it was sound.

The Hon. CHRISTINE ROBERTSON: It was, but it had maps in it.

Mr INGLIS: It had maps, yes. It was the conceptualisation and the theory of trying to better plan all the various government services that we provide between State and local authorities. Local government is about to undergo a fundamental change in planning. I am not sure if you have caught up yet but only a matter of days ago you would have noticed the release of the draft bill for the new integrated community strategic planning for local government, which is a major change. Local government will have to produce 10-year community plans. I think the bill is due to go up in the spring session of Parliament but, simply, what it is looking at is 10-year community strategic plans, 10-year asset management plans with financial models and a whole range of things. It is basically a plagiarism of the New Zealand model. That is fine; that is not a criticism. I think the New Zealand model it is a very sound model. They have been doing it for about 15 years and you can point to a lot of successes. That is going to change our approach to planning dramatically. For the first time, local government will have to have in its community strategic plan even those matters it is not personally responsible for.

For example, if we go to our community and ask, "What is your top priority, so we can put it in your community strategic plan for the next 10 years," I think many communities will say that one of two things is their top priority, certainly in the country, and that will be either health or law and order. From the local government perspective that is interesting because we have responsibility for neither of those. The State Government has responsibility, but under the philosophy of the new State planning process that does not matter. That has to be in our community strategic plan as the top priority for the State. I suppose our actions on that will be things like lobbying, advocacy, these sorts of matters, so it will be interesting to see the relationship of that to LEPs as we move forward.

The Hon. CHRISTINE ROBERTSON: Some years ago this particular local government area made a deliberate strategic decision to move the strategy for different kinds of growth. I would like to talk through some of the processes for the changes that have occurred in this area in the past 10 years, say, because of the strategic decisions to change the direction of the city.

Mr TRELOAR: Maybe if I just give a very brief background of Tamworth first. We were very fortunate in the 1950s to relocate the airport. The airport moved from being quite close to the central business district to a fair distance out of town, which meant there was a large parcel of land that was able to be redeveloped. I think it is one of the first cases of really good regional planning of a regional city, whereby they identified an industrial area and they stood by it very strictly. So, when you drive into Tamworth from the south you do not drive through a maze of industrial, commercial development or warehouse development, it is now located in a central spot in the city.

The Hon. MICHAEL VEITCH: Vision.

Mr TRELOAR: It was. It was enormously visionary for people way before us, and I think it has given a good understanding of what good planning can do for a regional centre. That process is now followed by even more regional centres, but we were very fortunate to have some forefathers who had some vision. That gave us

the opportunity to firstly establish an industrial centre, but because of the locality of the centre they were able to focus on certain areas where they would like to see growth and development in our industrial sector. That was very much focused on food-processing and engineering works. We now have probably three major employers in food processing, being our three major chicken, poultry, processing plants and beef and lamb abattoirs. They are substantial employers. But it is leading to other food processing, processing of flour, grains, and pasta making in the district. So we have very significant food processing in the Tamworth area and but also significant engineering works as well.

That has been a very conscious decision of the city. We do not have a university. We were not blessed with government departments in the city, but at the same time we are not reliant on government departments. That is one of the benefits in a period like we are in at the moment. We are able to continue to push forward without being reliant on government intervention. So, at the same time, some were making a conscious decision to look at clean industry. They were far more interested in the education process or whatever the process was for those regional centres. Obviously, with computerisation and the Internet and off-campus learning those areas are now finding a significant change in their development growth and they have had to look at different industrial growth in their area. I think Tamworth has been fortunate in that we have a very strong focus on where we would like to see industrial growth and it has been a strong focus on where the city continues to plan. Its planning practice has been very much structured around having those core areas.

The Hon. MICHAEL VEITCH: You will notice from the terms of reference that one of the things we have been looking at is national or international trends in planning. If the Committee were to look at something internationally, do you have any suggestions where we could look? A little earlier you mentioned New Zealand. Why the New Zealand model?

Mr INGLIS: I am not sure why the State Government picked the New Zealand model, but I would imagine the reasons were that it had been in place at least 15 years so they were able to review the success or otherwise of that legislation. Governments like to take a major redirection with legislation and it is always nice to have some research material that shows that it has been tested so if it does bugger up they can say they had a good look at it and it worked well over there. I think the other reason is that it is sound. I think it is a good system and, as I say, it seems to have worked well.

From a planning perspective, of course, with international comparisons you have to be very careful. It is a little like saying to you today we do not think a template works across a State. In my view, and having worked in local government for a period of time, you pick up one or two things. I have learned many things in local government but one thing I have absolutely learned is that every community is different. On the outside it may seem similar and it has similar numbers and a similar demographic profile and similar economic structures, but every community is different. It has different aspirations and different expectations about levels of service and all these things. So, whatever you have, it has to have flexibility.

I think that is borne out. It is an unfortunate fact that in New South Wales, in relation to bodies like the Ombudsman and the Independent Commission Against Corruption, development applications and planning matters unfortunately occupy approximately 20 per cent of their time. Why is that? The reasons are there. Obviously, people do not like the decisions of the system.

Mr TRELOAR: You have in your terms of reference a paragraph on the interrelationships of planning and building control. From the council's experience, the old system of having a development application and a building application was a good system. It gave the development industry a break in some of their costings. They could get a development application approval, without going through the full engineering design with quite significant costs and then either being approved or rejected. I think there was a good, clear delineation of the two processes. There was a process of development approval and then you have the building approval. I think our history would demonstrate that that was a better process than the current process of a construction certificate and the whole process in some instances being intermingled. It gave the opportunity of getting an in-principle agreement and then getting the building process going, which is quite an expensive process in getting your plans and detailed engineering drawings done. That process was good and I think the council had no difficulty with it and the development industry certainly supported it.

The Hon. MICHAEL VEITCH: As we have travelled the State we have heard from a number of people that the Environmental Planning and Assessment Act of 1979 has run its time, it has served its purpose and it is time to make new legislation or a new framework. Some people have suggested that New South Wales needs a separate planning Act and a separate assessment Act, and that all the environmental legislation you

spoke about requires umbrella legislation to provide clarity about how it is to be applied. What are your views about that? It is a significant reform.

Mr TRELOAR: Can I give you an example? Years ago we had somebody who wanted to build a lamb abattoir in town. You will remember the late Tony McGrane?

The Hon. MICHAEL VEITCH: Yes.

Mr TRELOAR: Tony was the mayor of Dubbo at the time. I said to Tony, "The EPA actually destroyed this. There is no capacity to build another abattoir in New South Wales. It will go outside of the State." He said that we should not just accept that. He went and saw then Premier Carr and he said, "If that is the view that you are taking from a local perspective, that is wrong. We would still like and encourage that development in New South Wales." What is the biggest inhibitor? It was not the financial constraints or anything like that, they had their money in place, they just wanted to be able to get the process to move on. I said the biggest inhibitor is going to be the State legislation, in that it will take so long to process the application. The Premier then said, "Where would the hold-up be?" I said, "Within the EPA." He said, "What is a fair time for it to sit on their desk, seven days?" I just about fell over. I said, "With all fairness, I think two weeks would probably be more appropriate."

I do not think Neil Shepherd has spoken to me since, God bless his soul, because at the time as director-general he said it was a totally impossible thing to achieve. We worked with them and said as we get information we will forward it to the Environmental Planning Authority and eventually when it is in the process of assessing it, it will have the bulk of the information. History will tell you now that that employs in excess of 100 people in town, many of them disadvantaged people, many of them Aboriginal people. If we did not have that process we still would not have that in the city. That just typifies that the development application process, whether it be at the level of the local council or the various State bodies that now have consent controls on many of these development applications, is where the greatest delay and greatest hold-up is. It is that legislative framework, where government departments have consent controls or consent authorities, that can just hold us up. That is our experience.

From the State's perspective, I know you will be able to find one of the 150 councils out there where circumstances are so inappropriate that it should not have planning rights, but the State can do what it did in Wollongong or what it did in Port Macquarie. You do not have to change every single local government authority in New South Wales simply because there is a bad apple in the basket.

The Hon. MICHAEL VEITCH: Can I ask you practitioners what is your view about two separate pieces of legislation and a piece of umbrella legislation being the environmental framework?

Mr INGLIS: From a general manager's perspective, my own view of the 1979 Act was that it was truly visionary. And it was not only the Environmental Planning and Assessment Act. They brought in the Land and Environment Court Act, to set up a specialist court to deal with issues in relation to that legislation. That was truly visionary in my view. Planning up to that point—we will not get into the history of it—was very ad hoc and poor. It was a fantastic piece of legislation, and 1979 is a fair while ago. Where it has gone wrong over the past decade in particular, in my view, is it is no longer what it set out to be, and that was an integrated Act so that you could deal with all your environmental issues within a single piece of legislation. The mayor mentioned some of the other pieces of legislation that have been tacked on.

The Hon. JOHN ROBERTSON: And it is Federal.

Mr INGLIS: Yes, it is Federal and State. We have 20 government departments on our standard list. In other words, every development application that comes in, the day after it comes in it gets fired out to at least 20 different government departments who have some right to say something about that development application. We will have an example in our submission to you under the Commonwealth Biodiversity and Conservation Act, where it took 18 months for a simple development application out at South Tamworth, I think, for a subdivision. It took 18 months to get an answer from the Commonwealth department because of the Commonwealth legislation, the Biodiversity and Conservation Act. It is not an integrated Act. You have this myriad of layers of other legislation, and is it now a complex system? You betcha! It is extremely complex. For practitioners to understand, let alone laymen, it is sometimes too much. Does it need changes? Yes. Do we need to throw it all out? In my view, no, because I still think the fundamentals are sound. At the end of the day the

community has an expectation that environmental considerations are taken account of, but it is the degree and scale of how far you go with that.

Does it need to be more integrated and streamlined and less complex? Absolutely. I think there is evidence of the failure of people to understand. You talk about monitoring reports that show how well or badly a council performs according to the length of time it takes to deal with development applications [DAs], but one of the problems is the poor quality of submissions that are made and the lack of information they contain. Many councils end up taking on the role, which they should not, of almost putting the DA together. The council is saying to the general manager, "Come on, we've got to have a can-do attitude; we've got to get these DAs over the line." God bless them, that is their job; and it is my job to do that.

One of the big issues when you do that is that the quality of some of the submissions is extremely poor. One of the reasons they are extremely poor is that people simply cannot get through the maze and the complexity to put together what they want. We do cross the line sometimes in trying to put it together for them rather than pushing it back and saying, "Go away, it's up to you." In regional areas there is a shortage of people who can help put together a DA. We are reasonably okay in Tamworth but I still believe we are short of good businesses that can put applications together. The ones here are flat out trying to keep up with what they have got. Again, that is the skills shortage.

To answer your question, no, I do not believe it needs to be thrown out; it just needs to be worked on. I think the fundamentals are still there but that may not be Mrs Harrison's perspective.

Mrs HARRISON: I am totally in agreement. The standard template should probably have gone further if we are going to have one-size-fits-all in integrating more of the legislation into a one-stop shop. At the moment it is very confusing from a practitioner's point of view, from a developer's point of view and from a layperson's point of view.

The Hon. CHRISTINE ROBERTSON: How much influence did the local government bodies have on the development of the standard template?

Mrs HARRISON: Very little.

The Hon. CHRISTINE ROBERTSON: Surely the Shires Association—

Mrs HARRISON: I know the Shires Association expressed concerns at the time about the whole one-size-fits-all approach.

The Hon. CHRISTINE ROBERTSON: They must have had some reps on it.

Mr TRELOAR: I believe the associations were consulted. I cannot say how much of the consultation was included in the outcome.

Reverend the Hon. FRED NILE: Following up on the LEPs, we have had some evidence previously from other towns we have been to that the parliamentary counsel dealing with the LEPs are very legalistic. Have you had any reaction to their re-writing of an LEP? Have you had any problems with amending it? We have heard of people being able to amend LEPs.

Mr TRELOAR: One of the difficulties we are facing in getting a sign-off on our LEP is the legal wording used in it. I think we could say that the legalistic side of the LEP is one of the areas where we are being delayed at the moment. I can appreciate their concern because I think the greatest area of legal challenge in local government would be in planning decisions. If the wording of the LEP is not legally correct you will be defending it more than you would like. An LEP should be the starting point of a development. There should still be opportunity for discussion. We have some good developers. If we say to them, "The headlights of a car leaving that restaurant will shine in the house over there. Can you do something about it?" they will say, "Yes, we'll go and build them a new fence." That is all done through discussion; it is not done through a legal view and conditions that are put on them. That is what I think will be taken out of planning decisions when the joint planning panels come into effect. You take away that opportunity to enter into discussions with the community you know to resolve an outcome and not take it to court.

Reverend the Hon. FRED NILE: It is more flexible.

Mr TRELOAR: You speed up the process. You are not held up with a court decision and the fairly lengthy delay in that. Quite often \$5,000 or \$6,000 for a new front fence is a damn sight cheaper than going to court to get a result legally. They are happy to do it, the process is faster and it is a much better outcome for all involved.

Reverend the Hon. FRED NILE: Have you had any problems in amending the LEP? You said you wanted to do that and we have heard of councils that have had no problems and have succeeded in amending their LEP.

Mrs HARRISON: It takes time with the toing and froing with parliamentary counsel. That is probably the biggest issue.

CHAIR: Thank you for coming in this morning and the contribution you have made. We also thank you for advising you will be making a submission. There may be questions we will put to you and we would like the answers within 21 days.

Mr TRELOAR: Are there no questions on notice?

CHAIR: We will send some to you.

The Hon. CHRISTINE ROBERTSON: We will wait until we get your submission.

Mr TRELOAR: But there are none out of today's meeting?

CHAIR: There will probably be some when we get the submission.

(The witnesses withdrew)

(Short adjournment)

MICHAEL JOHN SILVER, Director of Planning and Environmental Services, Gunnedah Shire Council, PO Box 63, Gunnedah,

KATRINA McDONALD, Executive Officer, Namoi Regional Organisation of Councils, PO Box 296 Quirindi, and

JAMES ARTHUR McDONALD, Chairman, Namoi Catchment Management Authority, PO Box 50, Tamworth, sworn and examined:

CHAIR: Which agency are you representing today?

Mr SILVER: I am representing Gunnedah Shire Council and the Namoi Regional Organisation of Councils [ROC].

Ms McDONALD: I am here in my capacity as the Executive Officer of Namoi ROC.

Mr McDONALD: I am the Chairman of the Namoi Catchment Management Authority. The Namoi Catchment Management Authority [CMA] is a member of the ROC so I am here as a member of the ROC.

CHAIR: Before we begin I should point out that 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 it 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 we commence with questions, would any of you like to make a quick opening statement or would you prefer to go straight to questions?

