

REPORT OF PROCEEDINGS BEFORE

STANDING COMMITTEE ON STATE DEVELOPMENT

INQUIRY INTO REGIONAL PLANNING PROCESSES IN NSW

At Sydney on Friday 11 March 2016

The Committee met at 9.30 a.m.

CORRECTED PROOF

PRESENT

The Hon. G. S. Pearce (Chair)

The Hon. R. H. Colless

The Hon. P. Green

The Hon. N. Maclaren-Jones

The Hon. M. S. Veitch (Deputy Chair)

The Hon. E. Wong

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CHAIR: I thank everyone for coming to the first hearing of the Standing Committee on State Development inquiry into regional planning processes in New South Wales. I acknowledge the Gadigal people, who are the traditional custodians of this land, and pay my respects to the elders past and present of the Eora nation. I extend that respect to any Aboriginals present. Today is the first of a number of hearings we plan to hold for this inquiry. The Committee is seeking ideas that will stimulate regional development and reduce the time and complexity involved in the planning approval process while maintaining community expectations regarding the environment and the economic aspirations of local businesses. We will be conducting hearings across the State over the next six months. In April we will hold hearings in Dubbo and Tamworth and in May a hearing will be held in Narooma. Further hearings will be announced in the coming months.

Today we will be hearing from a number of witnesses from Local Government NSW, the Planning Institute of Australia, the New South Wales Aboriginal Land Council and representatives from various government agencies. Before we commence I must go through a number of issues in relation to the inquiry and the procedures for today's hearing. In accordance with the broadcasting guidelines, whilst members of the media may film or record Committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography. I remind media representatives that you must take responsibility for what you publish about the Committee's proceedings. It is important to remember that parliamentary privilege does not apply to what witnesses may say outside of their evidence at the hearing. I urge witnesses to be careful about any comments you may make to the media or to others after you complete your evidence as such comments would not be protected by parliamentary privilege if another person decided to take an action for defamation.

The guidelines for the broadcast of proceedings are available from the secretariat. Media representative who are not accredited to the parliamentary press gallery should approach the secretariat to sign a copy of the broadcasting guidelines. Witnesses may wish to take some questions on notice and if they do so the normal arrangement is that we require the answers within 21 days. If witnesses have messages and documents to tender to the Committee they are advised that messages should be delivered to Committee members through Committee staff.

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JENNIFER DENNIS, Senior Policy Officer, Planning, Local Government NSW, sworn and examined:

SHAUN McBRIDE, Senior Strategy Manager, Local Government NSW, affirmed and examined:

CHAIR: Would you like to make a short opening statement?

Mr McBRIDE: I will make some initial comments in a broader context. Local Government NSW has always maintained strong policies of support for regional development. Our member councils, particularly in regional areas, have a strong interest in this area and it is a core issue for local government in regional New South Wales. That is probably exemplified by the fact that a large proportion of rural and regional councils have dedicated economic development officers or managers who focus solely on attracting and expediting investment, acting as facilitators for development approvals, working with the planners on council and with the potential investors and so on. It is an area that local government generally welcomes because economic development is something that the vast majority of councils want to promote. Employment is critical to councils in those areas. It is essential for the survival of their communities.

CHAIR: Are there significant differences between how the planning process works or should work in regional areas as distinct from big metropolitan areas? That is at the core of what this inquiry is looking into. You have a lot of experience thinking about these issues. What are those differences and what should change, if anything?

Mr McBRIDE: I will start with a general comment and then pass to Ms Dennis, who is much more expert in the technical details. One observation that is clear to us in local government is that because of a strong pro-economic growth and development attitude in regional areas and because they lack the complexity and pressures that exist in urban areas we find that the planning processes do not seem to be a major impediment to development. Councils will often bend over backwards to attract development and ensure that it goes ahead. I would just like to put that forward first. I do not think we are starting with a major problem that involves the planning system. There are major problems about promoting economic development in those areas. There may be elements of the planning system that could be improved but there are other factors that are probably more significant.

Ms DENNIS: I think in our submission we outlined that over the last decade where there has been discussion around the planning reform agenda and very widely about how to reform planning processes across New South Wales, the instigation or the reason for those reforms has been to deliver growth primarily in Sydney. This inquiry is justified in looking at what is happening in rural and regional New South Wales because most of the discussion has been around metro issues. I think many practitioners would acknowledge that fact. The dilemma though is what do you do with your planning processes if you just look at rural and regional New South Wales, and what processes need to be addressed?

In many ways we outline in our submission that it is not really the processes that are fundamentally at fault but there are a lot of issues that have been neglected. The framework, if you want to look at it that way, is not totally broken because from our experience anyway, from a council perspective, development is very strongly supported and getting a development application [DA] through is not the same as in Sydney. They are generally done through a much faster and a smoother process and most applicants appreciate the help that they get from council. They positively choose to do a DA because they know the staff will help them through that process and give them service and advice. So we do not think the system is broken.

I think in our paper though we outlined the issues that need to be addressed. There are a lot of issues in rural and regional New South Wales that need to be addressed that are complex and conflict and fundamentally are very tricky, and we probably need better processes around the relationship between local government and State agencies around how to deliver better economic outcomes. The big issues are infrastructure, and we have got a list on page three where we go through what we think are the issues that need to be addressed.

The Hon. MICK VEITCH: In your submission you talk about the newly created part 3B of the Environmental Planning and Assessment Act and the fact that there was little advanced consultation with your organisation before that was brought in. Do you have any idea why that was and what are the impacts or the implications of that?

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Ms DENNIS: We do not know why. Probably, practically, the Greater Sydney Commission was the focus of the changes for that particular legislation, and the legislation to change the Environmental Planning and Assessment Act itself seemed to be sort of attached to the back of the Greater Sydney Commission Act. I think you need to probably ask the New South Wales Government that; we cannot answer that. All we can say is that we are disappointed we did not know about that. Hence, I think we do say in our submission that we have not really been briefed on what that really means.

The Hon. MICK VEITCH: That is my next question. What are the implications of part 3B? What does it really mean for councils in regional New South Wales?

Ms DENNIS: I suppose we are trying to work that out ourselves. It appears to be to make the regional planning process a strategic process, not a policy process that goes on at the moment. So there are many regional plans that the New South Wales Government develops by the Department of Planning and Environment. What this process does will shift that process into a legislative framework under the Act and it has fleshed that out, I suppose. Our comment to the department last year was that we felt a fundamental flaw of that legislation was lack of consultation with councils and we advocated strongly that that legislation needed to be amended. They indicated to us that of course councils will be involved, and I am sure at a process level they will be, but we would much prefer to see in black-letter law how councils will be involved and what the expectations are around that.

The Hon. MICK VEITCH: You also say in your submission that instead of setting up a new Act what really is needed is a State regional policy that identifies areas of future growth in regional New South Wales. Having been on a local government council in regional New South Wales myself, one of the complaints often levelled at our council—and I do not think Young Shire Council in those days was an anti-development council—one of the accusations levelled against us was that it was just too complex and complicated to navigate your way through your DA. I was interested in your comments about how regional DA approval processes are quicker. Is it too complex? The reason I ask you that is because of your statement here about how we do not need separate legislation, we need one. What are the complexities? Are there too many SEPPs, too many LEPs, too many instruments?

Ms DENNIS: We have put in submissions around the planning reform agenda, which we are happy to send to this committee. Yes the planning system is complicated; the framework is complicated. We have now regional statutory planning processes that have just been newly introduced; we have State SEPPs, which there are probably 70 or 80 SEPPs; and every local government council has their LEPs and their DCPs. So yes we have layers of plans and under the new complying arrangements we have got the unusual situation in New South Wales of having different development controls for the same development, which is actually quite unusual. So you can go the State park or the local park on some types of development under the compliance certification process. It is complicated.

What we are saying in this submission is that to solve that it is not going to help address the complexity by just having two different Acts. Perhaps you need to flesh out what was meant by that, but if there are two Acts you are going to still have all the issues around which Act applies to the peri-urban areas, which are the most contested areas, and how are you going to manage that and what is going to be fundamentally different? If you want to improve the planning system improve it holistically, I think our position is—do not put it into two Acts.

The Hon. MICK VEITCH: My last question goes back to identifying growth areas or growth centres. Cross-border issues: some of the growth centres in New South Wales are located on borders, whether it be around the ACT, down at Albury, up on the North Coast and the Northern Rivers. Often in those centres they will say that in New South Wales our arrangements are much more onerous than approval processes and development processes just across the river or just across the road into another jurisdiction. Is that statement correct and, if it is, is there anything you can recommend to overcome that?

Mr McBRIDE: That statement is often made. It seems to be an element of conventional wisdom. I have not seen any collated data on it or a detailed comparative analysis or anything, but I will express a view that was put to me by a general manager of one of those councils, which was that yes the developers are forever saying that, but he has assessed the situation and the reality was that it was not true; it was actually no more complex, just part of the game that goes on when you can play border divisions and things like that. That is the view of one general manager who is well experienced and is in one of those hotspots.

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Ms DENNIS: Perhaps to come back to who has got the better planning system, which is hotly contested right around the country, I am not going to offer too much advice on that other than to say there are some benefits in different jurisdictions, but at the moment everyone is copying each other. So there is a lot of work done to align the difference across borders anyway. It depends what development you are talking about; everybody is very different, depending on what you are talking about. I think I would rather know are we talking about single dwellings or are we talking about—

The Hon. MICK VEITCH: It was a broad, generalised statement.

Ms DENNIS: Yes, and it is so general it is very hard to make a good comment. But I would say that the big omission, let us say, that is probably agreed across most councils, what is missing in New South Wales, let us say, in rural areas—and that is true also in Sydney—is the interface between land-use decisions and infrastructure decisions. So we do have a problem—councils have this problem, or they tell us where they are trying to get growth and deliver growth and approve subdivisions and whatever, and the delivery cycle by the State agencies is very unclear.

So when councils are doing their local business, which is local environmental plans and trying to locate new development and upgrade development and encourage economic development, often where it is really problematic is trying to get all the agencies at the table agreeing on timing around delivery so that that can go ahead in a coordinated way. That is an agreed fault and if we could all come together on that—agencies as well as councils—on how we deliver the plan, not just talk about the plan, which will therefore deliver better economic outcomes to communities, I think would go a long way in making the process better.

The Hon. MICK VEITCH: So coordination of the delivery process?