Mr SILVER: I would like to make a couple of comments and highlight a map that has been circulated. The issues that are confronting the Namoi Regional Organisation of Councils, and particularly those within the Namoi catchment, relate in the main to resource development and particularly to coal development. The map that has been circulated shows the current coal titles that have been issued both in terms of exploration licences and mining leases and consolidated coal leases across the Narrabri, Gunnedah and Liverpool Plains Shire Council local government areas. As you can see, there is a considerable amount of activity potentially, if not in fact occurring at this present time, within those local government areas. The matter which has brought this to a head in terms of exploration licences is the one that was issued by the Department of Primary Industries [DPI] in about September or October last year, which is the large purple area that covers about half of the local government area of Gunnedah.

Whilst it is only exploration by the DPI with a view to establishing precisely where coal reserves may exist, it has highlighted to the community the broad-scale nature of potential for mining development within the region. In a nutshell, the issue that confronts the councils is the potential change in the community that may occur as a consequence of these developments if the level of mining that potentially is there does occur and also the impact on the councils, and the community for that matter, in terms of infrastructure provision and demands on its existing infrastructure. You will all appreciate the difficulties that local government authorities are currently going through in terms of maintaining the level and quality of their infrastructure and services. While it may be possible to sheet a lot of that back to some of the developers, it is the contention of Namoi ROC and the local government authorities within the area that there needs to be some preplanning done in this area, particularly in the Namoi region, and perhaps overcoming some of the challenges that did occur in the Hunter Valley with the development of coalmining in that area whereby the activity occurred and then there was a bandaid or some solution found to the problems that arose.

What we are trying to say here is this is virtually a greenfield site, albeit that coalmining has existed in the area for well over 130 years. These are major developments. There are opportunities to do some major strategic planning of how these communities develop should the mining activity and the gas activity start to be implemented, and there is gas exploration at the moment. There are opportunities to set some strategic path for these communities to move into the future and address the challenges that they may well experience in terms of social and environmental issues but also community issues.

Ms McDONALD: As an introduction, Namoi ROC members are Walcha, Tamworth, Gunnedah, Liverpool Plains and Narrabri, and the Namoi Catchment Management Authority or Namoi CMA. Specifically,

all of those councils have endorsed the submission that went in but I guess the issues seem to be more specifically related to what is occurring in Narrabri, Gunnedah and Liverpool Plains shire councils and the Namoi CMA. Obviously, we know there has been a lot of mining and exploration around the world. I listened a couple of months ago to Doctor Heinz Schandl from the CSIRO, who has done a study into the Surat Basin and as part of that study did a literature review of the international literature of mining. He found that no one region in the world has properly planned for mining and got it right. So I would say that the challenge for us in this area as part of the Gunnedah basin is to do it properly. That is what we would like to see. The difficulty is that we are dealing with a State-significant activity and as such we have very little opportunity to be involved in what is going on there. During all of the phases of exploration and mining, whether it is for coal or coal seam gas, there are impacts on the community and on the councils. We need to have a process put in place that we can take part in and that is not just laid upon us. That is what we would like to talk to you about today.

CHAIR: Mr McDonald, would you like to make a statement?

Mr McDONALD: No. I welcome questions on what has been put.

The Hon. CHRISTINE ROBERTSON: I recognise your issues relating to mining but does Namoi ROC perceive itself as a regional planning body in any way? Some of our witnesses, particularly at the city level, spoke about the State Plan as being a strategic model, and pick me up on this if I skip bits. They spoke about the regional plan having some strategy and some principle processes and the local plan as being more about individual issues in relation to local areas. I think the Central West ROC sees itself in some ways as a regional organisation, not that they have delivered on that, but I am just wondering if Namoi ROC perceives itself in that way at all?

Ms McDONALD: I would not say that it is per se a regional planning body but it is certainly part of it, in partnership with the State, the Department of Planning, the CMA and any other stakeholder. I would say that we would want to be involved in it.

CHAIR: You talked about wanting a process. What sort of process would you be looking for when you are talking about issues of State significance?

Mr SILVER: The response to that is that there needs to be some analysis before exploration licences are issued. If I can just provide some background to what I have just said, it is very apparent that the Department of Primary Industries and the Department of Planning exist in silos. They operate in silos. DPI issues exploration licences. The Department of Planning deals with the assessment process post the completion of the exploration licence. Namoi ROC—I know that council is concerned—and Liverpool Plains, Gunnedah and Narrabri shire councils made joint representations to senior bureaucrats of the Department of Planning about the need for strategic planning prior to exploration licences [ELs] being issued. There is no mechanism at all by which the Department of Planning can step into the issue of an EL by the Department of Primary Industries. That is covered under the Mining Act. The Department of Planning works under the Environmental Planning and Assessment Act.

There is a need for strategic planning by the department, if it is the lead agency in this State for planning; there is a need for that organisation to do work as a precursor to issuing exploration licences. The argument that will be put consistently is that they are exploring to see if a mine will occur. I suggest to you in the case of the proposed mining development by Shenhua Watermark, an exploration licence has been issued. They paid \$300 million for the privilege of taking up the exploration licence. They will pay another \$300 million should they proceed with exploration licences and \$175 million for other infrastructure works.

I suggest to you that indicates a certain level of certainty of those proposals going ahead. If you look at the exploration work done by the Department of Primary Industries in those areas, particularly borehole works and boreholes, it is fairly easy to work out that the likelihood of the mine going ahead is real. It seems to me it would be relatively easy for the Department of Planning to do some assessment and analysis work on the basis of a model for the development of a major mine such as that, and to put that and some strategy in place. Out of that there will then be the opportunity for the communities to have some involvement as to what they perceive to be the demands on them, particularly local government authorities, and to meet some of those costs that may be incurred in the course of an exploration process building to the issue of mining licences. The problem with councils at the moment is that we are basically doing the strategic planning on our own and, really, crystal ball gazing. We have no real idea about the direct involvement between the two departments and that is why I have called for strategic plans for these types of developments going ahead, particularly exploration licences.

The Hon. CHRISTINE ROBERTSON: The major part of this issue relates to the ROC region?

Ms McDONALD: Yes, the western ROC region.

The Hon. CHRISTINE ROBERTSON: I guess there is a State strategic plan in relation to mining, which we are not party to either—

The Hon. MATTHEW MASON-COX: That is an assumption.

The Hon. CHRISTINE ROBERTSON: I did not mean to say it like that. Things are happening, like the Murrurundi tunnel. Lots of strategies are happening in relation to this. Would you perceive the Namoi ROC to be the appropriate organisation to work on this issue as a whole? This area affected by this issue stretches right out to Narrabri with the gas.

Ms McDONALD: Yes, definitely, and that is why we have made approaches to Minister Macdonald about these issues as a whole. If I could just add to what Mike was saying about the importance of the Department of Planning getting in early. I stress how important it is that that occurs but that it is in collaboration with us, because at the moment we are having difficulty in talking to what is in effect a State decision and therefore a head office function in Sydney. We are not getting the communication we wanted from them, whether it is the Department of Planning or the Department of Primary Industries.

That is so important because what is happening at the moment is that, as Mike said, we are not finding out about these exploration licences unless we come across them on a website, and that is not appropriate. It is putting huge costs on councils. They are expected, rightly or wrongly, to provide the information to the community. The community does not understand that this is a State-significant decision and therefore nothing to do with the council. They do not understand that, so they are constantly approaching councils and taking up their time.

The Hon. CHRISTINE ROBERTSON: But, as a State-significant decision, that is about the mining itself. It is not about the infrastructure that the communities have to maintain, is it?

Ms McDONALD: That is right.

The Hon. CHRISTINE ROBERTSON: And that is what has brought up the Murrurundi tunnel. So the socioeconomic situation in toto that occurs with a massive development, which is possibly what is proposed, in centres like Gunnedah, for example, and Quirindi, is not taken into consideration?

Mr SILVER: If I could just add to what Katrina said. You have raised the issue of the Murrurundi tunnel. We have no real knowledge of where that is at. There is conjecture about that. In fact, there may not even be a tunnel.

The Hon. CHRISTINE ROBERTSON: I should not have used the expression. The railway to the port, I will say.

Mr SILVER: The issue here is the potential conflict between coal haulage and grain haulage. The Narrabri Shire Council has already made—

The Hon. CHRISTINE ROBERTSON: Wool and cotton.

Mr SILVER: That is right. We do not have any strategic overview of how that is all going to fit together.

The Hon. MELINDA PAVEY: It cannot all fit, it is just being cut out of the process.

Mr SILVER: That is right.

Mr McDONALD: Can I go back to Ms Robertson's question about the State Plan and some of the issues that arise where the catchment management authorities are essentially charged to deliver on E4 as part of that State Plan. The questions we raise and particularly the experience we have seen in the Hunter is that when

you start taking out State-significant developments, and they have significant impact on reaching E4 or some of those targets within the catchment areas, there is no discourse at the moment between those two. There is no discussion between the Hunter catchment management authority and the major developments about how to deal with the loss of native vegetation, water quality, whatever, on one side and how you would ramp that up or deal with it in an offset sense from the catchment management authority's point of view. That just does not happen at the moment.

So, our concern is that the mining operation is going to go to Shenhua, and Shenhua is talking about open-cut as opposed to BHP's mainly longwall mining. If Shenhua is going to go in there and remove 200, 300 or 400 hectares of native vegetation, theoretically that is probably 4,000 or 5,000 hectares of native vegetation they should protect. If that is kept out of the catchment management authority's loop, and prioritisation and all those sorts of things, how do you deal with it? One of the prime examples, and previously you asked for examples around the world where planning has worked, is that the south-east Queensland model, from a natural resource management sense, is well defined. They have done the work early and have said you can go here but you cannot go there, because there are a whole range of values in the areas we do not want you to go that we have identified already.

The Hon. CHRISTINE ROBERTSON: They were called in before the exploration licence was delivered on, is that what you are saying?

Mr McDONALD: In south-east Queensland the pressure was on peri-urban development. So, the towns were growing, the population was moving in there but they were trying to protect the values they identified very early in the process. So, we are asking that those values be identified now prior to these developments going on, and that we assess the risk to those values in the no-go zones, and then you start making decisions where your development should go or could go.

The Hon. CHRISTINE ROBERTSON: The mining exploration process does a lot of that. They get the Aboriginal consultants and the environmental consultants, but already you perceive that the catchment management authority has done a lot of the environmental work and therefore that work should be included within the total assessment for the mining exploration?

Mr McDONALD: In natural resource management value, yes.

The Hon. CHRISTINE ROBERTSON: Because they are supposed to get a report on that issue as well, but you would prefer if the catchment management authority participated in that process?

Mr McDONALD: Well, someone theoretically is in charge of planning, water, and climate change, all these things, at a regional level now. The assertion at the moment is that that is through the catchment action plans. I think the catchment action plans still have a lot of work to get to that high expectation, but we believe that should be the vehicle. So, we start assessing the values, the risks to those values, what you are trying to protect, where you can go and where you cannot go in that sort of sense. We have not got that at the moment. We do not have it at the Federal level and we do not have it at the State level or at the local level.

The Hon. MICHAEL VEITCH: Can I just tease out a bit more, Mr McDonald, the role that catchment management authorities play in planning. We have had it put to us in a number of ways that the catchment management authority boundaries—and I think Councillor Treloar said it this morning—are a good basis for regional planning, in a planning sense. Can I get your view on that and also your view on the role catchment management authorities should play in planning within local government?

Mr McDONALD: Our preference always will be around water catchments, because that is cause and effect. Any land use changes in that particular area can be attributed and can be monitored and traced back. So, if we are talking about natural resource management, which we are, and coming back to counsellor Treloar's comments this morning, the Namoi Regional Organisation of Councils is very fortunate in that it had some amalgamations through local government based on catchment boundaries.

Liverpool Plains has already been amalgamated and the line has been drawn along the top of the ridge. Even some of Tamworth Regional Council's new boundaries have been drawn along the top of the ridge as well. We are slowly getting there. Most of our members see themselves as part of the Namoi catchment so we have that benefit.

To come back to the role of the catchment management authority, local councils see CMAs as a threat in a regional government sense. We do not want to be seen as that. We propose that what we should do is to give better information to elected officials to make better land use planning decisions. Our role is a technical one more than anything. When we have issues in front of us such as mining, water management—and the Murray-Darling Basin plan is coming at us over the top of the hill in the next two or three years, which will have a substantial social and economic impact on the Namoi Valley—we cannot walk away from them. We have the emissions trading scheme hanging over our heads at the moment. Policy has already been developed from that and investment is occurring, which is going to change land use. That could then flow through to water yields in some catchments. Somebody has to take that at a regional level and try to integrate it all. It is not easy; it is extremely hard. When there are different State planning boundaries, health and all these other things laid across the top, it is not easy. But at the moment we are making it worse. We seem to be making it more complex rather than simpler.

The Hon. MICHAEL VEITCH: So basically the CMAs are a source of advice for those who have to manage the planning instruments in some way?

Mr McDONALD: That is the way we see our role. We are trying to inject thinking into the decisions. I do not know whether we have a consent role. We have a consent role under the Native Vegetation Act, which is based on sound science. We do not have any role in water or in mining and we should have no role in land use planning through the LEPs, but there are obviously discussions between the CMAs and the councils on how those two work together. That is our preference. We would prefer to negotiate a line-up between the catchment management plans and the LEPs, rather than having decisions imposed. In the end there has to be some sort of regional decision-making process that everybody adheres to and then it goes into the planning framework, whatever that may be.

The Hon. MICHAEL VEITCH: You may have heard me ask this question this morning: It has been put to us that the Environmental Planning and Assessment Act 1979 has run its course and it is time to undertake significant reform and go into a new process with a separate planning Act and a separate assessment Act, and all the environmental legislation would come under umbrella legislation. What are your views on that very broad question?

Mr SILVER: I probably share Mr Inglis's view in that I do not think it is absolutely broke. It has failed because we have tended to do a lot of things to it in the last couple of years. There has been a lot of associated legislation. In Tamworth people have been talking about all the referral mechanisms that are in place, which have made things very awkward particularly in terms of major developments and the like. It would be far better to simplify the Act back to its original intent. I am not sure about umbrella legislation. That simply means it probably makes it a little more complex for people to understand how it applies. I say that without having any knowledge of how it will be set up. It strikes me that the original intent to integrate a whole raft of primary, social, economic and various other factors for assessment under the Act was the right way to go but I believe it has been severely compromised in the last five to 10 years. I would not necessarily throw the Act out but I would try to simplify it. That might mean bundling parts of it into separate legislation rather than having it tacked onto the Environmental Planning and Assessment Act.

The Hon. CHRISTINE ROBERTSON: What would you call it? The bits?

Mr SILVER: That is a good question. "Associated environmental legislation" or something of that nature might work as a title. One of the big issues in rural communities is the ability to understand what the legislation means and to be able to find the pieces that relate to a particular development proposal. People find it very difficult. They find the pathway through the myriad things they have to deal with very difficult. We have to try to simplify it so we can say, "If you do this, this and this it will satisfy requirements." At the moment it is very difficult, particularly with referrals to State agencies where, as the former Minister for Planning said, you are putting the mum and dad developers through that process with the Roads and Traffic Authority and other Government agencies, and they find it a daunting task. You have to simplify that process.

The Hon. MELINDA PAVEY: On page 6 of your submission you state that the rapid expansion of exploration and mining will lead to an inevitable issue of speculative investment. Can you describe the speculative investment and what the potential impacts of this can be?

Mr SILVER: I can probably demonstrate that. There was a major increase in unit development in Gunnedah and Quirindi townships of the order of 600 to 700 per cent. In Gunnedah, about 60-odd units were

built in the financial year prior to last, which is enormous. Normally there would be something like a maximum of 10 in a 12-month period. Many of those units are vacant. Most of them have "for sale" signs on them or they are trying to lease them on a short-term basis. It caused the market to overheat considerably. I suggest prices have retracted by between 8 per cent and 15 per cent depending on the quality of the development. People came in with the belief that the mining developments were going to occur in the next 12 to 18 months whereas in reality it will be five to seven years before we see those sorts of activities. It certainly did skew the market, which probably caused financial grief to some speculators, many of them from out of the region, not locals.

The Hon. MELINDA PAVEY: More generally on the issue of mining and farming co-existing, do you see a lot of community concern driven by the fact that people are not involved in the process—that the Department of Primary Industries is controlling this and there is not sufficient consultation?

Ms McDONALD: Lack of information is always going to result in concern and worry particularly when we are talking about people who have lived on that land for up to seven generations. Certainly that is one of the problems and it is one that we raised with the DPI and requested that they develop an education program in consultation with the Department of Planning so that it could be brought to the community so they understood what was going on. They do not understand the part 3A process. I think each company has a community consultative committee in place and the members are charged with responding to their communities. I question the success of that because at times they are privy to confidential information and they are not sure what they are allowed to pass on. We need a much more rigorous approach than just relying on the lady on the committee who runs the flower shop in Quirindi.

Certainly lack of information is a problem but the people who are involved in this are pretty well informed so they know what is happening in other areas. They know the Department of Planning funded what we term the southern coalfields report. One of the basic recommendations following that report was that any future mining areas should take a risk management approach. We are not seeing that. We are trying to get activities carried out that the departments themselves have recognised as important. The other concern is that even if these studies are done there is no talk about whether they will be enforced. That leads to uncertainty as well.

The Hon. CHRISTINE ROBERTSON: What sorts of studies?

Ms McDONALD: There is a water study underway for the region and the terms of reference are with the DPI. There is also a report close to completion called the Namoi 2030 resource strategy, which has been funded by councils, the Department of Planning and the Namoi Catchment Management Authority. If we get other studies done, and obviously we need funding for this because councils do not have the funds to do it themselves, we need funding, knowledge and resources to do it. If these sorts of studies are done we want to know someone is going to take notice of them and commit resources to the outcomes of the studies. That leads to another area of uncertainty. Even if we are proactive in planning, is it going to make a difference?

The Hon. MELINDA PAVEY: Mr McDonald, as the head of the Catchment Management Authority, could I ask you about the planning process for these coalmines and the concern it is creating in the community?

Mr McDONALD: A substantial amount. The community is looking for a leader to somehow show them firstly that their thoughts and concerns are being dealt with at either a regional or State level. They do not have that sort of leader at the moment. They turn to organisations such as the ROC and the CMA, and I think we are all struggling with what our position should be. I will be quite open about it. We are a State agency that reports to the Minister for Climate Change and the Environment. If we step too far out of line what will happen to us? We do not know. In the end we are charged with looking after the natural resources of the Namoi Valley. That is my mandate. If mining is going to have a serious impact on that I should be allowed to say so. We believe we have all the tools in place to deal proactively with this mining activity in a risk management sense. Whether we are allowed to is questionable under the Department of Planning's scenario.

Katrina talked about a lot of the tools that are there. We now have substantial data sets across the catchment on the native vegetation and water. The thing we are missing is the independent water study, which will give us a much more comprehensive view. When those things are in place I think we will have the potential to deal with it pre-emptively. Whether we will be allowed to do so is the question.

The Hon. CHRISTINE ROBERTSON: Is the CMA on any of the consultative committees?

Mr McDONALD: No.

The Hon. CHRISTINE ROBERTSON: No representation?

Mr McDONALD: No, not on the coal. I will give you an example of the role—everybody treats the CMAs a little flippantly, I think.

The Hon. MELINDA PAVEY: Not at this table!

The Hon. CHRISTINE ROBERTSON: No, no-one here.

Mr McDONALD: No, not at this table, sorry. One of the prime examples is BHP. I have spent a lot of time trying to understand the companies themselves. They all agree with and adhere to 10 mining principles, which come back to community consultation, risk management and all those sorts of things. Katrina has already mentioned the problems with community engagement. Just having a cup of tea with somebody is not engagement. As politicians you know that that is not engagement, but that is how the companies treat it. I looked at BHP's Mt Arthur environmental management system, which is a rigorous, third party audited management system that should enable you to stand in the public arena and say, "We've got this" and the public should be able to trust that system.

The Hon. MELINDA PAVEY: This is at Mt Arthur?

Mr McDONALD: This is at Mt Arthur. I am trying to understand the response of all these companies to the 10 principles.

The Hon. MELINDA PAVEY: Are you saying they did that reasonably well at Mt Arthur?

Mr McDONALD: An environmental management system asks that you meet and go above current legislative requirements and start talking about community standards. So these are the issues that surround each of those local areas, whether it is a town, a region or whatever. Not once in that EMS—and this EMS was developed in 2007 so it is not very old—did they mention the Hunter CMA or the Native Vegetation Act. All of the things that the CMA has put down through the catchment action plan was not referenced once.

The Hon. MELINDA PAVEY: But farmers have to live by it.

Mr McDONALD: Farmers have to live by it but the company has chosen not to use the catchment action plan as a community standard, despite the fact that I think most people who have had something to do with catchment action plans think they are a good idea. One of the things, wherever I go, I do not find an issue with now. We need the best integrated land water management pilot or plan, but it is not referenced by the company. So that is an example.

The Hon. MATTHEW MASON-COX: If you had a blank canvas, and you have outlined the complexity and who is the consent authority for whatever and it varies depending on the issue, but from a regional perspective, from the Namoi ROC perspective, and assuming each of the constituent bodies that form the Namoi ROC have signed off on this, what system would you put in place to deal with your concerns and ensure the level of consultation that you need as well as the level of the consent authority, whatever else, that might be associated with that? Would you be able to do something like that for the community? It does not have to be today.

Mr SILVER: I might take that on notice but we will put a framework together for you that perhaps demonstrates what the consultation process should be and perhaps even what the preliminary processes to that should be.

The Hon. MATTHEW MASON-COX: That is identifying the issues or the problems we have now. Therefore what way, in your view, is the best model for moving forward for a region? This is not an issue that is specific to your particular area. It is certainly something that is duplicated in other areas of the State.

Mr McDONALD: We just feel that, given our history, we are at the stage where we can actually deal with it, whereas you look at a lot of the other regions around Australia it is too late. The southern coalfields have had mining substantially for a long, long time. They have got impacts, all these things. We do not have those

substantial developments here yet. Is there a chance? Ms McDonald already mentioned Heinz Schandl's comment that there is no one region in the world that has effectively dealt with it. We are not saying that we will either but we would like to be given the chance.

The Hon. CHRISTINE ROBERTSON: Not every CMA in the State is at the capacity and outcome level that you are.

Mr McDONALD: I do not know how to answer that.

The Hon. CHRISTINE ROBERTSON: It is a statement of fact if we are thinking about recommendation processes at a State level. Take it as a statement of fact.

Mr McDONALD: I will take it as a compliment as well, thank you.

Mr SILVER: I am probably disagreeing with you here and I am probably cutting across some of his turf, but I believe there needs to be a much tighter relationship between the CMA requirements or standards, if you like, within a catchment and the local environmental plans. Mr McDonald has heard me say this before. One of the problems was I think in the 30-odd blueprint points or 40 blueprint points which the CMA came up with some years ago in developing their action plan, the LEP or planning provisions was one of those—only one. I am not trying to enshrine their activities in legislation but there needs to be a greater push of those values in the LEPs. I do not believe that necessarily the consultative approach is going to be able to be achieved totally. I think there needs to be some more direct relationship between individual local environmental plans and the catchment action plan.

Mr McDONALD: If you ask me to respond to that, part of our negotiations and our relationships with our councils is the fact that it they are complex. They certainly see us, as I said before, as a threat in that what happens when the local government starts to get amalgamated up to a region it will go to a CMA region. That is the next logical unit of planning. It is not so much the CMA but it is the concept that they will get amalgamated up into a watershed catchment. I treat that relationship with our councils and councillors very importantly. I do not want to be seen to be imposing decision making on them, because that is their job. There are elected officials to do that and stand in front of the community. But they need better information to make that sort of decision. When you are talking about potentially changing all the land use above Tamworth, for example, through an ETS at a carbon price of \$40 or \$50, that is way above where it is now, but if you plan it out it could well get to \$50. All that land use will change up there. It will go into trees. What will it do? It will change the water yield of the catchment and Tamworth will potentially run out of water.

The Hon. CHRISTINE ROBERTSON: This is a pine study.

Mr McDONALD: It could be anything. It could be carbon put in the landscape. What happens then? People wherever will be buying carbon credit somewhere. They will be putting it in areas where it can grow and it will change the land use because it will come across where it will change the land use. It is not our job, I think, to say you can or you cannot do that, but if people know that sort of information and they work through it they should make better decisions.

The Hon. MATTHEW MASON-COX: Just to finish up on that point, there will be naturally a conflict between councils and CMAs. I can see that. That is why I asked if you could get together and look at a regional solution to your problems, which are generic in some ways, from a ROC perspective, from a CMA perspective and from a council perspective, because that would be very interesting to see.

Reverend the Hon. FRED NILE: Ms McDonald, you were unhappy that there is not sufficient recognition of Namoi ROC. You want to have greater participation, input about, say, the mining projects.

Ms McDONALD: Definitely, and whether that is the ROC, the councils or the community, it is any stakeholder in the region.

Reverend the Hon. FRED NILE: Just take the ROC for a moment. Does the State Government give any recognition to the ROC itself? Does it regard the ROC as having any importance? We are meeting ROCs in all the different parts of New South Wales. Some are very ad hoc; some have been set up just to cooperate in using heavy equipment and so on with the councils. Does the State Government have any way of knowing how to treat, say, your ROC as having some greater credibility than some of the other ones?

Ms McDONALD: No, I do not think so, and I do not think there is any formal recognition of ROCs at all by the State Government.

Reverend the Hon. FRED NILE: That is the impression I have, so that is a frustration that you have. You want them to respond but, as you said, they probably do not take notice of you or your credibility. They would probably prefer to work directly with the local councils, or divide and rule where one council may have a different view to the next council.

Ms McDONALD: And that does happen, and sometimes councils are their own worst enemies. I can always surmise that the reason they do not give formal recognition to the ROC is the power that the ROC can have, and they would rather deal with 150 smaller entities. When you look at the map of New South Wales covered by ROCs, they are significant areas. So they are very strong regions and potentially have very strong advocacy. So it is probably more simple that the State Government does not formally recognise them.

Reverend the Hon. FRED NILE: So should we recommend that there be more legal recognition of and not just understanding of ROCs in the planning process, that there be a requirement to consult with the ROCs, and so on?

Ms McDONALD: I think that is important, yes.

The Hon. CHRISTINE ROBERTSON: Some of the ROCs are totally dysfunctional.

Reverend the Hon. FRED NILE: I know.

The Hon. CHRISTINE ROBERTSON: Even worse than the CMAs.

The Hon. MATTHEW MASON-COX: It may well improve their functionality as a result.

The Hon. CHRISTINE ROBERTSON: Are the ROCs the same as the shire divisions?

Ms McDONALD: No, they are different.

Reverend the Hon. FRED NILE: In your submission you said that there could be an impact on local councils of up to \$200,000 per council. What costs are those? Are they for extra roads through the mining project?

Mr SILVER: No. The sort of areas that we are looking at there are the costs to support local strategic planning. That number was drawn from our preliminary associations with the two major ones at the moment and also Whitehaven, which is north of Gunnedah, where we analyse we are probably spending, at a senior staff level, probably at least a day to a day and a half a week doing mining or mining-related issues.

Reverend the Hon. FRED NILE: So it is more the actual administration.

Mr SILVER: It is more the administration. All the strategic planning that goes with that to analyse what are the impacts of this if it does occur, dealing with the access agreements on council roads, things of that nature, and the community concern about issues relating to coalmining, where they are actually contacting the council because that seems to be the easiest port of call in terms of getting a response and an understanding of what is going on out there.

Reverend the Hon. FRED NILE: Should there be some levy on the coalmining company that subsidises the councils with additional expenditure?

Mr SILVER: What we suggested—and when I say "we" I mean Namoi ROC—to the Minister some time ago was that, when issuing the ELs, a component of the community funds, which I think both BHP and Shenhua have in place, is directly allocated towards the local government authorities that are impacted, that some transparency be provided in the process, and that the Department of Planning be the authority that issues those funds upon demand so that the company in fact is meeting that cost but the department has a control over it in terms of how it is spent and the areas in which it should be applied.

CHAIR: Just on that point, the relationship between the mining people and the councils, as they now work closer with the State Government, what is the relationship with the councils like? Is there any at all?

Mr SILVER: Very good. My experience—and I have been in local government now for something like 35 years and have worked in the areas where coalmining has been—is that over that time it has been very good and it continues, even with BHP and Shenhua and Whitehaven, to this day. I think the issue is not the beef necessarily from the local government perspective with the coalmining companies but rather with the systems under which we are operating.

CHAIR: Is there any dialogue between you on the issues you have raised here today?

Mr SILVER: Yes.

The Hon. CHRISTINE ROBERTSON: Between who?

CHAIR: Between the mining people and the councils.

Mr SILVER: Yes, there is. We have quite a lot of interaction with them on some of the expenditure of the community funds, particularly on the large-scale projects, where they have an interest which might extend beyond just a particular organisation or particular group that might have an implication as far as the broader community is concerned, so we are involved there. Not that we are part of the decision-making process; that rests of course with the company. So we do have regular dialogue.