Ms DENNIS: And delivery. We would say, from our perspective, bringing agencies to commit to what they are going to do in a time frame so that councils and agencies can say, "Okay, we are going to now release this area in the next five years", or not, and we do not have to have an endless debate around the commitment around that sort of infrastructure—schools and hospitals and so on, too.

Mr McBRIDE: Transport.

Ms DENNIS: Transport is the biggest.

CHAIR: Water.

Ms DENNIS: And water. We do water in the country, but yes.

The Hon. RICK COLLESS: Thank you for your submission and the succinct way in which it was structured. Quite a few of the submissions talk about the issue to which you allude in dot point four on page three of your submission about the protection of prime agricultural land. That raises the issue of land use conflict which I believe is probably one of the most important aspects of this inquiry. The Planning Institute sum it up very well when talking about regional plans and say that they should provide the framework to make complex land use decisions within regions which, in turn, reduce land use conflict and enhance the potential to secure sustainable land use outcomes for communities when measured in social, economic and environmental terms.

The social and economic aspects are particularly important to a lot of rural communities when they are trying to get developments off the ground. A member council of yours, I presume, recently wrote to me with some problems they were having in getting some developments approved which were ultimately going to provide 300 or 400 jobs in their community and at this point in time it has taken 2½ years, and they still have not got approval. They are the sorts of things that we want to try to work through and make simpler.

You say that it is easier to get development applications approved in regional areas, yet I have a draw full of similar problems that local government and developers have had with getting big developments approved in regional areas. Of course, they are the ones that provide most of the jobs. In relation to that land use conflict and the zoning processes that go with it what is the process that is used in order to determine the zoning that is ultimately placed on a particular parcel of land? If a major development is to occur in most cases does it require a rezoning to go through?

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Ms DENNIS: There are a few questions here. It is hard to make comments on big development because I am not exactly sure what type of big development, but just keep in mind that if it is very big—

The Hon. RICK COLLESS: A State significant development, yes.

Ms DENNIS: Well then it is not. If it is State significant—

The Hon. RICK COLLESS: It is not an issue about local government—

Ms DENNIS: Yes, that is right, we are not the consent authority, the Minister is. We only have an advisory power.

The Hon. RICK COLLESS: What processes would you like to see put in place so these sorts of developments can get approved inside 12 months rather than three years?

Mr McBRIDE: I think a lot of that would have to do with streamlining the concurrence process of the various government agencies that will be involved in that planning decision. Often some can be quite quick, others can be quite slow, depending what processes, studies or whatever they feel they need to go through to give their concurrence. For some types of industries there can be several different government agencies that are required to give concurrence and that could be everybody from the Roads and Maritime Services to the Department of Primary Industries and everyone in between.

That has been demonstrated to be a problem in the past that can add substantially to the delays. In other processes it has been recommended that there be something like a deemed approval or concurrence period, like if they have not responded within a certain period then it is deemed to be approved, or something like that. As Jenny said, without knowing the individual development applications in question and their scale and complexity and what types of concurrences would be required for those industries, it is hard to be specific. But there is certainly scope, we would think for streamlining of those processes.

The Hon. RICK COLLESS: In your fifth dot point on page three of your submission you refer to protecting biodiversity values which is a very important part of this process. In the review of the biodiversity legislation that was done recently, which is the basis of the forthcoming biodiversity conservation bill, it is mentioned that areas of high biodiversity value land needed to be mapped. Does that also raise the issue that other areas of high value land need to be also mapped with a view to subsequently making that the framework for the zoning process, particularly given that we have areas of high agricultural value land, or high resource land, or high value for rural subdivision and so on? Do those need to be more clearly mapped and identified with a view to zonings being appropriately placed around that which would, of course, then give developers a much better idea of where they should be going to get developments through quickly?

Ms DENNIS: What you are talking about is the very purpose of the regional planning process. That is exactly what a regional environmental plan [REP] is meant to do. Just going back to your former question about the issues around complicated developments, there are two types, and so it is hard to answer. There is the type that complies with the zoning that is just a big thing and complicated and has lots of impacts and needs managing so that communities find it acceptable and complies with council's policies or whatever. That is just like a management process, and they are much easier to manage. You can work your way around that system and make sure that you deliver outcomes in a timely way.

There are ways of doing what I call a pre-DA process which we strongly advocate for so that applicants go in knowing what is ahead and they do not get tripped up. Many applications that are big need consent from other agencies and if they have not thought about that until they go into the development approval process they can be delayed because they did not think ahead. You do have new players in the system who do not really understand that and that is really hard to resolve.

The second situation which is more complicated and is difficult for everybody is where you need a rezoning. Now why rezonings are so complicated is because of the very two things you have actually identified— where do you put your priority between the tension between prime agricultural land and growth of the town, where do you put your priority with biodiversity values? Both those decisions, when council is considering them and they have the advice from every State agency on all these issues, are complicated. They are not like hard-edged "yes" "no" answers. Although they can be and are mapped in regional environmental

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plans that is the point of a strategic regional plan, when it gets down to someone who wants to develop their own land they may want to move the mapping and adjust it, and there becomes the debate.

That is why it becomes quite hard to say "Okay, should you make that system really simple to change that zoning or should the applicant have to go through a fairly rigorous test to change that zoning?" That is why there is a lot of debate around how to improve that process because there are two views: the applicant's views and the public's views.

The Hon. RICK COLLESS: I take on board exactly what you are saying and understand that. When regional environmental plans are prepared what terms of reference are used to determine the zoning? Are they biophysical? Are they location? I have a problem, I have got to say, with high-value agricultural land being subdivided for hobby farms, for example, and that has happened in a lot of towns around New South Wales where not too far out on the other side of town there is some different type of land that is probably far more suitable for building on than some of the better agricultural soil. What sort of parameters should we take into account when we are determining that land that is fit for purpose for whatever purpose we are talking about?

Ms DENNIS: That is a very good question and should be integrated into this new Act. The Act put down lots of heads of consideration for regional planning last year that will be implemented. What you are raising is: what are the criteria in determining the values and objectives for competing interests. That sort of question should be built into the framework. I am not familiar with what the State Government is doing in that space. That is a good question for the State Government to look at. How councils deal with it? We have to follow what is called a template, so you have a fairly general regional plan and you have to convert that into zonings. We have to follow what is called a template.

All councils across New South Wales have complied now with that template—I think there are two to go. So 152 councils have reworked all their zonings to comply and the biggest complaint we got—because I sat on the panel when that was being reviewed—was from our rural and regional councils about the very issue you have raised about translating what you said: How do we protect prime agricultural land? The only way the planners can do it in a way is to keep the permissible lot size at 400 hectares or higher, or 1,000, which is what tool a planner will use. There is a heck of a lot of pressure, as you know, to subdivide that land into hobby farms and a State environmental planning policy [SEPP] has been written around that conflict trying to resolve the need to protect food security compared to the right of the applicant who wants to subdivide.

The Hon. RICK COLLESS: There is no easy answer to that, is there?

Ms DENNIS: There is no easy answer to that but councils in our rural areas said they did not like the template because of that very issue and out of that process there has been a huge amount of debate around how to position our rural zonings—I cannot remember the name right now but we have rural zonings that try to manage that the best we can and councils try and put a very high minimum lot size on that land. That is what councils do and do not let that land be subdivided. That is the best we can do about that.

The Hon. RICK COLLESS: And as I say, there is no easy answer to that. Look at the situation where there is a changing agricultural land use, for example, from extensive grazing like what is happening on the North Coast with the blueberry industry—and it is happening in other parts of New South Wales not just on the North Coast—so you go from a relatively large lot size with extensive grazing into a highly intensive blueberry farm where the optimum size might be 10 hectares.

Ms DENNIS: That is right.

The Hon. RICK COLLESS: Somehow we have to be able to incorporate that to allow that industry to proceed.

Ms DENNIS: Yes. Councils deal with that all the time. It is not easy; it is not like a yes-no answer. What applicants or farmers do is they put in a request for what is called "intensive". They need a development application [DA]. Where the land is classified as broad acreage—that is what we call it—where they want to do intensive agriculture, they usually have to put in a DA, so that is how councils manage that process. Where it is justified, based on the criteria you are talking about, then an applicant can get consent for intensive agriculture and therefore the land is subdivided to meet that expectation around that type of activity.

CHAIR: Is that covered by a SEPP or is it in a local environmental plan [LEP]?

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Ms DENNIS: That is in the LEP? So each LEP zones agricultural land. At the moment most rural and regional LEPs allow farming without consent. That means that it is just a right, of course. Only where you are wanting to do intensive farming, which is what you are talking about, do you need a DA consent and means that council will consider that in light of the issues you are talking about. That is probably not such an issue as the hobby farm.

The Hon. RICK COLLESS: It is an issue.

Ms DENNIS: Yes. Pressure is quite strong, which is different because that subdivide land up and councils try to put it on the least desirable land.

The Hon. RICK COLLESS: Under the regional plan if we had a better process for determining that fit for purpose, in a perfect world we would end up with a situation where you had land that is identified as high value land for intensive agriculture as opposed to extensive agriculture. Do you think it is feasible to look at that as an option going forward, that we can make that distinction? There needs to be a degree of flexibility in the boundaries because of the changing nature of agriculture?

Ms DENNIS: Every regional environmental plan [REP] would look at this sort of issue. This is such a fundamental issue as to how you deal with land use issues in any rural area so this is integrated into the system. It is just always challenging because of the things you have said. I think the biggest problems, though, that councils face—and I can only speak from councils' point of view—they already deal with rights that farmers already have on their property. You may want to have zoned the land differently 20 years ago but you have not so you cannot really take away a right which is considered unreasonable so therefore you are quite constrained.

Why it is really important, by the way, that council planners get together with the State planners who are doing the regional environmental plan, which is what we advocated for under this new world, is so that the council planners can bring to the attention of the State planning process during the REP the constraints on the individual land because in practice you have already got rights aligned to different allotments and you have to juggle that and you cannot ignore the local context when you are looking at the regional. You need to work together to try and get better outcomes otherwise it just does not work.

The Hon. PAUL GREEN: You may have a farming right but the new laws and what is coming out are choking the hell out of the right to farm. Do you want to explain the second last dot point of page three of your submission before I talk about environmental [E] zones?

Ms DENNIS: I am just referring to the State policies. The department of planning did a review of E zones for the five North Coast councils and tried to address some of those issues around the right of the farmer to farm the land making sure that E zones only applied to land that was considered to warrant an E zone.

The Hon. PAUL GREEN: That is prime agricultural land as well?

Ms DENNIS: Yes.

The Hon. RICK COLLESS: That is the issue.

The Hon. PAUL GREEN: That is my point.

Ms DENNIS: I do not know that it did, actually.

The Hon. PAUL GREEN: It does. I will show you in a moment.

Ms DENNIS: Okay.

The Hon. PAUL GREEN: One of your comments was: when there is an application, it is really between the applicant and the public. I dare say there is a third party in there called bureaucrats and if they do not want that project to proceed for their own reasons they can put hurdle after hurdle after study after study after overlay after overlay on that baby until it sinks or delays. There is a wonderful saying that I heard early in my local government career, "Defer, defer, deplete, delete". I dare to say, sadly, that third party can control what actually happens on that farmland and the poor farmer, the guy or lady who is investing in

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either a legacy or heritage of hundreds of years, had the farm and farmed it now are in that situation, albeit that it is zoned farming. There was an article from the *Land* dated 10 March 2016 about a person who has a macadamia farm on the North Coast—I might actually table this document, Mr Chair.

Document tabled.

The Hon. PAUL GREEN: The farmer had some tape behind him saying "environmental zone". The article talks about E zone key points and it says "council can apply an E zone to private land if they can show the primary use of the land was environmental conservation E2 or E3 over two years." If you have a farm and you understand farming, two years is not a long time when you have a generation of farming to leave ground untouched for a specific purpose, such as to regenerate. I leave that to my agronomist friend the Hon. Rick Colless to tell us about how land can rehabilitate itself so one gets the best yield from it. These E zones in regional areas are sterilising opportunities for jobs growth. If we choke our farmers, we choke economic growth in rural and regional areas.

CHAIR: Let us get the witnesses' view on what you are saying. What is your question?

The Hon. PAUL GREEN: I have one more line and then I will ask the question. I am talking about regional, rural and coastal areas—because the third part of this is coastal. If it is farmland it is okay, but if it is a coastal area the land is locked by being either a national park or Crown land. There is not a lot of land for regional councils to develop. We are constantly sterilising that land by developing habitat corridors. That has biodiversity benefits but will it not hinder economic and jobs growth in regional areas if we do not do something about it?

Ms DENNIS: Perhaps you misunderstand the report. The report is identifying it as an issue. It is an issue. I am not coming down on either side of it. There is a huge debate going on about E zones. Councils did not introduce E zones.

The Hon. PAUL GREEN: I am asking for your comment on the impact of E zones on economic development in regional areas.

Ms DENNIS: It is not a yes or no answer. I have included E zones in the paper because it is a current issue. E zones are part of the State Government's template process, under which councils are required to identify E zones within their areas. That has been reviewed. It took three years, which we objected to strongly. The State Government took three years to review it. I included it in the paper because there is a new policy on how to restrict E zones. The review came out with a more conservative or restrictive view of E zones because of the issues you are raising—because they were sterilising or there were concerns about them sterilising agricultural land. The issue right now is whether that will roll out generally across the State. I am just identifying it as one area that needs work. This is not a yes/no answer. I am not saying you do not need them, but you certainly do not want them everywhere.

The Hon. PAUL GREEN: Neither am I. I will put on the record that the Shooters and Fishers Party does not want them. It wants them abolished. On the far South Coast E zones mean that the land is locked in by national parks and Crown land. The councils there do not have a lot of land to work with for their growth management strategy, which councils implemented a few years ago. You made a comment about the applicants and the public. My understanding is that on the South Coast they put together a strategic land use panel. All the recommendations of that panel were ignored by council because the mayor and councillors or the staff who wrote the report wrote it in favour of going against the recommendations. If we are not going to listen to the people who understand the land, work the land and use it strategically, where do we go? Do we just lock this land up and say that we will close down regional areas? Is the critical pathway to getting quick growth in regional areas not worth the time and effort?

Mr McBRIDE: I do not think we disagree with you on the problem that exists. Planning is all about resolving the conflict about competing uses of land. Councils in regional areas generally are strong advocates for economic development. I think many of them would agree with your sentiments. There are certain areas, such as the far North Coast, where the community has strong environmental values that are probably reflected democratically through the council. There are differences around the State, depending on the make-up of the community and the wishes of the community.

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We are certainly familiar with the constraints on councils that have a large amount of land that is locked up in national parks. There are also various types of Crown land and Crown forests and so on. We see that, not just from the planning side, it places a physical limit on what they can do to create new growth areas and growth corridors and so on. We also see it as a financial problem for those councils in that, as you are well aware, it substantially affects their rate base. In some cases 75 per cent of the land in a local government area is not rateable, so there are distortions there too. We, through other paths, are continuing to lobby to try to correct that situation to some extent. That is another story. Councils are certainly aware of these issues. We are certainly aware of these issues. They can be extremely complex. They are not easily resolved.

The Hon. PAUL GREEN: They are easily resolved. That is my point. There should be a commonsense approach to tackling the need for employment and a strong economy in regional areas. I will give you another scenario. On the far North Coast there is a man with a 200-hectare macadamia farm. The council decided to put mapping over that farm, straight down the middle of it. Fifty per cent of his property was suddenly in a new zone.

The Hon. RICK COLLESS: Was that planted to macadamias?

The Hon. PAUL GREEN: Yes. It was cut straight through the middle. This was the same man who poured approximately \$1.8 million into revegetating the causeway and the creek. He cared for the environment, but because of this great idea about E zones and overlays the line was drawn in the middle of his property and he was unable to produce. Anyone who has spent time in regional Australia knows that creating a long-term job in regional Australia is hard. There is such a mismatch of E zones right across regional areas. It is easily fixed: get it off prime land and get it off our farms. There are surely other measurements to use to manage the system. We cannot sterilise the opportunities for regional jobs growth and economic growth. Otherwise everyone will be moving to Sydney because it will be the only place where they will be able to function without an overlay on their house.

Ms DENNIS: I suppose it does depend on which E zone we are talking about on that land.

The Hon. PAUL GREEN: It is E2 and E3.

Ms DENNIS: You cannot have two zones. You have to have one.

The Hon. PAUL GREEN: That brings me to my next point. My property is zoned E2 and E3. It is split by a road. One side is E2 and the other is E3.

Ms DENNIS: By a road, yes. But it is not meant to stop the activity. The activity is still permissible.

The Hon. PAUL GREEN: There are different activities in different E zones, as you know.

Ms DENNIS: Yes, but it should not preclude the continuation of the use. The E zone has nothing to do with the use of the land.

The Hon. PAUL GREEN: No, but it can be sterilised by the overlays put on it, which have been put into the local environmental plan [LEP].

CHAIR: To assist the Committee, Ms Dennis, would you go through the process of how E zones are created and who creates them?

Ms DENNIS: I am probably not the person to talk to. I think you should talk to the Department of Planning about this.

CHAIR: We will.

Ms DENNIS: As I understand it, there are three E zones in the LEP template. There has been much debate about them. Councils have not liked them either. It depends on who you talk to and where. There has been an incredible debate on E zones. It is not as though everybody thinks they are fantastic, for all the reasons you have said. There has been a lot of misunderstanding about E zones. People asked whether an E zone was a layer. I am getting technical, but there is now a difference between a zone and an overlay. Is an E zone an overlay, not a zone? E zones have been misunderstood, which is why there has been such a kickback about

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them, and that is justified. E zones are not meant to preclude the underlying of the use of the land. An E zone is only meant to be about maintaining certain existing values of a property.

The Hon. RICK COLLESS: Does it prevent land use change in that case?

Ms DENNIS: Not if it is permissible use, no. It is not meant to. If zoned land is used for agriculture that use is meant to be still permissible.

The Hon. PAUL GREEN: But then there is the two-year gap.

Ms DENNIS: I have not heard about the two-year gap.

The Hon. PAUL GREEN: This is the latest information. I am pretty sure it was introduced by the Government. It says that for E zones on private land—that is, E2 or E3—even if landowners can show that the primary use was to conserve the land, there must be a gap of two years before the zoning can be changed. If a change to an E zone is proposed, councils need to validate ecological evidence via site visit, property development records, farm management plans and up-to-date aerial photographs.

Ms DENNIS: This is meant to make it harder—

The Hon. PAUL GREEN: It is so complex for the poor old farmer. He is on his land, trying to build up his business. The article I am paraphrasing says that for land to remain zoned agricultural farmers need to show farming has been the primary use, including leaving the land fallow as part of management practice, over two years.

Ms DENNIS: I am not familiar with that. All I can say is that our five councils that had this dilemma strongly lobbied Local Government NSW saying that they were not happy about the lack of decision around this. So what has happened is that the department has now brought in a policy with which councils have to comply. The five councils that I rang all have mixed views about this, because it all comes down to individual sites, how it falls and whether or not it falls fairly. Councils have different views about that. They do recognise the needs of the farmer to keep the use of the land viable and workable and so on. So that is not a problem. They do not disagree with that.

The Hon. PAUL GREEN: Can I just clarify that what you are saying is that the bureaucrats in council have different views about that, and some councillors have different views.

Ms DENNIS: Yes, I agree.

The Hon. PAUL GREEN: The majority of councillors do not like it but it has been implemented by the State and the State is driving it through its regional planning departments.

Ms DENNIS: Yes, that is correct. I apologise if I misunderstood that.

The Hon. PAUL GREEN: I just wanted to make it very clear what you are saying. I am just elaborating on exactly where the drive for this and the motivation to sterilise agricultural lands is coming from—it is not coming from the public and the community; most of them want to reasonably negotiate. But in essence on farms and prime agricultural land they are saying, "No, thank you, we do not need this on top of everything else we have to deal with."

Ms DENNIS: The only other comment I would make to finish this is to say that it is a problem. I am not disagreeing with anything you are saying.

The Hon. PAUL GREEN: And I am not rejecting what you are saying by any stretch.

The Hon. MICK VEITCH: Ms Dennis is not on trial, just in case she got the impression from Mr Green that she was.

Ms DENNIS: No, that is alright. I just wanted to let the Committee know that this issue has been raised at the Local Government New South Wales conference by councillors every year for the last three years. So, yes, we are aware of it. I just put it down there because it is a problem. Our councillors have said to us that this is a problem. I am just saying that it is not an easy problem to solve. Just to perhaps wrap up, because of the

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legislation around biodiversity coming through this year the interaction between the E zones and the biodiversity legislation works will need to be married. We have said that to the NSW Government.