The Hon. CHRISTINE ROBERTSON: Can you explain the community funds?

Mr SILVER: The community fund was established—the BHP one is \$5 million over five years, and they distribute that money to a variety of community groups upon application for those funds. They can be anything from the local scout hall being painted to the establishment of an environmental reserve somewhere. So it is funds which are presented by the company to the community for community benefit, and the basis of that being that they are, in the EL process, supporting the community and any potential impacts that they might have and also looking at what the future impacts will be as far as mining is concerned. That is in the EL process. The Shenhua development has a similar arrangement. The company makes the judgement on where those funds will be expended, as I said, based on the applications of the individual entities concerned. Local government authorities are not necessarily excluded from that. I know at Liverpool Plains there was a partnership between BHP and Liverpool Plains in an environmental project down there. So that is the basis of it. We obviously work closely with them. Currently at Gunnedah we are doing a toilet block and some other developments. At Tambar Springs, a very small village, they will probably put in \$20,000. So that is the sort of thing that is going on across the region.

Reverend the Hon. FRED NILE: Is that a public relations campaign to reduce opposition to the mine?

Mr SILVER: I think it was actually put up by the Minister but it was readily agreed to by the company.

CHAIR: Thank you for being here this morning and for your contribution. We will have some further questions for you. If you could get some of those other things back to us within 21 days, that would be fantastic.

Ms McDONALD: I point you to the recommendations that were provided in the submission and based upon the request we probably would add to those.

(The witnesses withdrew)

FIONA SIMSON, Executive Councillor, New South Wales Farmers Association, sworn and examined:

CHAIR: Before we commence with questioning or an opening statement, should you 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, the Committee would appreciate it 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. Do you wish to make a brief opening statement?

Mrs SIMSON: I would like to make an opening statement, if that is all right. I am appearing today as an executive councillor for the New South Wales Farmers Association, region four, which is the Liverpool Plains area. I also live in that area near Premer. I am a partner in a mixed farming and grazing enterprise on the Liverpool Plains. I am also honoured to be an elected councillor on the Liverpool Plains Shire Council, but I represent the New South Wales Farmers Association here today.

Firstly, I would like to take this opportunity to thank the Committee for the opportunity to present my submission to you today here in our local region. I understand that the Committee already has a copy of the New South Wales Farmers Association submission and that the Committee is aware that this submission will be spoken to by a number of members, addressing the Committee about specific parts of the submission relevant to them or their local areas. The association is very grateful for this opportunity, and for the Committee's indulgence on this issue. Accordingly, I am speaking today primarily about the association's concerns surrounding part 3A of the Environmental Planning and Assessment Act, and its particular relevance to the proposed mining of the Liverpool Plains. This is included in section 7.2, on pages 13 to 17 of our submission.

I would firstly like to give the Committee some background on the Liverpool Plains. Since the 1800's, the Liverpool Plains has been a valuable and productive agricultural area. It is not unusual for farmers to be at least fourth or fifth generation farmers in our area. On a 16-year average, New South Wales Department of Primary Industries data show consistent, drought-proof, winter and summer annual crop production to be 183,488 tonnes of wheat, which make 365 million loaves of bread and 62.5 million packets of pasta; 233,175 tonnes of sorghum, which goes to export and feeds cattle and chooks; 5,438 tonnes of oats, contributing to 5.4 million packs of muesli; 63,709 tonnes of barley, which contributes to 144 million bottles of beer and also feeds cattle and chooks; 29,018 tonnes of corn, which goes towards 58 million boxes of cornies—cornflakes, that is, for the uninitiated; 19,289 tonnes of sunflowers, which go to make eight million litres of sunflower oil, and 1,285,178 bales cotton, which help make 276 million pairs of jeans.

The Liverpool Plains also grows soybeans, mungbeans, chickpeas, olives, and canola, and sustains a \$110 million beef industry, including two large-scale feedlots, plus turkey, pigs and lamb production. The Australian Bureau of Agricultural Research Economics classed the above crop yields at 40 per cent above the national average. That is impressive. The Liverpool Plains yields consistently 40 per cent above the national average. According to Geoscience Australia, the Liverpool Plains fulfills all criteria for prime agricultural land—well-managed, high-output aquifers, reliable winter and summer rainfall, high water-holding capacity, fertile volcanic soils, a large diversity of agricultural enterprises, and last, but most certainly not least, the land is serviced by a resilient, skill-rich sustainable farming community. Only 6 per cent of Australia is termed arable in any case, but land and regions such as the Liverpool Plains are very rare indeed.

The Liverpool Plains contributes \$332 million to gross domestic product annually and, with astute farmers and landholders who have long been recognised as being forerunners in the adoption of new, more sustainable technologies and techniques, is possibly the only region in New South Wales that has the ability to seriously rival mining in its dollar contribution to the State well into the future. From a farmer's perspective, it is most unfortunate that this fantastic agricultural resource is underlain by an impressive coal resource, believed to be of very good quality, and in the vicinity of 500 million tonnes. With such a huge resource, and the region's proximity to the port, it is a nonsense to think that any coalmine in this area will be a small one, despite whatever the mining companies may suggest or propose.

Huge sums of money have already changed hands just for exploration licences over this area. Over \$100 million was paid by BHP Billiton to the New South Wales State Government for the Caroon licence, and over \$300 million was paid by Chinese company Shenhua with a promise of a further \$300 million once mining is approved for the Watermark area next door. Mining companies do not pay these sums of money for small

mines. One cannot blame the community for questioning a process and demanding transparency when there are such huge sums of money at stake for the Government even in these very early stages.

With such a valuable and productive agricultural industry, and such precious and sensitive natural resources, the costs and benefits of mining in the Liverpool Plains must surely warrant a systematic, triple-bottom-line analysis. It could be argued that since this is arguably Australia's most valuable and productive area due to its rich soils and abundant water, a very low-risk threshold for mining should apply, and that any extension of the Hunter-Newcastle coalmining activity should occur in lands agriculturally less highly valued. Surely, there needs to be a balance between the need for export dollars and the need for food security and the security of agricultural production. As we have seen in the Hunter Valley and in countries around the world, mining and gas extraction are environmentally invasive industries. Although technology is changing all the time, safe mining amongst such fragile underground water systems can never be guaranteed. Our planning laws should be asking whether we are happy to put at risk such a valuable resource for short-term gain, and what sort of risk is acceptable. The New South Wales Farmer's Association has grave concerns that our planning laws in this State are ill-equipped to assess or provide such balance, or answer such questions.

In May 2008, the State Environmental Planning Policy (Rural Lands)—colloquially called the rural lands SEPP—was drafted. Part 4 of this document deals with State significant agricultural land. It provides for the identification and protection of such lands from uses not compatible with agriculture, and refers to schedule 2, which supposedly lists such lands. Despite lobbying from local councils, and organisations such as ours, schedule 2 remains empty. If the Liverpool Plains are not to be listed in this schedule, it is hard to imagine what other State agricultural region could or would. Respected hydrologists and hydrogeologists in New South Wales and Australia readily admit the lack of detailed knowledge about the extensive and valuable underground aquifer systems and flows of the Liverpool Plains which form part of the headwaters of the Murray-Darling basin.

The association has been calling for an independent, catchment-wide water study of this area to be completed prior to any further mining or exploration. The association questions a planning process that allows exploration licences to be granted over this area without firstly requiring that such studies be done, and such knowledge collated to see whether mining could or should be undertaken in such a valuable and ecologically sensitive area. The Mining Act 1992, under which such exploration licences are issued, does not provide for any of this, nor does it provide for the individual notification of landholders within the area when an exploration licence is awarded over their property. If they miss the advertisement in the paper, the first many landholders know of it is receiving a letter from the mining company involved. The association believes that the Mining Act urgently needs review.

The Minister for Planning has determined that any coalmine development application in New South Wales of whatever size is automatically a State-significant project and is therefore assessed under part 3A of the Environmental Planning and Assessment Act. Part 3A turns away from a community-based approach, historically seen as a hallmark of the State planning system. Section 5 (c) of the Environmental Planning and Assessment Act 1979 states, for example, that it should provide increased opportunity for public involvement and participation in environmental planning and assessment, an approach giving a great deal of discretion to the Minister for Planning to make decisions on what he determines to be major projects, and then on the assessment process for these projects. This model removes much public participation and consultation, leaving decisions about the level of community involvement with the Minister and his department.

Critical infrastructure projects—those projects deemed by the Minister as essential for State economic, environmental or social reasons—cannot even be challenged, even on matters of law, without ministerial consent, and applications for these projects can be lodged without the consent of landowners. Under section 3A, the director general sets environmental assessment requirements for a proposal, with no community input whatsoever as to what the assessment should encompass. Several important licensing and approval requirements from other agencies are not required for part 3A projects either. These include permits under the Heritage Act 1977, National Parks and Wildlife Act 1974 and the Water Management Act 2000, section 75U.

Those authorisations that still apply cannot be refused and must be substantially consistent with the part 3A approval, once given. These include an environmental protection licence under the Protection of the Environment Operations Act 1997, a mining lease under the Mining Act 1992, and native vegetation clearing consent under the Native Vegetation Act 2003. This means that under section 3A mines simply do not have to abide by the same environmental legislation as farmers and others. The Laird Forest, for example, was protected from logging for biodiversity, then knocked down by miners using credits and bio-banking. In making his

decision whether to approve the project, the Minister is only required to consider the director general's report and input from other government agencies. He need not take heed of it, and there is no list of criteria that the Minister must consider, as included in part 4 of the Act. There is no requirement for the Minister to have regard to any public submissions, nor any express requirement for the Minister to consider ecologically sustainable development, as included in the Protection of the Environment Administration Act 1979, which also includes the precautionary principle.

The precautionary principle states that decision-makers should make an assessment of the risk-weighted consequences of any action before deciding to proceed with the action. Colloquially, it means if you don't know, you don't go. Under part 3A, the Minister is only required to consider whether or not to heed this and other relevant environmental legislation, or agency advice. The Minister may approve the project based on a concept plan, prior to full information, studies or assessments being available to him or his department.

On occasion, the Minister may convene an independent hearing and assessment panel [IHAP], but there is little criteria or information about the appointment of experts to such a panel, nor a requirement for their deliberations to be any more than considered. In the Moolarben coal project, for example, the IHAP report was suppressed from the public, leading to grave community transparency and consultation concerns throughout the approval of the whole Moolarben project. Because New South Wales has not made the upfront investment in science and information needed to underpin complex impact assessment processes involving groundwater systems, the aquifer systems in the Liverpool Plains and in other regions within the Namoi Valley are poorly understood. There is no robust data source to enable an assessment team to make findings regarding the current condition of the resource, how the system works, and how exploration and mining itself may impact on such a resource. In short, there is no existing basis on which to make a truly informed decision about the degree of risk to the farming system. Planners are dependent on the miners themselves to supply them with the appropriate information.

With the example of the Hunter Valley before them, the association and the Liverpool Plains community have no faith that under part 3A a proper assessment of this and other proposals will be made. The consequences of environmental damage in the Liverpool Plains, however, would be catastrophic, leading to the pollution of water supplies for towns such as Gunnedah for all time, and the decimation of valuable future food production areas and industry. The association recommends urgent review of part 3A, and urges immediate adoption of recommendations made by the southern coalfields review panel concerning a reverse onus of proof from the mining company. This has been explained on pages 16 and 17 of our submission. The New South Wales Farmers Association recognises the importance of mining to the State, but also demands that the importance of agriculture, and food production, is recognised. Agriculture is a significant industry, worth approximately \$7.3 billion to the economy of New South Wales—those figures come from 2006-07—and it contributes nearly 80,000 jobs to the State's economy.

Mary-Jo Fisher, a member of the Senate Committee into Food Security, said in Gunnedah on Tuesday that there would appear to be no mud map as to the forward use of this prime agricultural land with other competing land uses. She went on to talk about balance. The New South Wales Farmers Association believes that current planning legislation in New South Wales does not provide either the mud map or the balance. I would recommend the proceedings of the Senate Food Security Committee to this Committee for a further insight into the Liverpool Plains and the issues it faces.

The Hon. MELINDA PAVEY: Mrs Simson, you are a member of the New South Wales Farmers Association Conservation Resource Management Committee. What are some of the key issues that are being discussed or examined by your committee?

Mrs SIMSON: Obviously the whole mining versus agriculture debate is one that our committee is looking at. There are areas such as the Liverpool Plains, at Gloucester, that we are focusing on; the Duralie Coal mine is another we are looking at. In the west of the State, around Broken Hill and Lightning Ridge, there are a number of issues mostly concerning the Mining Act. Our committee is also looking at the water buyback scheme for the Murray-Darling Basin, because as you would appreciate the New South Wales Farmers Association has members in the far south of the State as well as in the far north. We are also looking at the wild dog issue because there are a number of concerns with that. We are looking at planning, which is another area our committee embraces, although there is a planning task force within NSW Farmers. Those are the main ones.

The Hon. MELINDA PAVEY: I am interested in your language of "farming versus mining". Does it come down to that?

Mrs SIMSON: We would hope not, but at the moment in this State there seems to be no process—we do not have any examples of areas such as the Liverpool Plains that have been mined and continue to be valuable agricultural production areas. Without having that experience, that is what a lot of the community would feel. It has yet to be proven. There is a lot of talk about co-existence between agriculture and mining. I would say that so far co-existence has occurred in areas that are less highly valued agriculturally.

The Hon. MELINDA PAVEY: Are you talking about areas such as Queensland where there has been an expansion?

Mrs SIMSON: Not necessarily; some areas of Queensland, certainly. In the Gunnedah Shire, and I am sure Mr Silver has already talked to you about that, the areas that have been mined for many years have historically been grazing areas, or of lesser value. At Narrabri and even parts of the Hunter Valley they are different sorts of agricultural areas to areas such as the Liverpool Plains.

The Hon. MELINDA PAVEY: What area of the Liverpool Plains do these exploration leases cover?

Mrs SIMSON: I would say most of the Liverpool Plains is covered either by coalmining exploration licences or gas extraction—

The Hon. MELINDA PAVEY: Is there a breakdown on gas and coal?

Mrs SIMSON: They are called PELs [petroleum exploration licences] and the coal licences are called ELs [exploration licences]. Most of the Liverpool Plains would be covered by either of those and a lot of the Liverpool Plains is covered by both. The gas exploration licence that Santos has covers an area of about 20,000 square kilometres. I would say most of the Liverpool Plains is covered by a coal licence or a gas licence or both.

The Hon. MELINDA PAVEY: What area of the Liverpool Plains do the licences being discussed at the moment cover—the areas that Shenhua and BHP are examining?

Mrs SIMSON: I think the area BHP wants is 300 square kilometres. I would have to look up the figures to be exact. The Watermark area next door, which is Shenhua, is slightly smaller. It depends on how you define the Liverpool Plains.