The Hon. PAUL GREEN: Moving away from that area, as we have given it a fair bit of attention, I would like to ask about other areas of regional growth and things like that, in particular the issues of climate change, erosion and infrastructure needs—let alone infrastructure renewal. Do you think it would be helpful for us to look at those things in light of the restrictions that are coming on because of sea level rise and stuff like that? It is a potential blockage certainly to coastal community economic growth.

Ms DENNIS: At the moment there is coastal legislation, I just cannot remember the name. There is a State Environmental Planning Policy [SEPP]—

The Hon. PAUL GREEN: I think it is SEPP No. 71.

Ms DENNIS: No, there is a new one out now that replaces SEPP No. 71. It is a SEPP for the management of all coastal areas. It is again a policy from the New South Wales Government—it is not our policy—to manage land at risk and not at risk and to more clearly identify the land that is already identified in SEPP No. 71 and so on. It tries to tidy up that space. Most land is not at risk. There is only a very small area at risk.

The Hon. PAUL GREEN: That is a good point, and I would like to draw attention to that. I am sorry for interrupting but I want the evidence to show what we are trying to get to here. Is the policy overreaching too many areas or is it really well written this time and actually aimed at those areas of risk only rather than sterilising a lot more than it needs to?

Ms DENNIS: We do not know. We have actually asked for mapping so I suppose it is a case of watch this space. We have been consulted. I can only talk from the point of view of local government and the councils. There is going to be some mapping around that on the coastal management SEPP—I think that is what it is called. That will bring out some mapping and we are very interested in that mapping ourselves.

The Hon. PAUL GREEN: So am I. Will that mapping be based on the knowledge of the people who lived in the area for 50 years and have seen these changes?

Ms DENNIS: Hopefully.

The Hon. PAUL GREEN: Or will it be based on some people who have a lovely computer with lovely algorithms working out the mapping?

The Hon. RICK COLLESS: It depends who does it and how the mapping is done.

Ms DENNIS: The Committee will have to ask those who are doing the mapping.

The Hon. RICK COLLESS: It is a good question for the Office of Environment and Heritage.

Ms DENNIS: Some of the mapping is just what is already there, by the way: the littoral forest and everything that is not contested. There is only a very small area that is contested, as we know, as to where the area of risk is.

The Hon. PAUL GREEN: I have just one final question. Obviously in light of regional growth, and members have talked about this previously, a lot of growth is undertaken by big developers now. They are actually bringing in jobs. Do you have any concerns about the pathway for probity and some people using that to stop projects? Are you finding any evidence that transparency and probity are being used as hurdles rather than in the proper context to ensure that the right thing is done the right way in the right order?

Ms DENNIS: Mr McBride might want to answer that.

Mr McBRIDE: I am not familiar with that.

Ms DENNIS: I am not—

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The Hon. PAUL GREEN: You can take that question on notice.

Mr McBRIDE: We might take that on notice.

Ms DENNIS: I am not exactly sure what you are getting at.

The Hon. PAUL GREEN: I am saying this: if company A comes into the area and there is a group of local people who say, "Not in my backyard" then they know that the way to cripple the project is to constantly question the integrity of the officers, the planning legislation or something which has been used wrongly. So my question is: Given your exposure to this sort of thing, is probity or transparency being used as a hindrance to bringing down projects that could be economically viable and good for jobs growth in regional communities?

Mr McBRIDE: I am not aware of any specific cases of that. I am not saying that opponents of development in their campaigns will not use those words or that argument to try to advance their campaigns in a political sense but I have not seen a real example of where it has changed the outcome. I think that any changes to outcome have come about for more substantive reasons than allegations of probity, which are very easily made and not easily verified.

The Hon. MICK VEITCH: I have a very quick question following up on some statements that were made in the line of questioning from the Hon. Rick Colless. Does your organisation have a very easy A4 schematic that is like a roadmap through the planning instruments that will be needed? So it would cover the overarching legislation, the SEPPs, the Development Control Plans [DCPs] et cetera. Is there a flowchart?

Ms DENNIS: I do not have one but I think the Department of Planning does.

The Hon. MICK VEITCH: I am going to ask them too but I just thought that, if you have one, I could get yours, marry the two and see if there are any differences.

Ms DENNIS: We probably use theirs. I am pretty sure they have documents that show how to do a rezoning by flowchart. I know those documents.

The Hon. MICK VEITCH: Does it all fit on one A4 page rather than going on for reams of paper?

Ms DENNIS: It depends how small the font is. I think you can click into it.

The Hon. RICK COLLESS: I would like to go back to the issue of regional planning and the new part 3B. I think you said earlier that the new part 3B in terms of the regional process looks as though it has been tacked on to the framework that was put in place for the Greater Sydney Commission and so on. In terms of regional development, how would you like part 3B to work? I understand fully that you had little advanced consultation about this but no doubt you have had an opportunity to have a look at the legislation itself. How would you like to see this actually operate in practice?

The Hon. MICK VEITCH: Is this an ideal world scenario?

The Hon. RICK COLLESS: Yes, this is in an ideal world. Of course the whole purpose of this inquiry is to improve the opportunity for development in regional areas.

Ms DENNIS: From a plan-making point of view, not a development point of view, getting the planning straight and dealing with some of the issues we have discussed here, which are always challenging, having everybody in the room is probably the most effective way to improve planning. So it is not really about the legislation except that the point we made strongly was that consultation provisions around that to us seem weak and we think that is fundamentally going to undermine the implementation and the workability of any regional planning process.

Ms DENNIS: Having agencies, councils and public in the room when you are dealing with these sorts of issues gives you the better outcomes. So making sure there is an inclusive process that goes into the knowledge, the criteria and the objectives will improve the outcomes. In trying to pick up what Mr Green said, early in your regional environment plan [REP] process will mean that it will flow on into your local environmental plan [LEP] and you will not have crazy things in your E zones. You will have an E zone that is a

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better fit for what it is trying to achieve and it will not conflict with other objectives of the code or the LEP to make sure people can farm their land, which is clearly not what is intended by an E zone.

CHAIR: Thank you so much, that has been very helpful.

The Hon. MICK VEITCH: Thank you very much, we can only apologise for Mr Green.

Ms DENNIS: No, that was very interesting.

The Hon. PAUL GREEN: I note you represent the NSW Aboriginal Land Council as well. Do you see any implications for land and planning issues for them regionally to enable them to unlock their economic opportunities? You do not need to answer that right now but take that on note. Are you happy with that?

Ms DENNIS: Yes.

Mr McBRIDE: We will take that on board.

(The witnesses withdrew)

(Short adjournment)

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DAVID BROYD, Vice President, Planning Institute of Australia (NSW), affirmed and examined:

DARREN HOLLOWAY, Committee Member, Planning Institute of Australia (NSW), sworn and examined:

Mr BROYD: I indicate that as well as being Vice President of the Planning Institute of Australia (NSW) I have had my own business in town planning consultancy in Newcastle for the last four years and prior to that worked in local government at executive manager level for about 30 years.

Mr HOLLOWAY: I have worked in the private sector for the last 10n years. I have also worked previously in the Department of Planning and previously in academia as well.

CHAIR: Would you like to make a short opening statement?

Mr BROYD: The planning institute certainly advocates regional planning as an important role of the State Government within the context of a single piece of State planning legislation. I would like to use my opening statement by elaborating on some of the events since our submission went in, in terms of the adoption of the Illawarra-Shoalhaven Regional Plan and the exhibition of the Draft Hunter Regional Plan. That is primarily because we see whilst we have some issues with the technical content in the actual planning proposals within those plans they are quite limited.

The two most important issues are governance and infrastructure integration with the planning of development. It is evolving within State Government but at present I think it is fair to say that the Draft Hunter Regional Plan has a realm of recommended actions that in the vast majority are quite generalised, quite muddled and it is not clear at all about who does what and when to implement the plan. There is no prioritisation or real direction in our view for the role of each State agency in providing policy advice or providing infrastructure. There is a lack of connection between what the constituent councils in the region will do to implement the plan.

Each of those two plans has a proposed governance structure, which is a very worthy inclusion. But in the Draft Hunter Regional Plan case there are 20 members of a governance committee, including what is currently 11 councils and will be nine if the proposed amalgamations go forward. So, it is a large committee, but again there is no implementation plan about what that committee has sought to do and when to implement the draft regional plan. Our main focus is the need for much more emphasis on tangible actions and emphasis on governance structure within the State Government that makes it quite clear about the whole-of-government approach, what sub-agencies should be doing to implement the plan, and to tie that approach into the State budget process to integrate infrastructure delivery with the preferred development pattern that is in those regional plans, which is really very absent at the present time.

The governance structure in the Draft Hunter Regional Plan has the Department of Planning as the chair and the lead agency. We certainly support the Department of Planning having more of a lead role in implementing regional plans. However, we would submit that there should be a Minister for the Hunter so that there is a political leadership that feeds back into political debates about competing budget priorities; an advocacy role in cabinet, potentially. That is similar to a relatively successful approach in parts of Queensland over the past 10 or 15 years.

We submit also that Treasury should be at a senior management level represented on that committee to build in the Treasury budget aspect. We would say that there should be an independent auditing component of how the implementation of the plan is going after year one, year five, et cetera. In many ways we are advocating something that has some similarities with the Greater Sydney Commission that has been established. Just to conclude on that aspect, at least the Illawarra-Shoalhaven Regional Plan, and it is an appendix, actually has direction and action: Who is the lead agency responsible for delivery? Who are the support agencies? Is it short, medium, long term? Is it ongoing?

And the intent, as I understand it, is to produce an implementation plan for each of those actions that are in the short term. So there is a greater clarity about who does what and when and how it interrelates with the State budget process to provide infrastructure that aligns with that plan. That is where we are certainly focusing our emphasis on responding to that Draft Hunter Regional Plan and commentary on the Illawarra-Shoalhaven Regional Plan. Thank you for that opportunity.

CHAIR: You are saying that the Illawarra-Shoalhaven Regional Plan is a good model?

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Mr BROYD: It is a good model in the sense that it has a much clearer action structure and clarity around implementation responsibilities and if the intent to have an implementation plan for each of those actions is carried forward then that will only enhance that clarity for what the roles of State agencies are and enable the Department of Planning, I guess, in many ways to play a role of integrating or leading the integration of planning development with the delivery of infrastructure.

CHAIR: And the governance structure for that Illawarra-Shoalhaven Regional Plan?

Mr BROYD: It is quite similar to the one recommended for the Hunter. The Department of Planning, as I recall, is the chair. There are State agencies at the next level, not including Treasury. So that is where we would part company, if I recall that correctly, in terms of what the structure should be to elevate the political involvement and the advocacy opportunity that that presents in Cabinet and in the budget processes.

The Hon. MICK VEITCH: You spoke earlier about the Greater Sydney Commission Bill 2015. One of the things they did was to introduce part 3B to the Environment Planning and Assessment [EPA] Act 1979, which relates to regional plans, district plans and sections about implementation of those plans. We heard from our previous witnesses that that changed the focus from policy to strategic planning in the regions. Do you have a view about the new part 3B of the EPA Act and how can that be best utilised for stimulating economic development and looking towards best practice for regional planning in New South Wales?

Mr BROYD: I think this goes back to the governance structure primarily and how you facilitate that. The Greater Sydney Commission does get away, obviously, from the parochialism of local government in having the district commissioners and that kind of structure and has plans for different districts. In my view one of the greatest aspects of planning for the economic development facilitation is having more certainty in the process and what areas, based on research, are able to be developed industrial or residential, what are the no-go areas environmentally, et cetera, and to integrate that infrastructure to delivery—which is, if I recall correctly, what part 3B enables for that organisational structure. I think it has real advantages in getting that certainty at a district level for planning, to give certainty, particularly for investment and confidence that there is State government policy support for those areas to be developed which can facilitate economic development.

The Hon. MICK VEITCH: In your submission you talk about open zoning provisions. Can you explain further what you mean by that and how you see that being of benefit to regional New South Wales?

Mr HOLLOWAY: Generally within a local environmental plan at the moment most councils will adopt land uses that are permissible without consent, permissible with consent and then prohibited. There is a general rule in a lot of local environmental plans that within the prohibited section basically anything that is prohibited is not permissible. That is what we term a closed zoning. Basically, whatever permitted land uses are in the LEP is what you are allowed to do. There are pros on cons to that approach.

One of the cons is if you are slightly outside or do not meet one of those definitions it is very difficult to actually lodge a DA. Then you get into issues with council about whether your development is permissible or not. If you take the other approach where you say that all these land uses are prohibited but in the permissible with consent category you basically say that anything that is not prohibited we are prepared to actually think about and assess it gives you a bit more flexibility at the local level in the LEPs.

The Hon. MICK VEITCH: To allow common sense maybe?

Mr HOLLOWAY: Yes. As an example in my job, we have just been approached by someone to do a paintball training facility in Newcastle. That has no definition anywhere in an LEP so to actually try to get that up and running is very difficult. Those people want a rural type use just because they train the staff up in paintball exercising themselves. So you get into this situation where someone who wants to do a development struggles to get it up and running because the zonings are closed.

The Hon. PAUL GREEN: Is there not a term called innominate use for that sort of application?

Mr HOLLOWAY: Potentially, but the problem you get into is when you are lodging your DA at that end you have a council staff member who goes, "You're not permissible. How are we going to deal with that?" That is the issue you run into. If you take the option potentially of open zonings at least you will have something that is a bit different that is not a high impact use to potentially be permissible and go through the process.

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The Hon. RICK COLLESS: It is the same concept as being innocent until proven guilty; as opposed to having to prove your innocence they have to prove your guilt. If it is not in the thing then you have an open way to deal with it rather than having it all considered to be prohibited if it is not listed.

Mr HOLLOWAY: Yes. Probably one of the examples over time has been wine bars. Previously in LEPs you had a definition of a restaurant or a pub. A lot of wine bars are a mix, so the only way to be permissible is to put in different land uses. If you have an open zoning at least you potentially can assess that.

The Hon. MICK VEITCH: One of the things you would urge this Committee to give strong consideration to is exploring open zone provisions?

Mr HOLLOWAY: I think it is one way of being flexible in a local environmental plan. You could still have overarching State policies or regional policies to guide local environmental plans but at the local level, yes, that is one option.

The Hon. PAUL GREEN: Does any other jurisdiction use this across Australia?

Mr HOLLOWAY: There are some open zonings in some LEPs in New South Wales but not all of them.

The Hon. PAUL GREEN: Could you take it on notice to provide us with which ones they are?

Mr HOLLOWAY: We will take it on notice. I think you will generally find the mixed use zones or commercial centres tend to be more open whereas residential areas tend to be more closed in most LEPs.

The Hon. MICK VEITCH: I asked the previous witnesses about cross-border issues and the jurisdictional differences. An example would be in the council areas around the Australian Capital Territory [ACT] where people literally drive across the road and there are different rules. We have also heard about the situation along the Murray River at Albury-Wodonga and further up around the Northern Rivers. Anecdotally we are told there are differences and when you go there you can see those differences. Are there impediments to developing regional New South Wales because of our planning instruments and the complexities that arise from them?

Mr BROYD: I have done work on Wodonga and Tweed Shire so I know about cross-border issues. I think there is a large perception that there is an impediment when you go across the border. Certainly comparing Gold Coast and Tweed there was a very strong perception that the impediments were so strong in New South Wales you could not do anything you could do easily in Queensland at a certain point in time. The key there is theoretically more inter-council, ACT-Yass shire, et cetera, relationships to build some sort of common planning policy grounds for that to occur. Certainly there are increasing rural residential development demands coming out of the ACT on Yass. There are significant cross-border issues resulting from that.

The Hon. MICK VEITCH: Murrumbateman is one of the fastest growing suburbs in New South Wales but it is 12 minutes from Canberra and most people go there.

Mr BROYD: Yes. I have also done work on the Murray region where the predicted growth out of Mildura and Echuca is not really taken into account properly on the other side of the border. I think it is a professional practice issue in many ways that there should be greater interrelated planning between Mildura and Wentworth and Echuca and Murray Shire and Gold Coast and Tweed to take that into account, what is the predicted overspill growth and strategically where is that best located.

I do not think it would be in any way right to vary planning controls in Tweed shire because of Gold Coast planning controls but at least there is much more of an explicit regional planning content that responds to the demands coming from the other side of the border. That jurisdictional separation tends to translate into organisational separation and a certain amount of cultural unwillingness, if you like, for that cross-border planning to occur. That should be enhanced and, yes, I think there is certainly a role for regional planning.

The draft Murray Regional Plan that is about to come out should take into account the demand coming from major Victorian centres like Mildura, and the far North Coast should be taken into account. What is the demographic? What are the characteristics of demand coming out of the Gold Coast that is going to still

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influence Tweed shire's delivery of residential and economic development and rural residential development? I think there are some significant legal cross-border issues but there is also some very cultural—almost organisational—unwillingness to plan properly across the border.

The Hon. MICK VEITCH: Geographic parochialism?

Mr BROYD: I am not sure whether I would use the word parochialism but certainly there should be more cross-border activity and organisational approaches to planning the regional plans as well. It is not easy but it should be occurring to a greater extent, in our submission.

The Hon. RICK COLLESS: Thank you for your comprehensive submission and also the recommendations at the back. It is always helpful to committees to know exactly what you would like to see put in place. At page 3 of your submission you talk about the view that regions should capitalise on their location-specific competitive advantages. Can you outline what you mean by that?

Mr HOLLOWAY: I think that has partly been a national planning institute approach and that is obviously related to other factors like tourism and stuff like that where we tend to find that local centres try to build on their own competitive advantages, on what they have in the marketplace. That is from festivals to tourism and even agricultural development, I would suggest, such as vineyards in Cessnock and vineyards outside of Canberra. I think there has been a bit of a drive for towns and centres in regional New South Wales to ride on the back of what their competitive advantages are.

Mr BROYD: I think the comment in many ways goes to the Newcastle and the Coffs Harbours and the Port Macquaries in New South Wales. The draft Hunter Regional Plan has a Hunter city, as you may be aware, proposed within it, which picks up on the kind of critical mass of existing development but how that can be improved by better transport linkages between Newcastle, Raymond Terrace, Maitland et cetera. Some of these centres do have obviously very high-level facilities now, be they recreation or social, but, more importantly, in many cases health facilities for the ageing demographics that are going to live in the Coffs Harbours and the Port Macquaries. So it is about offering services to the demographics that are going to be developed there but it is also supporting an existing critical mass and the viability of services, be it critical mass of employment opportunities.

Certainly with Newcastle there is a very solid base of financial service institutions, university and other industries including increasing proximity benefits to Sydney and, to some extent, moving out of Sydney into Newcastle for those industries. So it is important to recognise all those factors and build on the existing critical mass to provide a service but also to enhance the kind of employment opportunities that go with those existing cities' infrastructure and levels of development.

The Hon. RICK COLLESS: If we were to apply that approach outside of Sydney, Newcastle and Wollongong, being the major metropolitan areas, what sort of attributes should we be looking at in towns like Griffith and Dubbo and so on—towns that need economic development, need more jobs in those towns to encourage them to grow and so on?

The Hon. MICK VEITCH: That is all the regional centres and the subregional centres, like the Cowras and the Parkes.

The Hon. RICK COLLESS: Yes, all the towns outside the major metropolitan areas, basically on the coastal fringe, but it is those towns on the western side of the Great Dividing Range that really need the support. Can we apply that concept outside of those major metropolitan areas and what sort of other attributes should we take into account—for example, the biophysical attributes of those areas—in order to help identify what that location-specific advantage might be?

Mr BROYD: Firstly, the general point about regional planning should be facilitating opportunity for economic growth west of the divide is a real issue economically, retention of population et cetera. You could argue, and the Planning Institute has argued to some extent, that there almost should be a State-level plan that looks at potential decentralisation and how you actually provide incentives for retention of and growth of population in regional centres like the Dubbos and the Griffiths and Tamworths et cetera, and the comparative cost to provide infrastructure for those towns and cities is obviously very favourable compared to providing infrastructure to support growth in Sydney, Newcastle and Wollongong.

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So I think it requires a deliberate policy at the State level almost to say that we do need to support economic growth and retention of population in those regional centres. Having said that, I think it is about identifying the capacities of the local services and facilities, be it hospitals, schools, infrastructure, roads systems and so on. But I think in the social context of the State at the moment the availability of good quality land that is readily available for development and subdivision and the price differentials that that can provide compared to coastal New South Wales is a significant economic advantage for those areas. I think there is an opportunity there for the councils and the regional organisations in those areas to promote that more strongly.