Reverend the Hon. FRED NILE: It is marked on the map.

The Hon. MELINDA PAVEY: Not the percentages.

Mrs SIMSON: Would you like me to get the percentages for you?

The Hon. MELINDA PAVEY: If that is possible, yes thank you.

Mrs SIMSON: So you would like them broken down into coal and gas and/or both.

The Hon. MELINDA PAVEY: And your definition of the Liverpool Plains.

Mrs SIMSON: Certainly.

Reverend the Hon. FRED NILE: Obviously there is going to be ongoing tension between the farming sector and the mining sector. Do you feel that they can co-exist?

Mrs SIMSON: I think what is happening in our area at the moment is that the landholders and the farmers are feeling let down by the process. They feel due process is not taking place. I am speaking more as an individual rather than as a NSW Farmers Association representative. People have an expectation that a legal process will take place in these sorts of matters and they have been very disappointed that the process does not appear to be what they would expect. I would say that people are appalled that exploration licences can be given out over valuable agricultural areas with such extensive underground water resources that are so valuable for so many things without some scientific knowledge behind the process. I know that Mr Tony Windsor has called today for no more mining or exploration until the results of the water studies are in. I think that is a fair thing.

Landowners would expect that any exploration licences should have been covered by scientific knowledge before they were handed out.

Reverend the Hon. FRED NILE: Do you think there would be less opposition to mining if it was restricted to underground mining rather than large open cut mines?

Mrs SIMSON: Not without proof that that will not affect the surface. I think landholders are looking for scientific proof that what the miners want to do is possible and will not unduly affect the enterprises on the surface and also the water, which as I have said is part of the Murray-Darling Basin but also supplies towns such as Gunnedah with water.

The Hon. CHRISTINE ROBERTSON: I would like to find out about the consultative committees. I understand that the mining company has its consultative committee and I understand the Carooona community set one up almost immediately on their own. I may be confused but I thought the State had also appointed somebody to head a committee to inquire into this.

Mrs SIMSON: That is not quite right. As part of their exploration licence conditions a mining company has to establish a community consultation committee. The reason for that condition is that the committee is meant to be the conduit between the mining company and the community. In the region there exists a Carooona Coal Community Consultative Committee, which is chaired by Garry West, and there is also one for the Watermark region, which is chaired by Ian Armstrong, for the Shenhua company. The mining company pays the expenses for the chairman and any other peripheral expenses that the committee may incur.

The Carooona community group that you mentioned is really just the Carooona Coal Action Group. They have representatives on Garry West's committee. I am a member of Garry West's Carooona committee on behalf of council. The community has doubts about the effectiveness of these committees because a lot of the information that comes to them is provided solely by the mining companies and some of it cannot be passed on to the community. The release of the information has been shown to be not always timely.

Reverend the Hon. FRED NILE: You said they cannot pass on some information. What would that be—commercial-type material?

Mrs SIMSON: We have had discussions in the Carooona committee. Not so much commercial-type information but more about the time plans of mining companies and their plans for drilling in the future. I know that some committee members have been frustrated in getting information from the mining company. They have requested information through the chair and it has taken a long time to come back to them.

The Hon. MELINDA PAVEY: Has Pam Allen been made chair of a committee as well?

Mrs SIMSON: There are a lot of committees surrounding this process. Pam Allen was appointed chair of the water study working committee, which was a group that the Minister for Primary Industries established to draft some terms of reference for an independent water study.

The Hon. MELINDA PAVEY: Which is what everybody wants.

Mrs SIMSON: Which is what everyone wants. That committee met for eight or nine months. I sat on that committee as well. The draft terms of reference have now been handed to the Minister for Primary Industries.

The Hon. MELINDA PAVEY: The terms of reference of the independent inquiry?

Mrs SIMSON: The draft terms of reference for the independent water study have been handed to the Minister for comment and for him then to establish a ministerial oversight committee to put the study out to tender. The problem is that it is a \$12 million study. The Federal Government through Penny Wong has committed nearly \$1.5 million—it is more than \$1.3 million—because it is part of the Murray-Darling Basin, on condition that the State Government matches it. The State Government has not matched anything yet. The shortfall at this point would have to be covered by the mining companies.

The Hon. MELINDA PAVEY: They have already paid their fees.

Mrs SIMSON: They have already paid quite a lot of money and there is a lot of doubt in the community about any independent water study that is funded by a mining company.

The Hon. CHRISTINE ROBERTSON: Dear oh dear!

The Hon. MICHAEL VEITCH: You have raised the issue of the community's doubts about the veracity of some of the information being provided—

Mrs SIMSON: No, I do not think that at all. I think the community has had good input into the draft terms of reference and they will be very happy if the Minister approves the draft terms of reference and establishes the study. That is really what we are calling for. The community and the New South Wales Farmers Association would like to see the study finished before any more approvals are given for mining exploration licences.

The Hon. MICHAEL VEITCH: In your opening comments you made some statements about the raft of environmental legislation and the hierarchy of precedence with those pieces of legislation. Previously we have heard there may be a need for umbrella legislation to provide clarity to the environmental Acts. What is your view?

Mrs SIMSON: I totally support that. The New South Wales Farmers Association also calls for a total review. There needs to be a review of all these pieces of planning legislation to make sure they work together and do the job they are meant to do.

The Hon. MICHAEL VEITCH: If you were given the opportunity to rewrite or reconstruct part 3A of the current legislation, what would it look like?

Mrs SIMSON: Off the top of my head, the first thing I would try to put into it is some more community input and public consultation because, as I explained in my submission, it is up to the Minister as to how much he consults the public. Through pretty much every stage of the process it is up to the Minister to determine what he would like included in any environmental impact statement. The public are not asked to comment on it until after the impact statement has been released. It is very hard for the public and the community because they may feel that none of their concerns have been addressed. Even though the agencies are asked to comment, sometimes the Minister must just not consider their comments. If the Department of Water and Energy, for example, is an authority in the area he is consulting, its comments need to be actioned.

The Hon. MICHAEL VEITCH: In other parts of the State wind farms are causing a significant problem. It is interesting that I come to a place where coalmines are causing a problem, trying to balance one environmental impact with another. From a local government perspective—and I am asking you to combine a couple of things here, the preparation of LEPs and the farming community's input into the process—do you have some comments about that?

Mrs SIMSON: In what way?

The Hon. MICHAEL VEITCH: The input by farming communities into local council environmental plans.

Mrs SIMSON: The farming community is able to comment on the LEP, just as anyone else can. So I have no problem with that in my council.

The Hon. MATTHEW MASON-COX: And you are a councillor, of course.

Mrs SIMSON: And I am a councillor, of course. Only a new one so I am very happy to speak out.

The Hon. MICHAEL VEITCH: It is interesting. Where I come from I had many years in local government and a lot of farmers would complain, after the adoption of the plan, that they did not have any input, particularly when something starts being built right beside them.

Mrs SIMSON: It is a difficult thing. We are at pains to point out in this area that it is not just that we do not want coalmines in our backyard; it is the process by which the assessment is done. It is a very valuable agricultural area. There is a lot of valuable water underneath the ground. The risk we say is too big without

knowing what the effects could be to take the risk. We are not opposed to coalmining in other areas where there is not such a great risk. Wind farms are a different thing. I must say I think New South Wales farmers would support renewable energy.

The Hon. MELINDA PAVEY: But there are some farmers who do not support it.

The Hon. MICHAEL VEITCH: There are farmers who do not, let me tell you.

Mrs SIMSON: I do not think I should comment any further on that one.

Reverend the Hon. FRED NILE: On the water study, it sounds to me as if there is a built-in delay procedure operating and probably these mines will be operating before you get the water study done.

Mrs SIMSON: The water study working committee did ask whether there would be mining applications made before the completion of the water study and whether or not the same with the gas and we were not able to receive an assurance that the mining companies or the gas companies would wait for the results of the study. So I think that is probably one of the biggest concerns of the association and the farmers and landholders in the area, that a study is happening, which is what we need, but that people will not wait for the results of it before we actually do things.

Reverend the Hon. FRED NILE: But the study will not happen though until the money is granted so there is no study.

Mrs SIMSON: At the moment there is no study because there is no money. We have draft terms of reference. We have \$1.375 million or something like that from the Federal Government towards a \$12 million study. That is the only money we have. The study will be cut up into sub-catchments; the whole Namoi catchment will be cut up into sub-catchments and it is predominantly trying to see where the water comes from, where it goes to, where the aquifers are in relation to the coal seams and the gas seams. It will give that scientific knowledge that we need to assess whether or not these developments are in fact possible.

The Hon. MELINDA PAVEY: In your assessment is it a genuine cost? That \$12 million for a study seems—

Mrs SIMSON: It is a very big study. We cut it back timewise, because it is only an 18-month study, for the mining companies. Mostly that was the reason. I am probably not qualified to speak on the cost but the costings were done on the fact that it is a very big study and it is examining in detail a lot of the factors that need to be examined.

The Hon. MELINDA PAVEY: Can you just remind us again of what royalties the Government has received so far from BHP and Shenhua?

Mrs SIMSON: BHP paid over \$100 million for the exploration licence 6505 for Carooona. I think it was in the vicinity of \$120 million. The Chinese company Shenhua paid \$300 million for the exploration licence and in their agreement is a further \$300 million plus when the mine is awarded. So it is not very transparent.

The Hon. CHRISTINE ROBERTSON: If the mine is awarded.

Mrs SIMSON: If the mine is awarded. There would be a fairly big carrot there, would there not, for a further \$300 million?

The Hon. MELINDA PAVEY: So there is \$400 million in the State Government's coffers—

Mrs SIMSON: Over \$400 million.

The Hon. MELINDA PAVEY: —and we are arguing over a \$12 million investment to safeguard water.

Mrs SIMSON: That is correct.

(The witness withdrew)

(Luncheon adjournment)

GRAHAM LESLIE GARDNER, Director of Planning and Building, Greater Taree City Council, P.O. Box 482, Taree, sworn and examined:

CHAIR: Before we begin with questions, 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 it if the responses to those questions could be sent to the Committee secretariat within 21 days of the questions being forwarded to you. Do you wish to make a brief opening statement before we go into questions?

Mr GARDNER: Yes, I would like to make an opening statement. I was a bit concerned about the word "brief". It would be nice to have a longer time, probably. Firstly, I am absolutely delighted that this inquiry is going on. This is probably the most critical planning review going on in the State. I am very concerned with the ongoing change to the legislation. We have got ourselves into such a mess that a comprehensive and wholesale review of the legislation is absolutely necessary. There is no doubt, in my view, at the moment, particularly after these past 10 years of reform, that the system is too complex and too repetitive, and its processes are too slow and too costly. There are all sorts of difficulties with it.

Some of the reform that has begun shows good promise, in particular the LEP process. That is really helpful but many of the other current and ongoing changes to the legislation are unnecessary and some are wasteful of too many resources. I have a fundamental concern with the relationship between the State Government and local government. I do not know how easy that is to change but the attitude of the State has been paternalistic to local government. I think the State Government is overly focused on regulation. There is an apparent lack of trust of local government to do much of the business of planning in the State.

I am concerned about the lack of an holistic approach by the Government not only to this legislation but to other legislation affecting planning, land use, development and conservation, those elements of the planning system. We are constantly battling with conflicts between different pieces of legislation, in particular the Environmental Planning and Assessment Act and its conflict with the Native Vegetation Act. It seems to me very silly that the Native Vegetation Act can override the good intentions of planning under the Environmental Planning and Assessment Act simply by the fact that the two pieces of legislation are not linked. It has also been shown that the Local Government Act and its processes in relation to the planning Act—and sometimes it seems that the people driving the planning reforms under the planning system do not understand that local government, in implementing much of that legislation, has different requirements—are in conflict at times. It is interesting to note that in my submission, the council's submission, there is a reference to mandating strategic planning as part of the system. I am intrigued that we are now getting mandated strategic planning under the Local Government Act and we need an integrated relationship between the requirements of the Local Government Act and the planning Act in delivering outcomes.

I am also concerned that the planning has focused on the planning system itself and not on planning outcomes. This incredibly complicated process, in many ways, works against achieving good, effective outcomes. There has been not enough emphasis on plans themselves. We seem to be making systems alike but in the first 18 or so years of the Environment Planning and Assessment Act only two or three or four genuine regional plans were done at regional level.

The Hon. CHRISTINE ROBERTSON: Where were they?

Mr GARDNER: There was one in the Hunter, I think one in the Illawarra, and there may have been one down around the Southern Highlands area. But in terms of the State, what was documented or gazetted as regional plans were often site specific. There was a real lack of focus by the State for a long period. I am very encouraged by the last little period of work when there have been regional strategies—I think that is a very good initiative by the State Government—but I am very concerned about the quality of the work in those strategies. I am a great advocate of having them but it just seems woefully negligent to have a regional strategy like the one just released for the North Coast, which is a 25-year strategy about industrial land outcomes and housing outcomes over a 25-year period. The only mention of infrastructure is what is currently in the State infrastructure plan, which, I am sure you would be aware, is really much-needed catch-up stuff. That now will stop, it is almost behind its demand, yet this is a strategy with a 25-year horizon. There is totally inadequate attention to infrastructure.

I reflect on my comment that the State is paternalistic. The strategy is prepared to instruct local government activity. In my view there is a genuine level of activity that needs to happen through regional strategies and it should be a State commitment for that region. Where are the schools going, where are the highways going, where are the roads and railways going, et cetera? That sort of State infrastructure should be the major purpose of regional strategies, and local government can effectively do its job underneath that framework.

I suggest there is some value in the overall framework for planning that is there now. I think it has been incredibly valuable to have a State Plan. The first effort of the State Plan has been valuable to us in local government. It would be nice to see that develop over time. I have made a lot of comments about regional strategies and why I would mark them at about three out of 10 at the moment, that is, a failure, but I think it is good they are out there, and you have heard my comments about their focus. I also made comments about local strategies. I think that framework, of a State Plan, regional strategies and local strategies, and then the development assessment under the system itself, is quite good. We do need to develop the quality of it.

With development assessment, I am concerned particularly that since 1998, when the DA-BA splits were together in a single development application system, there has been a backward step. It has been a failure. Before 1988 we were able to progressively detail development outcomes through a general assessment of rezoning, development assessment, and details and conditions, and the next step would be a building application. That responded to the work that had been done in the building assessment, looking at the structures and details, and could envision the outcome so that something could finally happen on the ground. The problem now is that we have complicated the system so much and there are so many expectations of the rezoning stage that, for basic urban release areas, people have to have a design for subdivision at the rezoning stage before the council says yes or no to rezoning. All that work that goes in before there is any bankable value in the rezoning process is a huge commitment by the development interest, with no certainty of outcomes, and then it is all repeated in assessment for the subsequent stages of the process.