So if you have the infrastructure capacity, have the land availability and you have identified service capacities then I think that provides a very sound basis for probably the councils in those areas and the regional councils to advocate and promote more development to occur in their areas. If the regional strategy for that region says that and there is advocacy for that in the State context, then I think that can help those areas to help provide those opportunities. The other point I would make is that in many ways the regional plans tend to be that for the last 20 years the growth of population has been X and the demographics have been Y and it tends to extrapolate those forward without necessarily being plans to strategically identify where the future growth should preferably occur by virtue of policies about trying to promote more growth in those regional centres, which is probably a gap in planning at the State level at the moment.

Mr HOLLOWAY: It is partly too about when the Department of Planning are doing regional plans as well—we have some major infrastructure projects potentially in western New South Wales, such as the inland rail—how is that going to affect these town centres and what can we do to build upon that? I think Wagga is probably a classic example where they are trying to build this Riverina freight hub, and I think other centres around that as well, and I think regional plans particularly have kind of lacked that. We can drive economic growth through regional plans by saying, "What is happening here and what can we do to facilitate that?"

The Hon. RICK COLLESS: That is a good point. In your submission at the top of page four you talk about the purpose of regional growth plans providing a framework to make complex land-use decisions within the regions and avoid the issues of land use conflict and so on. Do you think that there is a need to have a better appraisal of what land is fit for what purpose in those areas, so that when a developer comes in, if he can go to a local government area that he wants to move into, look at their regional plan and see very clearly that that area there has been identified as being fit for purpose for industrial development or whatever he wants to do, he should then get an accelerated approval process if he develops on that part of the land or if he was to go somewhere else he would have a much more difficult approval process to go through. Do you think that sort of concept is worth pursuing?

Mr BROYD: Absolutely. If you have a regional plan that is based upon the OEH view of the environment yes that is okay provided infrastructure is adequate and can provide the capacity and the Department of Planning working with the local government sees that certain land as being suitable for that purpose in terms of all of the other factors taken into account, if that is identified as fit for purpose through that whole State government agency process, the local council has rezoned it all and identified it in its local strategic plan, then you have done a lot of the work that, unfortunately, is currently subject to a development application. So you have got a solid strategic base to say yes if you want to develop certain industries in that location then there is an easier path to go down because the story is told already strategically and correctly.

If the council is on board with that and provides the sort of service like Tamworth City Council does, which is very good at responding to development inquiries and facilitating development in line with those policies, then you have got a real opportunity to enable a regional centre to kind of stand out, and if you then network it in with the development industry and others, it works quite fast in the knowledge about which councils are right on side to give you the service to enable that easier development path to be created.

The Hon. PAUL GREEN: You give a glowing commentary on the Illawarra-Shoalhaven regional plan. Who overlooked that? Was that a particular individual that put that structure together as opposed to putting the draft Hunter situation together where you noted all those deficiencies?

Mr BROYD: I did not intend to be quite so glowing. I think it was laudable but I think it has got a long way to go. With all respect to the Department of Planning, they have done a very good job in bringing it together to the document that it is now. They have done a very good job in bringing State agencies and the document together the way it is now. That came out after exhibition of the draft Illawarra-Shoalhaven plan prepared by the Department of Planning and Environment at both the regional Wollongong base level and at the State level.

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The Hon. PAUL GREEN: Why are they so different, if one has got all the right makings to succeed and the other one is missing a lot of ingredients to succeed. Why are they so different?

Mr BROYD: That is the very question we would ask, and I do not have an answer for you.

The Hon. PAUL GREEN: That is what I am trying to get to. Was it a particular individual that set up this one and another individual that set up this one and therefore it is doing the thing differently, because the outcome, as you say, is that Shoalhaven seems to have a way of implementing their goals and then maybe auditing that as well. I guess what I am saying is how do we make sure that we get that for the Hunter one, because we do not want to be lacking. You can have all the plans in the world, but if you are not marking them off and having an action goal and then having someone audit, what is the use of even putting them together?

Mr BROYD: That is right. What is the use of the plan in the first place?

The Hon. PAUL GREEN: How do you suggest that we get that?

Mr BROYD: I cannot answer your question directly. Obviously there were different personnel and sections in the Department of Planning bringing the Illawarra-Shoalhaven Plan towards adoption after exhibition than the draft of the Hunter Regional Plan. We would say certainly there should be a common practice, a common structure and common means of implementation for all regional plans submitted by the Department of Planning and Environment. The Illawarra-Shoalhaven Plan is an adopted plan. The Hunter Regional Plan is still in draft form so the opportunity is still there.

The Hon. PAUL GREEN: Who drives the Illawarra one? Is that the regional planning department?

Mr BROYD: As I understand it substantial drafting is done by the regional office in the Illawarra and Wollongong, as it would be done in the regional office in Newcastle for the draft Hunter Plan. It then goes to the State Department of Planning through the management levels who then review, edit, change, report and recommend it for adoption by Cabinet.

The Hon. PAUL GREEN: Who will drive that overall process? Who says that this committee is moving towards implementing the outcomes of the goals and regional strategies? Who overlooks that?

Mr BROYD: I think the answer is the executive team of the Department of Planning and Environment who finally recommend and adopt a plan. Having said that, there is a Parliamentary Secretary for the Hunter, Mr Scot MacDonald, who would certainly be advocating the Hunter Plan should come out in a certain way. I do not know whether that will occur but certainly there would be strong measures advocating for that to occur. Eventually it comes down to the executive team of the Department of Planning, as recommended by the acting executive director regions, and then the regional director for the Illawarra in that case, and the regional director for the Hunter in that case: the executive team of the Department of Planning and Environment, I understand.

The Hon. PAUL GREEN: I think we have a good Parliamentary Secretary for the Illawarra-Shoalhaven in Gareth Ward, from memory, currently anyway.

The Hon. MICK VEITCH: He must be good; you cannot remember him.

The Hon. PAUL GREEN: I was going to call him "honourable" but he does not have that title.

Mr BROYD: In response to your question, there should be a common approach to governance be it a regional plan in the Illawarra, be it in the Hunter, be it on the far north coast or be it in the Murray and that in our submission should involve some Ministerial level at the top, an independent auditing role at the next level to bring some independence to auditing the actions that have taken place in accordance with the plan, the Department of Planning then having some leadership role in the sake of an agency context, and then the Roads and Maritime Services and Office of the Environment and Heritage et cetera, et cetera at the next level.

The Hon. PAUL GREEN: Yes, that is my point. We have picked the Hunter, the Illawarra and Shoalhaven but it obviously goes right across New South Wales?

Mr BROYD: Yes.

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The Hon. PAUL GREEN: I would like to think that the core issue is who is driving a good model and how will we tick off that they have been implemented. Certainly in bigger developments the best outcomes that we have in getting developers across the line on major projects that bring jobs growth is to have someone at the highest level to hold the hand and drive the process above all the departments because they need that access to the ministerial levels. There has to be someone over and above that who has access to Cabinet, which you referred to and advocacy.

Mr BROYD: Yes.

The Hon. PAUL GREEN: My point is we want to make sure that we get that model right. I refer to paragraph 11 on page four of your submission. In the last paragraph you talk about the special interest of government agencies like the Office of the Environment and Heritage, Environment and Protection and then you say that this complicates the development and assessment process and significantly increases timelines associated with assessment of applications for development. Further you say that these government agencies virtually assume the role of the planning authority of council because it is powerless to do so. Will you comment on that?

CHAIR: In the second paragraph of your concluding remarks on page 10 you expand on that a little bit more.

Mr BROYD: In our view the Department of Planning is the planning authority at the State level and the council is the planning authority at the local level. The role of each of those levels is to take into account the environmental advice, the economic advice, social advice, infrastructure advice whatever it is and then make decisions based on balancing all those different advices. An agency like the Office of the Environment and Heritage should not have the overriding impediment to a planning authority to make a decision balancing those issues out. That is my opinion.

The Hon. PAUL GREEN: As the native vegetation or threatened species Act they should be brought into the fold, discussions held but as part of the consideration, not all of it. Is that what you say?

Mr BROYD: That is right, yes.

Mr HOLLOWAY: I do not think anyone has any problem with the Office of Environment and Heritage providing advice to the Department of Planning or council that is fine. I think where that point was coming from is one government agency and potentially one personality in a government agency can hold up a whole development, and that is part of the issue.

The Hon. PAUL GREEN: Absolutely it is. It is good that you have put it on record.

CHAIR: Are there other agencies other than the Office of Environment and Heritage and the Environment Protection Authority—

The Hon. PAUL GREEN: Other examples of where that could happen?

Mr BROYD: All the agencies involved who are in the integrated development realm under the Act—

The Hon. PAUL GREEN: The Catchment Management Authority?

Mr BROYD: Yes.

Mr HOLLOWAY: Office of Water, Roads and Maritime Services are all involved in that process, yes.

Mr BROYD: It should be the planning authority to take all of that into account and make a balanced decision. In an area of high unemployment, maybe environmental issues do not count so much. To give a very simple example, an area of high employment and high quality environment then maybe it should be a different balanced decision, to give two very simple examples.

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The Hon. RICK COLLESS: Hopefully the Native Vegetation Act will be repealed shortly when the new Act is enacted but an approval that is given by the planning authority in that case would override the restrictions that have been placed on it by that Act?

Mr HOLLOWAY: No, not necessarily because the approvals are given under the Environmental Planning and Assessment Act so if you have still got requirements under the Native Vegetation Act or the threatened species Act or the Water Management Act then, yes, you would still have to implement those. So a good example is an industry where they may get a development approval but then they have still got to get their environmental protection licence under the Protection of the Environment Operations Act. They would have requirements under that Act as well.

The Hon. RICK COLLESS: But it should be the planning authority that is driving that, not the relevant bureaucratic agency?

Mr HOLLOWAY: At the development approval level, what we are recommending is the Department of Planning officers take the advice of the all the other government agencies on board but at the end of the day they are the ones that weigh up all that information and create an informed decision.

Mr BROYD: To bring it back to regional planning processes, the Office of Environment and Heritage and all those other agencies who have participated in the process strategically then there can be a balanced brought at the strategic level to say, "Yes, that area is vegetated but is adjacent to an existing urban area. Employment opportunities need to be created". So there is a balance between retaining that vegetation and creating a business zoning, for example. That strategic story should ideally be told as part of the regional plan, not by wait for a development approval and integrated development processes to kick in. But that is very hard, of course, given some of the resource limitation on sub-agencies to be able to deliver to that level.

The Hon. NATASHA MACLAREN-JONES: You refer in your submission to the opportunities to increase delegation to regional councils. You said that councils have found it difficult to articulate and convince department staff. Can you outline the challenges? What are your recommendations are to improve that communication?