I am concerned about the centralisation of decision-making. Head office of the planning department seems to be absolutely driving this planning reform, but I am not sure there is enough recognition of the quality and capability of the planners in the regional offices of the Department of Planning. There are good people in those departments scattered throughout the State. Our team in Newcastle knows our area very well. They understand the culture of the communities, they can get on the site and look at things and they are a great resource that is sadly being undermined at this stage. Not only are they not being used well enough, I don't think they understand some of the reform coming out of the city. I think that is a major issue.

Finally, as a comment, I am concerned about the Sydneycentric thinking about the State system. It seems a real tragedy to me. I understand the pressures in the city. There is a lot of focus on the little details. For us in the bush this is not the case. The planning and development assessment system in the bush is characterised by people from communities genuinely participating in an honest and structured process. Whilst there is conflict, I think the fact is that it is local democracy, it is council making decisions on the floor of the chamber. The community, the stakeholders' objectives and the development interests are all round the table and I think that is a fantastic and workable system. I can certainly say it has been a happy time I have had in Taree for nearly 20 years, but because of this pressure that comes from the city we had to change our whole process. For me it reflects that wastefulness that we do not need in the bush. The bush is a different kettle of fish. Those are just a few observations, perhaps reflecting a bit of bitterness about where we have gone, and I look forward to productive outcomes from your efforts.

CHAIR: Thank you for that. As you have stated in your presentation and also in your submission, and we have noted it, your council has invested in a long history of strategic land use planning to handle development applications in the interests of your local community. What is the benefit of developing these plans, and how have your plans been used in your local area?

Mr GARDNER: I have been pleased that council has that level of activity in our area. The value of it is that if you make an objective examination of the initial groundwork, you can direct the outcomes in a holistic way for the best outcomes for the whole community. If you let the development drive your planning outcomes and if you are just responding to somebody else's idea, you cannot necessarily get the best interests of the community on the table. As I say in my submission, over the past 15 or 20 years we have done strategies for rural residential development, for urban expansion, and for expansion of each of our settlement areas, towns and village areas, and that gives to the council, the public, and the community an opportunity to say where they

think development should go. That is really what planning is all about, from my point of view. If we are not doing that, we are not really planning. That has been a real value for us.

Taree has plotted a pretty optimistic, though I think achievable, growth over an extended period of time. Because we have a coastal strip of about 60 or 70 kilometres, with three small settlement areas now, there is a lot of interest in expanding the coastal settlements. We have been able to do a whole new town development just along from the township of Taree on low-productive agricultural land with minimal environmental constraints, and I am hoping we can get that on the ground, although it is still in the planning. It is for 8000 new dwellings, with 400 hectares of industrial development, and horticultural and small farming activity as part of that overall settlement. That takes the pressure off the coast. It is capable of being serviced and it gives a good land use outcome. Without the plan or aspiration to achieve that I do not know where we would have gone. We wrote the plan with the landowners at the time, with their blessing and support. They eventually sold the property, so they did not have any interest in carrying out development. But because council has been prepared, when it was sold the new owner picked it up and ran with it. So it is the community driving the planning outcomes, not the development interest driving the planning outcome.

The other thing I would say about such plans, and this occurs every day with our staff on the front counter, is that when we know where we are going as a community and it is documented and someone comes to the front counter and says, "Here is my piece of land. I want to rezone it for residential development or whatever", the staff can say, "Thanks for your interest and your inquiry, but I am sorry we cannot do that. Here is our plan and here is where we are going with the land use in our area." Staff at my front counter turn away two or three inquiries every week for development that is probably not appropriate but they do it in a way that people can accept and understand, and they live with it. We have had a pretty peaceful time as a consequence of having those plans in place.

CHAIR: You recommend that the strategy land use plan should be recognised in a legislative sense. Why do you think this is important?

Mr GARDNER: I think it is important because we did all that planning for a period of time and when it comes to the other end of the planning system, the development control system where land use decisions are made, we are often referring to those documents to justify decisions we are making. At the moment we simply refer to those under section 79C as being the community interest or public interest background to the decisions that are being made. That is the only reference in a statutory sense to the documents. I think it is important that, firstly, they be mandated. I think every community should do this because this is the sort of planning that should be done. Secondly, I think they should have a statutory weight so that they can provide a stronger reference, if you like, to the development control decision making.

The Hon. MELINDA PAVEY: Thank you for travelling across the mountains to be here today. You mentioned the shortcomings of regional strategies and I know that in your part of the world the town of Harrington has gone from a little sleepy seaside fishing village to having a significant population. One of the issues they have is access to emergency treatment—ambulance, for example. How do you see regional strategies being improved? I refer to your earlier comments that the State Government also needs to identify what infrastructure is required.

Mr GARDNER: That is a good example of why they are critical. As local communities are planning their expansion it is critical that State services are part of the picture of delivery. In our plans we can talk about what we are providing—public open space, playgrounds, boat launching ramps and those sorts of facilities—but we cannot say where the State infrastructure will go. We have real difficulties with planning and a couple of examples that come to mind are Old Bar and Hallidays Point. They are two coastal settlements where in our land use planning we proposed school sites that were logical and rational and in a suitable location. When we wrote to the Department of Education about rezoning they said they would not support those sites, in particular the one at Hallidays Point. When the area expanded to the extent it needed a school, the site we suggested had gone and was up for urban development, or had been developed for urban purposes. The Department of Education eventually put the school on a remote piece of ground that they could buy easily and readily. In my view, for each of those local areas the State should make a commitment to planning where the ambulance station, police station and schools are going to be. That should be done in association with local government and documented in the regional strategies. Then we will all know where we are going.

The Hon. CHRISTINE ROBERTSON: Could you do something about predicted population and therefore future need but the State does not need to invest for the time being so you can leave it siphoned off?

Mr GARDNER: Absolutely.

The Hon. MELINDA PAVEY: A patch of land?

The Hon. CHRISTINE ROBERTSON: Often when the State faces these sorts of things it has to go and buy a patch of land to keep it, which it may not be able to do within the needs-based budget it has to operate.

Mr GARDNER: This is the value of strategic land use plans. There is not the statutory obligation to acquire the land. The local or regional strategy is really a statement of intent and there is no obligation for acquisition coming off that. For me that is why they are so important. That is the value of strategic planning—as a statement of intent, so we all know where we are going but things might change through the delivery. It might not be that block, it might be this block but at least that community is destined to have an ambulance or whatever.

The Hon. MELINDA PAVEY: It does not mean anybody would have to buy the land at that time?

Mr GARDNER: No.

The Hon. CHRISTINE ROBERTSON: It is just an agreement that it be set aside.

The Hon. MELINDA PAVEY: Part of the problem the North Coast has is that the Department of Education thinks we are all getting old up there. In some respects we are, but if an industrial block is put in it hopefully will bring in younger families.

Mr GARDNER: We are certainly planning on a broad spread of population growth. We understand the population will age but we will certainly target young families and young people.

The Hon. CHRISTINE ROBERTSON: Taree is different from the North Coast, though.

Mr GARDNER: We are part of the North Coast.

The Hon. CHRISTINE ROBERTSON: It is more like here.

The Hon. MELINDA PAVEY: No, not like here.

The Hon. MATTHEW MASON-COX: Thank you for coming today, Mr Gardner. What is the status of your LEP at the moment?

Mr GARDNER: We have drafted the comprehensive LEP and it has been on public exhibition and we have received something like 300 submissions, which we are evaluating now for final report to council. I am hoping we can get that finished in the next couple of months and back to the department for gazettal by the end of the year.

The Hon. MELINDA PAVEY: Don't hurry!

Mr GARDNER: It has been problematic. There was a huge volume of work.

The Hon. MATTHEW MASON-COX: How many staff are there in your planning area?

Mr GARDNER: We have had a full-time person dedicated to that job for the last 18 months.

The Hon. MATTHEW MASON-COX: Have you had any consultants or other people working on it?

Mr GARDNER: Before we started this process for our comprehensive LEP we had a single LEP applying to the whole local government area. Prior to that LEP, which was done in 1995, we had four separate LEPs applying to the LGA, so we had already done a compilation for the comprehensive LEP. In carrying out this task we have basically translated the existing 1995 LEP into the template terms and we have included 16 sites for specific rezonings. I have to say that was of more interest to us than the comprehensive LEP.

The Hon. MATTHEW MASON-COX: Having those strategic land use plans would have made it a lot easier, I would have thought.

Mr GARDNER: Absolutely. Basically what we do in Taree is implement our strategies. There have been very few rezonings that we have supported that do not have strategic justification under our local strategies. That is not to say that opportunistically there might not be a good suggestion or something worthwhile come out, but to date there have not been any major changes to what we had in the first place.

The Hon. MATTHEW MASON-COX: What is your experience with the standard model LEP? How has that fared for you in practice?

Mr GARDNER: I think it is highly problematic. In fact, we are going to lose some really nice provisions that were drafted into our current LEP. One in particular was a provision where we could basically consider any form of development outcome on the basis of a public conservation value arising. Since 1995 we have used that five times. For example, one was a small rural residential subdivision where if we carved up the whole landscape they were going to get X number of lots. There was an area of high conservation Sydney peppermint gums in the middle of the development. Basically we took that out as a public reserve and we used that provision to give them the same yield out of the remaining land. It was a sensible and rational trade-off. That provisional LEP allowed us to do that. So we are losing some nice elements of our LEP—

The Hon. MELINDA PAVEY: Could you give us the other example?

Mr GARDNER: The other example was really fascinating. It was an area of land, about 460 hectares, that council bought, which was at the bottom of a major wetland system where there were serious acid soil issues on the Manning catchment. Council acquired this land to restore the landscape and manage some flood issues in the area. We acquired the property and did a four 10-hectare lot subdivision out of the farming land, some elevated land that was surplus to our needs from an environmental management point of view. We used that provision to create 10 14-hectare lots that we sold to carry out the project. It was a really good public outcome from that particular provision.

In terms of the broad plan I am concerned that the one-size-fits-all system across the State makes a bit of a mockery of local planning. Local communities differ. Our circumstances in Taree are quite different from the circumstances in Tony's area in the Riverina where there are a whole lot of irrigation-type issues, and in far western New South Wales the issues are different again. Local government is about local communities in local places. In my view plans should be able to be crafted to deliver local outcomes. It is a problem; I just do not like this perspective of one size fits all for the State. I think it is wrong.

The Hon. MATTHEW MASON-COX: Finally I want to ask about your comments in relation to climate change. You note in your submission your concern that this issue should be addressed from a policy perspective at a State Government level rather than left to local government to create individual responses. Could you expand on that?

Mr GARDNER: We are all struggling with climate change and I am not sure how much that is appreciated by the State Government. It is a difficult area of policy and there is an uncertain science behind the issue. However, we are making development control decisions on a day-by-day basis and the courts are saying we have to address climate change issues in response to each matter. If we have to go to court and deal with climate change issues we need a clear policy framework to do it in.

The Hon. MATTHEW MASON-COX: What do you do? There are some climate change issues, what are they and what do you do?

Mr GARDNER: I suppose we are all relying on the CSIRO's 0.91 level change and making reference to that, but it is a bit inadequate because that is simply a number and there has not been the policy assessment. So, if that scenario happens, what does it do to the flood policy and how do the flooding and the sea level rise interact, and how does that interact with the landscape? I do not think any councils have done that work yet because of the uncertain science. The difficulty for us in local government is that this is such a big issue that it should be dealt with by the State Government and then local government can implement the policy framework to deal with how it affects us at a local level.

The Hon. MATTHEW MASON-COX: Do you have any ideas about what the State Government should do in policy areas in relation to climate change?

Mr GARDNER: No, I do not have any particular answers but we certainly need a statewide perspective. The other issue with climate change is that it is more than just a number. It is about interaction with things like flood policy and also the community's capability to adapt to climate change. It is that adaptability issue and the demand on community that need to be fully developed. There is a lot of work to be done on climate change and I am not sure I see evidence of a whole lot of serious intent at a State level.

The Hon. CHRISTINE ROBERTSON: Do you think it should be an issue for the Council of Australian Governments?

Mr GARDNER: It could be. Clearly it does not relate only to New South Wales. It is an issue for which we should have a clear policy framework at a national level.

The Hon. MATTHEW MASON-COX: It is where the emissions trading scheme is.

The Hon. CHRISTINE ROBERTSON: And then do the climatic adjustments at a State level?

Mr GARDNER: You would probably never go from the national to the local if there was a national framework.

Reverend the Hon. FRED NILE: Following up your support for the strategic land use plans, in some councils I know of there is a lot of pressure for land to be set aside for rezoning to give a windfall to the owner of that land. How do you avoid that pressure in setting aside areas that will be rezoned? You mentioned the landowner who then sold the land. If he had kept it would he not have made a windfall profit?

Mr GARDNER: There are certainly profits to be made in land development, but to be honest with you, in my whole professional dealing with land developers I think they earn the money they get. They take enormous risks and there are lots of costs in getting an outcome. I know there are plenty of developers who do not make money on what they do and they rely on the wins to balance the losses. I have great respect for the people who are prepared to do land development, particularly in this State at this time. In terms of how you get there, I understand the question—

Reverend the Hon. FRED NILE: Is there any pressure coming from behind to influence that strategic plan?

Mr GARDNER: I would hope not. I think professional planners in local government in particular have a commitment to the whole community. It is a whole-community outcome for which we are trying to deliver the best outcomes. I think the difficulty is that in some places the pressure has been there for so long and because it has been responsive planning rather than planning-led development outcomes, I do not know how they keep their heads above the ground. We have been lucky. The council allowed a commitment to strategic planning ahead of the real development pressures. We are starting to get serious development pressures now but we did our development planning 15 to 20 years ago. As the development responses come into our area they are following the lead we have provided, so we have been in front of the game in that regard. So we have been in front of the game in that regard. I just think that is what every community should do. I think that is fundamental to successful planning.

Reverend the Hon. FRED NILE: You mentioned that you had one project where you divided up the land into lots, that 800 home project you mentioned earlier. Do you ever envisage the council itself would sell the land? Kiama council did; it acquired farm properties and then it has been working through real estate agents and so on.

Mr GARDNER: To be honest, our experience is that we have not done it well. Taree council some years ago did a housing scheme at Wingham township. I think that was driven by the motives of trying to get some development activity in a town that was struggling. So it was probably not commercially driven in the first place. I certainly do not believe it was a great financial success from council's point of view but in fundamental terms I have a view that councils should not do land development. I do not think that is their job. I think private industry is best placed to drive that and that is where that activity should occur.

Reverend the Hon. FRED NILE: You said earlier that you would like to see more powers delegated to the regional offices of the Department of Planning . What powers would you like delegated to them?

Mr GARDNER: I mentioned the rezoning. I think the LEP amendments are showing some real promise. When the department is starting to talk about three-month, six-month, 12-month turnaround on rezonings it is easy to get very excited about those sorts of numbers. I do not believe they will be able to deliver that while ever that action is managed through the Sydney office. I think they will have to delegate to the regional offices and I think they should also, to be honest with you, delegate back to local government. Rezoning is an overly complicated process. There is too much level of detail to inform a decision. It is basically saying in broad terms should this land be considered for development or not. It is not in my view necessarily about the development outcomes. As I say, if there is a structured framework where regional strategies are in place, local strategies are in place, the rezoning is only just delivering stuff that has already had a fair bit of consideration. In my view there is no reason why local government should not manage that process in order to speed up the times.

Reverend the Hon. FRED NILE: You said it your submission, and you mentioned it here again, that the whole planning system seems to be focused on the cities, citycentric, and you have said also that a lot of the prescriptive requirements are seeking to deal with city issues. What issues are hindering the country or putting a burden on you?

Mr GARDNER: There are all sorts of issues, including I would suggest a lot of the provisions in the comprehensive LEP. They are written for a one-size-fits-all for the State and I do not think that is necessarily good. Another example is complying development. The housing code in terms of, for example, the 450 square metre lot size for residential development. I do not believe that is necessarily appropriate in all places, even within all places within one batch. In my local government area, which is 3,737 square kilometres, we have places like Taree as a township but we have villages like Harrington and Mount George that are completely different to Taree and I would suggest development standards in each of those three locations should be quite different. The problem is that focusing on a system that gets decisions through quickly and efficiently does not necessarily allow the crafting of the right sort of the development outcomes on the ground. While ever you focus too much on the system and not on the outcomes that you need, you will not necessarily get the right answer.

The Hon. CHRISTINE ROBERTSON: You have given us some examples in relation to what you described as complexity, slow and costly. Can you give us a few more examples of what actually causes that?

Mr GARDNER: There are all sorts of factors. I guess one of my pet concerns about the system at the moment has been the part 3A applications, the major development applications.

The Hon. CHRISTINE ROBERTSON: How many would you have in your local government area?

Mr GARDNER: We do not have a lot but because of the scale and the size of these things they are significant and they are often the major investments that are going on in our area. Because we have the coastal policy affecting us, SEPP71 brings a lot of development into the State's determination area and I was going to give you some details of one, for example. This is a 133-lot subdivision just on the southern rural area of the township of Taree, on the river, and because it is on the river it is within the coastal zone and therefore it is a State determined application. We went through a rezoning process which we completed in 2003.

The Hon. CHRISTINE ROBERTSON: So that is near?

Mr GARDNER: It is just west of Purfleet, between Purfleet and Tinonee. This particular area of land was rezoned in 2003. In December 2005 there was a part 3A application prepared. The cost of the process was \$480,000 for a 133-lot subdivision; \$300,000 worth of studies, \$130,000 worth of application fees to the department, \$50,000 for the consultant to manage the process. The Native Vegetation Act applied to the land. The PDP developer was used in the State's assessment of the application. There was some vegetation to be removed which had to be traded off on an offset basis at 11 to 1. The consent was issued in April 2009. So that is over three years and \$480,000, 52 pages of conditions for a 133-lot rural residential subdivision. It had already been through a comprehensive rezoning process. That sort of stuff is frustrating.

Reverend the Hon. FRED NILE: Was that particular site in your strategic plan?

Mr GARDNER: It was part of our strategic plan for development outcome. We had an example at Redhead, which is one of the coastal villages in the Hallidays Point locality. This was a four-landholding, 326-lot residential expansion of a small coastal village, again part of our planned strategy for urban expansion of that area. There was a difficulty between the four landowners. For some reason that I do not know the answer to, three of the landowners, on the knowledge of SEPP71 coming into place, organised their subdivision application to be lodged with the council at four o'clock on the Friday before SEPP71 came into place. They left the fourth one out. The fourth lot subsequently had to go through a part 3A application process for 51 residential lots. It cost \$300,000 and two years worth of assessment before they could get their subdivision approved.

The Hon. MELINDA PAVEY: What happened with the other three?

Mr GARDNER: They did a subdivision application through council. I do not know exactly the time but it would have been six months or something like that. A lot less cost and they were underway with their construction. One thing I can tell you anecdotally that I have heard in terms of a lot of those part 3A things that it was a difficulty with planning staff within the Department of Planning. I have had people say to me—one fellow said to me that they have had up to 20 different staff dealing with their application.

The Hon. MELINDA PAVEY: Is it the Newcastle staff dealing with it or is it Sydney staff only?

Mr GARDNER: No, that is the Sydney staff.

Reverend the Hon. FRED NILE: With those big deals, do they break them down to justify those large amounts?

Mr GARDNER: They are just the extra studies that were required. To be honest with you, because we are not involved in those processes, it is between—

Reverend the Hon. FRED NILE: Environmental studies, do you think?

Mr GARDNER: Detailed studies, all sorts of consultants studies, managed by a consultant at a \$50,000 price. That is a story I have consistently heard, and I am not sure that anyone is throwing light on that issue. I would love to see somebody study part 3A, how it has been applied across the State in the past three, four or five years. The consultants who are involved in the process, they do not really complain because there is a lot of work for them. The landowners are sort of saying, "We are told by our consultants this is what we have to do and we want to get to the end of it". It just does not seem to be happening quickly.

The Hon. CHRISTINE ROBERTSON: Would it be possible, as a suggestion—and this is a total diversion from the first question—for each part 3A application to have a contact officer person? Would that be a start?

Mr GARDNER: Sure, but what I am being told is that the problem with these applications is they have a planning officer who they are dealing with but because of changes of staff—

The Hon. CHRISTINE ROBERTSON: I know, but does it need to be a planning officer?

Mr GARDNER: I am probably expressing some concerns that may be a little historical now because the planning amendments will set up joint regional planning panels, so a lot of this stuff will go there and I would hope that the department is talking about committed time lines on this. For me, this is an example of where the planning system has been an investment. What I do want to say about this stuff is that the consequence of this sort of activity, I can tell you, is that the developers with whom we have business are really jack of it. They are sick of the system. It takes too long, it is too costly, it is too uncertain, and they do not want to do it anymore. I think a really serious consequence for New South Wales is that we are dispiriting the development industry from having a go.

Reverend the Hon. FRED NILE: They have to borrow that \$300,000 before they have any income from the sale.

Mr GARDNER: Yes,

The Hon. MATTHEW MASON-COX: They have to borrow money to buy the sale. The development costs just go up and up—land tax, all of it goes up.

The Hon. MELINDA PAVEY: You spoke about the developers becoming dispirited. Do you talk to developers who have just given up on New South Wales and have gone elsewhere?

The Hon. CHRISTINE ROBERTSON: If I had known it was that question—

Mr GARDNER: We are very fortunate to have a number of developers who can see what the council is trying to do. Our strategies are all out there publicly in adopted plans and they can see what we are trying to do in the place. Fortunately the people who have those landholdings are happy to get on with the job. They know that we are trying to work with them and the community to get the outcomes we all think are worth getting to. So we are a bit fortunate I think but I do know that a lot of them are, and they say to me, "This is just too hard. When will all this come to a conclusion?" That comprehensive LEP you asked about earlier, I mentioned I had 16 sites specifically rezoned in there. Some of those were lodged four, five, six, seven and eight years ago. Our only way to deal with those was to finally plug them into the comprehensive LEP and that has been going now for the last 18 months, two years. The rest will not be gazetted until hopefully at best probably the end of this year, so there is a long lead time on getting outcomes.

The Hon. CHRISTINE ROBERTSON: In your mind is the State strategy clear enough? Has the local government area had enough input into the regional strategy?

Mr GARDNER: Yes, I think—I was comfortable with the department's engagement of local government in that process. They asked for each of the local councils to put forward our planning interests, and I am comfortable that they reflected those. But as I say, my belief is that the strategy should not be a compilation of what local government wants to achieve; it should be what might be worthy of input. But if that is where this region is going, what are the State commitments is the issue that needs to be dealt with.

The Hon. CHRISTINE ROBERTSON: And heading further into that question, one of the issues with infrastructure planning and infrastructure development is that the political process gets somewhat sick, so you have infrastructure going perhaps to where a political power is for some reason, not necessarily in relation to the planning processes. If the regional planning processes became more comprehensive, do you think you would have more chance of more futuristic infrastructure planning? That is a very loaded question but even in our bit of experience we watch things go to strange places when we know strategically they probably should have gone somewhere else but the politics say put them there.

Mr GARDNER: I think one of the benefits of being a planner is that you have to be an optimist as well. The answer to that question would be if there was effective planning then you would have to hope that the State processes would be able to reflect the delivery of the plans that they have made. If the regional strategies had commitments that, when thresholds were met for delivery of services, they would be part of the State budget, then these processes would be more automated, rather than being subject to political interference, if you like, in where the money gets allocated on an as needs basis. We would have a better idea of where we are going.

The Hon. CHRISTINE ROBERTSON: I have many colleagues who would lynch me for that question.

Mr GARDNER: I just think effective planning, if it is done right, should direct the outcomes.

The Hon. CHRISTINE ROBERTSON: We have a problem in western New South Wales, where many of us are from. We apparently are a region.

Mr GARDNER: A very big one.

The Hon. MICHAEL VEITCH: How long have you been involved in planning?

Mr GARDNER: I have been in local government since 1979.

The Hon. MICHAEL VEITCH: So you were around when the Environmental Planning and Assessment Act came in?

Mr GARDNER: Yes. Brand-new planner with a brand-new Act.

The Hon. MICHAEL VEITCH: We have heard evidence that the Environmental Planning and Assessment Act has run its course, has lived its life, and that it is now time put in place a new legislative framework, whether it be separate planning legislation, separate assessment legislation and maybe environmental legislation. You are talking about it coming under some sort of umbrella legislation that provides clarity in the hierarchy, and things like that. What is your view? Is it time to throw it all out and start again?

Mr GARDNER: I would certainly say that the planning Act as it was gazetted and as it was being implemented for a significant part of its early life—certainly through the 1980s and the early 1990s—was a very fine piece of legislation which, in itself, enabled really good outcomes to occur. The problem with the planning Act is that it has been amended so much now to fix problems, that the fixes have become problems and that is why we are around the table now. We understand that.

I would be concerned about fragmenting the decision-making. I think that is problematic. I mentioned that at the moment we have native vegetation legislation that says to the people implementing it that vegetation is the issue, so when you make a decision whether these trees should be removed or not you put the blinkers on and if the Act says that vegetation is an endangered species, you cannot move it. If you put that decision in the planning Act, you evaluate that and say there is an endangered ecological community here but there is an existing settlement, an existing community, there is some social and economic benefit, so the native vegetation should be removed because of these other reasons. Whenever you fragment the legislation you will get fragmented decision-making.

The example I have here is Diamond Beach, another little village just north of Redhead in our coastal strip. We have an existing village which ecologically could be expanded, not a big expansion. It runs into a rural residential subdivision that currently exists. I think it is about 30 or 40 acre parcel of land. There is a road through the residential subdivision to the northern edge of this property. There is a road from the existing subdivision to the southern edge of the property. There is one hectare of coastal swamp on this property for which the catchment management authority is talking about a 10:1 trade-off to allow the removal of that one hectare of vegetation I do not know what the cost of that is going to be but people have to find something else to buy to do the trade-off. The dispirited landholder is saying it is just not worth it. I guess my concern is that it is being fragmented as a land use plan and I believe all this stuff—infrastructure, community, society, economy and environment—should be looked at altogether so you make the necessary trade-offs to get the best decisions.

The Hon. MICHAEL VEITCH: You mentioned the involvement of the catchment management authority in that example, but what role do you think the catchment management authority should have had?

Mr GARDNER: I certainly respect the capability of all the planners in the State government agencies. They are good people with good intent. All that expertise should be fed into the planning process but I believe there should be a decision-making process that allows all those things to be evaluated at the same time and not within their own parameters.

The Hon. MELINDA PAVEY: At a regional level question

Mr GARDNER: Both at a regional level and a State level. At each level. Otherwise you do not get the right decisions.

The Hon. MICHAEL VEITCH: My last question relates to housing affordability and the impact of the planning system on housing affordability.

Mr GARDNER: For us housing affordability is not really an issue. You can still buy a house on a block of land in Taree for a couple of hundred thousand dollars or less. We still have land in the city that is very good. It is a policy area we have not been so concerned about. We are concerned about the cost of development, and a major contributor to the cost of development is all the delays in the planning system. We can improve our local affordability by getting a better system.

Reverend the Hon. FRED NILE: You do not have a coastline management plan. What is the reason for that?

Mr GARDNER: We do have a coastline management plan for a small area of Old Bar that is a high rating part of our coastline. We do not have a coastline management plan for the whole coast but we are on the way to get a strategy that will inform the coastline management plan.

(The witness withdrew)

RICHARD JOHN THORNTON, Member, Tamworth and District Chamber of Commerce and Industry, sworn and examined:

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

Mr THORNTON: Okay.

CHAIR: Would you like to make a brief statement before we commence questions?

Mr THORNTON: This is my first time at one of these events and I thought I would not, but then I got thinking about it this morning and it was interesting listening to how common some of the problems are. I would think, in the global economic crisis, never before has this State had so much importance and pressure put on it to get planning not only correct but the mechanisms following that planning in a position to facilitate proper development at the same time as maintaining employment. We are in a situation, in my view, that we are going to be faced with worse unemployment than we are faced with at the moment, and I see so many opportunities being held up by red tape that could help the unemployment situation.

A broad statement would be the building industry. I saw in the press the other day, if you think about the house from the ground up, it involves earthmoving, and then right through to the finish there are so many businesses that hang off the building industry. Selling real estate does not create that much employment but the building industry has multipliers right throughout the community and I was so pleased at the eleventh-hour decision, as I saw it, to keep the first homeowner grant in longer, because without that all I could see was a massive, massive problem emerging, particularly in regional areas. We saw that starting to happen and we have seen it corrected in the past three or four months as a result of that grant staying in.

CHAIR: You mentioned the opportunities in the building industry. Would you like to elaborate on those opportunities?

Mr THORNTON: Yes. If planning is correct, the biggest issue with the opportunities is getting developers, and I have to say I have been a developer as well, not major, but we have done a subdivision in Tamworth, so I am speaking from experience of what we went through. Fortunately, our timing was good, we got in and out without any problems whatsoever but the amount of builders who have come into this town over the past three years creates a lot of concern in me. I tried to look at the market from the top down, not the bottom up. We were well serviced with builders but as the building industry dried up in metropolitan areas and coastal areas a lot of builders headed to Tamworth because they heard we had been doing quite well, and we had. The number of builders here has gone up, the number of land sales is going down and that tells me that at some point we are heading on a collision course. Unless some of these projects can get consent and finish quicker, things will slow down and a lot of builders will be out of work.