Mr BROYD: Certainly having a standard local environment plan throughout the State has some advantages but there are some real anomalies and some real practical impediments and difficulties when that is implemented at a local level. There has been a kind of defending-what-we-have-got approach to the standard local environment plan by this department, with respect, and not enough listening to councils and the difficulties of implementing certain clauses et cetera at the local level. There should be a review of the standard local environment plan format, content and mandatory clauses occur after what is now 10 years of the original gazetted order to go through those issues. We would certainly welcome a formalised review process of what is working well and what is not working well with a standard LEP. In all honesty, it is hitting a bit of a brick wall in terms of beneficial changes that could occur at the local level not being really accepted at the State level, to be frank.

Mr HOLLOWAY: I am sorry to say that partly relates to where we have done some work. There might be a town centre just zoned "village" and that is it. Trying to get an LEP amendment through to explain the issues with that town centre where a highway service centre might want to locate near the village because it is on a highway but it is not permissible in the village zone—trying to explain that sometimes is difficult for people in rural areas. It is employment-generating business.

The Hon. PAUL GREEN: You make comments that the turnaround times could be improved with respect to further delegations to regional offices?

Mr BROYD: Yes.

The Hon. PAUL GREEN: Could you comment on that?

Mr BROYD: Yes, sure. You have very capable people of significant professional experience and standing in every regional office of the department of planning. There tends to be this centralisation that is not necessary for many issues that could be delegated to the regional office for decision-making, which does save time; it provides better service delivery and indeed in some ways would enhance the reputation of the department, in our submission, for that enhanced service delivery. If you have a regional plan that actually

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identifies an area for regional development and all the policies are clear and you get an applicant planning proposal for rezoning that is highly consistent with that, then why can't the regional office have delegated power to process that rather than refer it to the State level?

The Hon. PAUL GREEN: Are you aware of any situations where the regional office has been so particular because they are worried about going to the Land and Environment Court that it is risk driven rather than common sense driven—

Mr BROYD: Yes.

The Hon. PAUL GREEN: —in terms of the development outcome?

Mr BROYD: Being realistic, there are political implications and there are legal exposures involved in that risk-averse approach that sometimes happens with the department of planning and in some ways that is understandable; I do not deny that. That is not necessarily a criticism; it is a reality.

The Hon. PAUL GREEN: My point is that it takes up a lot of time.

Mr BROYD: It does impede that. Yes, I have had many experiences—and I am sure Mr Holloway has too—where you get down to words in clauses and numbers and all that sort of finite detail at the State department level and their time and their resources should be far better spent on more important issues than that kind of level of detail in many of the planning proposals that I have dealt with.

The Hon. PAUL GREEN: The next line of your submission on page 7 states:

Certain minor LEP amendments, mapping anomalies and updates to reflect more current data or information could reasonably be delegated to Councils in the context of existing S117 directives and Planning Circulars/Guidelines.

Who do you suggest should pay for that mapping, because all this costs money? Would it be another cost-shifting exercise where council takes on another load and has to produce more things?

Mr HOLLOWAY: That would depend. If council has funding to do a flood study, for example, from the source, there is no reason why the regional office could not change the flood map in an LEP to reflect that. That is probably more where we are coming from but in general, yes, particularly in rural areas the Dubbo office of the department of planning may have to assist some councils in undertaking geographic information system [GIS] or mapping work.

The Hon. PAUL GREEN: My point is about the funding of it because I can see the costings will go back on to council?

Mr HOLLOWAY: Generally in those cases the proponent would do that mapping but there is no reason why the department at a local level could not help out either.

The Hon. PAUL GREEN: That is my other concern; if it comes down to mums and dads trying to put their house up, suddenly they have another cost-shifting situation where they have another study for \$5,000 or \$10,000; anyway, I will move on to something else.

Mr BROYD: Okay. That delegated approach does not necessarily need to be a significant cost either in a lot of cases. Can I quickly add: the joint regional planning panels could play a quick vetting role if there is uncertainty rather than going to the department of planning; just to say, "This is consistent with the regional plan; council go for it."

The Hon. PAUL GREEN: On page 8 of your submission you state:

Regional areas are diversified in character and maintaining a nominal 40ha development standard across the bulk of rural zonings does not reflect the changing nature of rural land use in proximity to regional centres.

This is the most important bit—

The significant increase in intensive produce farming, value add products, small scale food destinations focussed on gourmet, organic and sustainable practices means that smaller holdings are developing their own land use character not adequately acknowledged by the current planning instruments.

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That is a great bit of acknowledgment that times have changed and as we talk about becoming the food bowl to Asia, there is an amazing opportunity—

Mr BROYD: Absolutely.

Mr HOLLOWAY: Absolutely.

The Hon. PAUL GREEN: —for our farmers but they are hamstrung by this 40-hectare limitation; they cannot gain any opportunity because they have to keep to a set allotment size. Do you want to comment on that?

Mr BROYD: We jointly worked on a project at Wentworth shire where they have a 10,000 hectare minimum lot size but it is also a shire within which there is a huge shift to intensive agriculture and horticulture.

Mr HOLLOWAY: And different horticulture. There is a goat dairy milk farm, for example, so there are different land uses.

Mr BROYD: It depends on where the land can be irrigated in that kind of situation. There has been some really poor planning historically that impedes subregional land of 100 hectares or 200 hectares, whatever it is that makes for a viable vineyard or sultana grape growing area. That arbitrary 40 hectares, or whatever it is, is not realistic in terms of the agricultural economics of the day. There does need to be flexibility but you need to justify that that land has to be subdivided to that level because that is where the costs and the blah, blah, blah, blah justifies that subdivision to occur.

The Hon. PAUL GREEN: It probably has never been considered but is that where you could make a case, Mr Holloway, to do the open zoning that you talked about?

Mr HOLLOWAY: You could actually take off a minimum lot size out of an LEP and have other guidance in a development control plan or a State policy, whatever. Yes, it is definitely a possibility.

The Hon. PAUL GREEN: If one considers China or Cuba, which has small rural lots; it is not a lot but it is their life economy and they support their family on that income. If we are to be a global food bowl this can give a lot of families a lifelong opportunity?

The Hon. RICK COLLESS: It comes back to this concept of fit-for-purpose land, does it not?

Mr BROYD: Yes, that is exactly right. At Wakool and Wentworth we put in a clause that said you can subdivide to a lower level if you have proven irrigation; you commit to irrigation formally and other criteria that enables that subdivision to occur below what was actually 10,000 hectares in Wentworth down to 120 hectares. That creates that fit-for-purpose opportunity within the planning framework.

CHAIR: Thank you very much, gentlemen.

Mr BROYD: We thank you for the opportunity.

CHAIR: We have one of the Wentworth councillors here so we are very interested in your comments. If you have taken any questions on notice I ask that you provide the answers within 21 days.

Mr BROYD: Mr Chair, may we put in a further submission on the governance issue that we were talking about?

CHAIR: Yes.

(The witnesses withdrew)

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CLARE LOUISE McHUGH, Executive Director, Policy and Programs, NSW Aboriginal Land Council, sworn and examined:

CHAIR: Welcome. The Committee is making good use of the land council's time at the moment.

Miss McHUGH: That is good to hear. Hopefully I can contribute positively to this hearing.

CHAIR: I am sure you will. The Committee acknowledged the traditional owners earlier in the proceedings. If you would like to make an opening statement, that would be good. You have provided a fantastic submission.

Miss McHUGH: Thank you.

CHAIR: If you would like to quickly summarise some of the recommendations, that would be very helpful.

Miss McHUGH: Yes. In my opening statement I have a summary of those recommendations. I begin by acknowledging and paying my respects to the traditional owners of the land on which we meet, the Gadigal people. The NSW Aboriginal Land Council welcomes the opportunity to give evidence to this inquiry because the planning system is one of the land council's top priorities. Regional planning systems provide a framework that can help to ensure that the objects of the Aboriginal Land Rights Act, both cultural and economic, are not undermined by the failure of the planning system as a whole to integrate the objects of the Act into its systems. Building our own economic base is the best way that we can improve the lives of our communities and contribute to regional and local economies. We share the goal to invest in regional development. We want access to economic development opportunities and we want Aboriginal economic development to contribute to the prosperity of regional New South Wales more broadly.

As the Committee would no doubt be aware, the NSW Aboriginal Land Council is the peak body representing Aboriginal people in New South Wales. While our organisation has its origins in the land rights movement of the 1960 and 1970s, we were formally legislated by an Act of this Parliament to serve the needs and interests of Aboriginal people across New South Wales. We have now grown to represent a membership of more than 23,000 and, as the Aboriginal Land Rights Act states, provide land rights for Aboriginal people in New South Wales.

Our network comprises 120 local Aboriginal land councils across New South Wales. As well as the protection and promotion of Aboriginal culture and heritage, local Aboriginal land councils manage significant land assets, provide employment opportunities and facilitate business enterprise. Through the land rights system many local Aboriginal land councils have been able to acquire land, which has allowed them to grow their own financial capacity and asset base and work with government and corporate Australia to develop programs and initiatives to benefit Aboriginal people.

We would like to see the Government investing in local Aboriginal land councils. We would like to see investment in existing local Aboriginal land councils to achieve the full development potential of their lands. We would like the Government to invest in changing planning laws and policies to ensure that they facilitate the aspirations of Aboriginal peoples, including supporting economic development and protecting Aboriginal culture and heritage. We would like to see investment in changing the mindset of planning authorities and local governments regarding Aboriginal landholders and how they engage with communities. We would like the Government to invest in ensuring that the planning system understands and supports the needs and aspirations of Aboriginal land councils. We would also like to see investment in capacity building, such as planning courses for non-planners that are targeted at the Aboriginal land rights network and Aboriginal people, and investment in mentoring for Aboriginal peoples.

Local Aboriginal land council members have been given the opportunity to decide the future of their own lands, to have a financial opportunity to build on and develop the land for the benefit of the community and to keep and nurture land for future generations. Indeed, our organisation, the NSW Aboriginal Land Council, has developed an investment fund that assists local Aboriginal land councils to develop economic opportunities. We are investing \$16 million over five years in the land council network to provide start-up capital, financial training and business development. Much of this is in regional New South Wales.