Reverend the Hon. FRED NILE: The builders will be undercutting each other?

Mr THORNTON: We have seen it happen before. In the mid-1990s we saw builders leave town. We had a situation between 2002 and to this day where building costs in this town doubled. Some people have said it is unfair, they should not be charging that much. Conversely, I say to people, with respect, they went right through the 1990s working for wages. They have an opportunity now to recoup some of that but the next step will be costs starting to come back and we are starting to see some evidence of that.

CHAIR: We talk a lot about red tape. How do you see builders being able to cut this red tape?

Mr THORNTON: A lot of developers organised a meetings with council because they were really concerned. Going in one-on-one with the council was not getting anywhere. They were thinking about getting together en masse. I know personal problems happened—one of the major staff members who was looking at all the applications got flooded. You have to go back to 1978-79 to see a period of development in this area as strong. Between 2002 and 2005, to a lesser extent 2007, we have seen more development in this area than we have seen in the whole period in between.

The Hon. CHRISTINE ROBERTSON: What made that happen?

Mr THORNTON: I call it confidence. I have a lot of favourite sayings in real estate. One of them is it does not matter what creates confidence as long as something does. In this town the equine centre created extensive confidence. We would have had a lesser market with less activity, in my view, had that not happened. In fact, it created so much confidence it was false, because there was no way that equine centre was ever going to add as much as people thought. But as I said, it does not matter what creates confidence. A brand new shopping centre development and the equine centre were being built at the same time and another shopping centre was being redeveloped, and amongst that we had all the housing activity. It got to a point where it was difficult to get a builder to do anything and they were booked 12 months ahead. If they stopped taking on work, some of the major builders would take 12 months to catch up. They are gradually starting to catch up now.

The Hon. MELINDA PAVEY: You mentioned that there are a lot of builders but it sounded as though there was still strong demand. Are you worried that you are running out of land in Tamworth?

Mr THORNTON: No, Tamworth is split by the river and 62 per cent of the people live on the south and west side, so there is a residential imbalance. There were areas on the north side that were hobby farms, which were rezoned to residential, or what they call "village", reducing 4,000 square metres blocks to a building block, if required, to cater for population growth of up to 10,000 people. Council at this stage is not looking to rezone too much more land on the south side until we get a balance, because as you know if it is allowed to grow too much one way the CBD starts to shift. Then you have a big problem because you are recreating infrastructure that already is there.

So, that has been done to try to balance the town. There is plenty of land and there is another pocket of land on the south, which it looks like they will develop, but that will be it. There is sufficient rural hobby farm land available. In fact, we have opportunities, in my view, to grow this town a lot more.

The Hon. MELINDA PAVEY: How do you seize on those opportunities and make them happen?

Mr THORNTON: Through the development corporation. In past years they have tried by way of Country Week in Sydney and through advertisements. The problem at that time was that the employment opportunities were not as good. As we know, the whole country has gone through a shortage of skilled labour. There has been plenty of work here recently to attract people. Our biggest problem, if there is a problem, is getting people to understand that Tamworth is a good alternative. I have lived in Sydney twice and I know Sydney very well, better than some local Sydney people, because my job in the computer industry at the time meant I was driving from one side of Sydney to the other to see clients in one day and I had to find all the short cuts. People need to understand that Tamworth is a good alternative to Sydney. Has everyone seen the city centre?

The Hon. CHRISTINE ROBERTSON: I drove them through on the way here.

Mr THORNTON: A lot of work has gone into it to get it to this stage. I pushed the committee to levy a separate rate and finish it off while the money was cheap, but that was not considered to be a wise thing. I love what is being done and I am passionate about it. I was on the committee when I started the chamber of commerce and I have stayed on it. There is alfresco dining on the streets and we have attracted better shops. We have found out through research that one of the biggest impediments to getting doctors, solicitors and accountants here is their wives because they do not want to let go of the alfresco dining or the fashion stores and all the other things. We have solved that problem. Tamworth is a good alternative. We are only three hours from the coast, one hour from Sydney by plane and five hours by car. I call the hills behind us our "water views". They are fantastic. It is just a great place to live. Knowing Sydney as well as I do, there are not too many suburbs in Sydney that can offer what Tamworth has to offer. It is a matter of trying to get people to understand that this is a great place. One problem we had was that there was extreme heat and extreme cold.

The Hon. MELINDA PAVEY: How did you fix that?

The Hon. CHRISTINE ROBERTSON: Have you got rid of it? I thought I still lived in it!

Mr THORNTON: I can remember when I was growing up here we used to get frosts at Easter. Today is 21 May and we have not had a frost. We do not get the extreme weather that we used to get. Two years ago

we had a worse summer than Moree had, which is the first time I can remember that happening. The temperature got to 42 degrees.

Reverend the Hon. FRED NILE: That is a quick result of climate change!

Mr THORNTON: We have a more temperate climate than we used to have. I guess even the rain is not quite as bad.

The Hon. MELINDA PAVEY: Does infrastructure play its part in planning for the future of Tamworth? What about Chaffey Dam?

Mr THORNTON: Big problem. There was a general meeting of government in Tamworth and I remember Ian Sinclair walked up to me and said, "What do you see as the major problem in Tamworth?" Without even thinking I said, "Water." We will never have enough water to be a manufacturing area. I tried to push the development corporation when I was there to target the warehousing aspect of industry because we have any amount of industrial land. You do not need a lot of water for that. Companies are looking to get rid of a lot of little warehouses and have big strategic warehouses in major centres. That is an area of potential growth.

Before I forget, being on the city centre working group I should say that one thing that is frustrating at the moment is the LEP, which has been in Sydney for some months and is expected to be there for some months more. That is a major issue, particularly for me because if someone rings me up, as they have done on a number of occasions, and says, "I want to sell my block of land down the road; how much is it worth?", I have to wear my agent's hat and say what it is worth today while knowing that that same block could be worth nearly double that once the plan goes through because of the rezoning opportunities. Some areas are proposed to go from 1:1 to 2:1. You are sitting on all this stuff and you cannot say anything about it, but at the same time people are making decisions about their lives. I do not understand why it is taking so long to get the LEP through.

Reverend the Hon. FRED NILE: Have no reasons been given?

Mr THORNTON: It was sent back for modification and some queries were raised. It went back to Sydney and it seems as though it has gone into a black hole. Another area—I cannot say which—has supposedly had its LEP down there for 18 months. Tamworth is not a small area anymore. Once you get outside Sydney, Newcastle and Maitland we are the next level. It is taking too long. That is probably the basis of all the frustration—too long with everything.

Reverend the Hon. FRED NILE: We heard earlier that there have been some very heavy additional charges for developers—

Mr THORNTON: Frightening. I was sitting here listening.

Mr THORNTON: Would you like to comment on that and what can be done to reduce those charges?

Mr THORNTON: Going back a step, a question was raised about what developers make and the risks involved. I have seen people lose everything through timing. Development is about timing. When you go into it, as my wife and I did, you estimate certain costs. Fortunately we were not too surprised at the end result. The costs in this area certainly are not as high as the previous witness was saying apply in his area. I know that in some areas the additional charges—sewer headworks charges and all the other things they throw at you—are horrific. That was fine when the market was going up because land was keeping pace or outstripping that, but if land starts going backwards, as it has, and prices here have dropped, that is when you get trouble.

Reverend the Hon. FRED NILE: You said earlier the first homeowner's grants have had a very positive influence. They have been extended for three months but it sounds as though they should be extended even further than that.

Mr THORNTON: If any channels can get back to Kevin Rudd—economics was my favourite subject at school and from what I can see the sting in the tail of what is happening has not hit Australia. We have to keep the building industry going. Whatever it costs to keep that grant going will be far less than the cost of all the associated businesses attached to the building industry going down. If I was sitting in the chair I would be asking how we could keep this going. From the development council point of view I used to say there were only a few areas you had to find out about to gauge the market in any town: the building industry, the retail industry

and the motor vehicle industry. Have a look at those three major industries in any town and that will tell you how well the town is going.

CHAIR: His address is Parliament House, Canberra!

Mr THORNTON: I should send him an email.

The Hon. CHRISTINE ROBERTSON: Some of the issues we have been asked to look at are big picture-type issues and I think it is important to get your evidence on these sorts of issues. We have been asked to look at whether the planning process and the Act should be changed or whether there should be a full review and maybe a whole new process. How much of the processes currently in place in relation to planning New South Wales, and the Federal and local aspects, affect a developer and someone like you who works with the industry all the time?

Mr THORNTON: Take my personal experience. My wife and I developed a 40-lot subdivision, which I am very proud of now, near the airport. Everything was going along quite smoothly. You need to understand that when you do a subdivision the profit is in the last sales. Most of the upfront sales are taken up by costs. Unless you can get in and out, the last piece is the profit. We got towards the end and came to sign-off and because we were in a period where the market was very buoyant we were having trouble getting that sign-off because of insufficient staff in council. I tend to look at things with tunnel vision.

The Hon. CHRISTINE ROBERTSON: They were getting too much work because of all the housing submissions coming in?

Mr THORNTON: Because of the activity. Maybe I look at things too simply, but to my way of thinking if you have all this development coming and it goes into a funnel and gets to the narrowest point because there are only one or two people to handle it, you should sacrifice another area of the council. Pull someone from another area and put them in to handle the load because if you do not keep that development going it affects everyone. It seems to me a pretty simple answer, but here they got down to one person. The other person just left because he could see what was coming and he said, "I'm out of here because there is too much coming at me." He left because of that.

The Hon. CHRISTINE ROBERTSON: Was it a skills shortage?

Mr THORNTON: Skills shortage came into it and trying to find architects and surveyors. They told me they could not get surveyors and so on.

CHAIR: Town planners.

Mr THORNTON: Yes.

The Hon. CHRISTINE ROBERTSON: That is right. That was part of the shortage.

Mr THORNTON: I understand there is a lot of responsibility. When an application comes in it is a big responsibility to look at that and say, yes, it is fine, the stormwater is right. We have a brand new village area at Forest Hills. They got it wrong and established homes have been flooded. That tells you how important their position is. They cannot take short cuts, but surely the council should get in sufficient numbers of people if all this potential development is coming. Get enough people to handle the work and sacrifice something else.

The Hon. MICHAEL VEITCH: Did you say you are a real estate agent?

Mr THORNTON: Yes.

The Hon. MICHAEL VEITCH: ASCO has put to this inquiry in the early stages that it would be nice if there was an electronic process where you go on the Internet and you could put in a land parcel's identifying number and up would come all of the planning instruments and controls for that particular parcel of land.

Mr THORNTON: Yes.

The Hon. MICHAEL VEITCH: Do you think that would be beneficial?

Mr THORNTON: It certainly would help. I mean, the technology is certainly there to do it. You can go and do a massive amount of things now. I summarise what we used to do years ago to what we have got now, and it is just amazing what we have got at our disposal as agents to be able to talk to people about. I was talking to someone just up the road here about a house they have in Tamworth and a house they used to own in Sydney. As I was talking to her I said, "Yes, I can see it." She said, "What do you mean you can see it?" I said, "It's on the computer, I can see where you used to live." So what you are talking about would not be hard to do and certainly would be helpful.

The Hon. MICHAEL VEITCH: You talked about the growth of Tamworth. What impact is that having on the villages and towns around Tamworth?

Mr THORNTON: No major impact. Some people are concerned about the water issue. And getting back to Chaffey Dam, that dam needs to be upgraded, for two reasons, not just for capacity but because there is a certain amount of danger in that dam at present. Had Chaffey Dam not been put in—and a lot of locals thought it was put in the wrong place. It took a long time to do it but they were proved to be wrong. It is the right place.

The Hon. MELINDA PAVEY: It is 70 per cent full today, the mayor said.

Mr THORNTON: It has got as high as—it actually was near capacity and it was running over. It has been to 98 per cent.

The Hon. MELINDA PAVEY: This year. That is a big difference, is it not, with about 20 per cent loss?

Mr THORNTON: Every other dam around New South Wales, in the north-west area, is at 22 to 30 per cent. We are getting our return for a change.

The Hon. MELINDA PAVEY: It shows that it gets consumed quickly.

Mr THORNTON: Yes. They brought on restrictions, though, you see, and this is another thing with water management. I was born in Tamworth. I can never remember a time when we have had to bucket water, ever. The worst we ever got was hand-held hose, but we were bucketing water to keep things alive.

The Hon. CHRISTINE ROBERTSON: In 1959 we had to use a cup.

Mr THORNTON: I was only six then.

The Hon. MICHAEL VEITCH: The reason I asked about the impact of the growth of Tamworth on the neighbouring towns and villages, the comprehensive LEP is currently sitting down in Sydney waiting for whatever reason to be approved. How does a LEP, the planning instrument, accommodate the impact of growth of a larger regional centre upon the villages and towns around it? I come from a country town; that is why I am asking these questions.

Mr THORNTON: In the 1990s we did see Tamworth regain its regional status as we went through that tough period, and some businesses in those smaller towns can no longer hang on so they start servicing out of Tamworth again. A lot of people do not understand just how much comes out of Tamworth. We manage a shopping centre. To give you an example, in every promotion that we have had in that shopping centre, 90 per cent of the winners are not from Tamworth.

The Hon. MELINDA PAVEY: They are from the district.

Mr THORNTON: From the district. The recent winner was from Curlewis. We draw on a shopping population of 130,000. Some of those shoppers come in once a week, some might come once a month, some might come as required. So, as we grow, it no doubt has a bit of an impact on the smaller areas around. But having said that, I guess also you look at it and say it avoids a lot of those people having to go to Newcastle and Sydney as well. The biggest issue we have here is probably from a medical point of view, getting enough medicos back in when some of the better ones are retiring. One of our best surgeons has just retired.

The Hon. MICHAEL VEITCH: Have you had any involvement with or exposure to section 3A State-significance approvals?

Mr THORNTON: Not a lot, no.

Reverend the Hon. FRED NILE: If you want to send any more suggestions to the Committee after you have been here today, please do so.

Mr THORNTON: I have a graph that shows the activity of Tamworth, which could be very helpful. It goes like that.

The Hon. CHRISTINE ROBERTSON: Can you email that?

Mr THORNTON: Those peaks are 1970s, 1980s and late 1990s, which show the increased activity almost every 10 years.

CHAIR: If you could email that to us, that would be very helpful.

(The witness withdrew)

(The Committee adjourned at 3.05 p.m.)