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This investment aims to turn Aboriginal knowledge into successful and sustainable businesses, but we need a planning system that works to support the aspirations of Aboriginal land councils. Too often the planning system fails to recognise the unique status of Aboriginal owned lands. Most lands owned by Aboriginal land councils are freehold lands. The management of these lands is guided by the members of the Aboriginal land councils, as set out in their community land and business plans. Unfortunately, the aspirations of Aboriginal communities are sometimes hindered and undermined by the planning system. This has occurred in some areas where local Aboriginal land council lands are systematically down-zoned to being conservation lands or treated as quasi-parklands and public open spaces.

Our local Aboriginal land councils have had considerable success in developing their own economic development initiatives. As I am sure the Committee has heard a number of times, the Worimi Local Aboriginal Land Council, near Nelson Bay, has had success in owning and operating a sand dune adventure attraction that employs local Aboriginal people and attracts international and domestic tourists. The Darkinjung Local Aboriginal Land Council is now the largest private landholder on the Central Coast. It is currently undertaking residential development projects to deliver better outcomes for the local community.

More recently, and through our economic development program, we have witnessed the Wilcannia Local Aboriginal Land Council develop a business model for goat farming and Mutawintji Local Aboriginal Land Council expand its tourism operation to the historic and culturally important sites in its area. They are just some examples of how the land rights system is now able to accommodate and build the capacity of Aboriginal communities while also contributing to the wider regional economy.

The recommendations in our submission outline some of the continuing issues that create unnecessary red tape and make economic investment in Aboriginal communities harder. We need a regional planning system that supports local Aboriginal land councils and Aboriginal peoples to strengthen economic self-determination. Local Aboriginal land councils and our organisation are striving to provide for and build the capacity of Aboriginal people and communities across the State.

We need a planning system that actively ensures Aboriginal people are engaged in regional planning processes. We need a planning system that provides recognition and protection of Aboriginal heritage and supports Aboriginal peoples to showcase our heritage and culture to the world. The specific issues related to Aboriginal former missions and reserves are an ongoing concern for our network and the NSW Aboriginal Land Council [NSWALC]. I thank the inquiry for giving NSWALC the opportunity to speak today. We urge the Committee to consider our evidence and the recommendations in our submission.

CHAIR: That is fantastic. Thank you.

The Hon. MICK VEITCH: Thanks, Ms McHugh. I want to talk about the last part of your opening statement first. Most of the former missions and reserves are in regional New South Wales.

Miss McHUGH: Correct.

The Hon. MICK VEITCH: Would you advise the Committee on what are the planning issues for those former missions and reserves?

Miss McHUGH: We have put in a number of submissions in the past that outline in specific detail what those issues are. Generally speaking, when the former missions and reserves were created they were outside State and local planning controls. An issue they are having today is that they are inappropriately zoned for what the local environmental plan [LEP] requires. For example, they exist in areas that are prone to flood and fire. If you think back to the days when an Aboriginal mission or reserve was created, it was generally "out of sight, out of mind". It was not uncommon for missions and reserves to be next to rubbish tips and places like that.

They are in areas where the local government does not want to step in to try to address the issues because the issues are massive. They exist on single titles, generally. There is a mix of residential and infrastructure issues all on one title. In most instances the local Aboriginal land councils have responsibility for the provision of services. So garbage collection, for example, becomes the responsibility of the local Aboriginal land council. In the 1970s, when the Aboriginal Protection Act was being wound down and they were trying to work out what to do with the missions and reserves, handing them back to community was the obvious choice, but with that came historical liabilities. We are in a position now where we are struggling to work out how we

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can fix the issues. Over the years they have got worse and worse. For example, there are roads that are not wide enough.

The Hon. MICK VEITCH: You said you had put in a number of submissions. Would you be able to send the Committee a consolidated submission on that particular issue?

Miss McHUGH: Yes, without a doubt. We will give you the information that provides more detail on the specific issues.

The Hon. MICK VEITCH: That would be good. Thanks. Ms McHugh, at the previous hearing there was discussion about the effect of planning instruments on land that had been handed back to Aboriginal communities—that is, Crown land transferred under the land rights legislation. There were planning issues associated with that. There was discussion about whether there should be a separate State environmental planning policy [SEPP] to accommodate those matters. Do you have a view about that?

Miss McHUGH: Yes. The NSW Aboriginal Land Council has a view in relation to the potential to create a separate SEPP solely to deal with the issues on former missions and reserves. I understand that the Darkinjung Local Aboriginal Land Council submission talks about creating a separate SEPP or creating a new section, part 3C, to deal with the zoning and land development issues that Aboriginal landowners have to deal with. The NSW Aboriginal Land Council supports any provisions and mechanisms that go towards assisting Aboriginal landowners to deal with the issues that they are confronted with when they are going through these processes, but by no means is there a one-size-fits-all solution.

A SEPP may help to resolve issues where land councils and Aboriginal land owners find themselves butting heads with local government or unable to move forward with local government. But I think there are land councils out there and Aboriginal land owners that are working well with their local government. So we need a raft of mechanisms and options available. The idea of coming in over the top of local government at every opportunity or every step of the way when an Aboriginal landowner wants to do something with their land would probably cause disharmony in local communities, and we would not want to see further fractures taking place. So I think a range of options and mechanisms are needed in this space to really help facilitate improvements.

The Hon. MICK VEITCH: In your submission you talk about the need to maintain confidentiality around the cultural aspects at times, not always but at times, when engaging with the Indigenous communities in New South Wales.

Miss McHUGH: To expand on that, obviously there are historic trust issues with Aboriginal communities when it comes to not only Aboriginal culture and heritage but also Aboriginal issues more generally. For members who may not be aware of how Aboriginal culture and heritage is managed and maintained in New South Wales it comes under the National Parks and Wildlife Act. The Office of Environment and Heritage and the Minister for Heritage have the responsibility for ensuring the protection of those sites, and also managing the destruction of those sites when a request is put in by developers.

They manage a system, and I hate talking in acronyms but it is called the Aboriginal Heritage Information Management System [AHIMS]. Basically it is a requirement under law. If you discover an Aboriginal site or an object in your backyard then you are required to contact the Office of Environment and Heritage and register it on this system. The system is essentially used by developers and proponents to do a desktop study almost when they are going to do a development to try to determine whether or not the development is going to impact on Aboriginal culture and heritage. The NSW Aboriginal Land Council and community members have had historic concerns about how that information is collected, maintained and protected. I know that on this system there is a way in which the Government will identify that an area has high heritage value. If someone wants to find that out then they have to go through a process of applying to get to the right person.

Generally speaking there is still a fear about handing that information over to government. There have been instances where a number of sites have been listed on that register and the information has been publicly available and those sites have been vandalised and damaged. So there are those sorts of issues. There could also be other reasons that the community wants that information not to be made public. It may be a male site or a female site. All those issues come into play. So there is definitely a need for information that is passed over

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from the community to be properly protected and maintained in accordance with how that community would like it to be maintained.

The Hon. PAUL GREEN: Thank you for all your contributions so far. I note that you have given us comprehensive recommendations. I think most of us are not sure what is left to ask. Just for the record, I want to go back to the issue of the Aboriginal SEPP. I am a firm believer that the Aboriginal people are dignified people. One way we can help them to continue to be dignified is to release them from the obligations that we have put over their land which we are giving back to them through land rights. They should have full autonomy.

I want to address the issue of that SEPP. We are not talking about everyday residential growth issues; we are talking about economic stimulation. So that is the concept of the Aboriginal SEPP—that it comes out of the ordinary and goes into a different critical pathway to stimulate opportunities for Aboriginal communities and people. In light of that, what do you think we need to be doing to unlock that opportunity?

Miss McHUGH: Are you talking about what we need to do to get across the line with a SEPP?

The Hon. PAUL GREEN: Yes.

Miss McHUGH: That is a government question, isn't it? I think a big chunk of it comes down to understanding what the issues are. I think when you start to talk about a SEPP and creating special pathways, if you want to call it that, for a group of people, and in particular we are talking here about a SEPP for Aboriginal land owners, that there needs to be broader education for the local communities and government around what are the unique set of circumstances facing this group of people such that they require something above and beyond what is available to everyday Australians?

I do not think I need to waffle on about the unique circumstances that our communities face. You only have to pick up the paper to read about what is happening, for example, in Western Australia, even though we on the other side of the country, with 10-year-old children committing suicide. Our conditions and our circumstances are unique and historic. I think it takes a government to be brave and bold to step up and say, "We want to address these issues by really stepping forward and identifying that these are unique circumstances that we want to tackle head on." Sometimes you are going to get a bit of backlash from local communities saying, "Well, why are they getting something that we are not getting?"

CHAIR: A lot of your recommendations really relate to consultation and the Aboriginal people having a voice. I think the SEPP is one potential mechanism to do that, and maybe it is really about emphasising the consultation and the need to actually hear from the community.

Miss McHUGH: Definitely. Have I answered the question from the Hon. Paul Green?

The Hon. PAUL GREEN: Yes, I did some Aboriginal studies many years ago and one of the quotes that really helped me grapple with the idea of fair and unfair was that in order to treat everybody the same sometimes you have to treat them differently.

Miss McHUGH: Exactly.

The Hon. PAUL GREEN: It was a really good quote that helped me to go, "Hey, we can work through this. There's a way through this." That is the sort of consultation that we need to take out to the community. The former Minister for Aboriginal Affairs the Hon. Frank Walker is quoted as saying:

... Government has made a clear, unequivocal decision that land rights for Aborigines is the most fundamental initiative to be taken for the regeneration of Aboriginal culture and dignity, and at the same time it lays the basis for a self-reliant and more secure economic future for our continent's Aboriginal custodians ...

The other day during a hearing for this inquiry witnesses were crying out saying that we had some really good models under which young people were thriving but then the funding was cut. It seems to me that the Aboriginal community has one hand tied behind its back—it has been given the land but it cannot utilise it. You brought up earlier an idea around the missions. They are already established. So what is the way through this and maybe starting at that level to get some productivity and to stimulate economic growth starting with the missions across New South Wales in terms of getting a return for the people?

Miss McHUGH: Could you just repeat that question?

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The Hon. PAUL GREEN: I am just saying that you brought up the missions. No-one has really brought them up before in terms of the opportunity there. I totally forgot about them in those terms because I have been busy thinking about land rights and the huge amount of land that has been sterilised. Given your comment about missions, what are the opportunities there?

Miss McHUGH: I think at the moment one of the biggest opportunities in front of us is to respond to the issues around the former missions and reserves. I had to write this down because again the acronym is quite creative. The Minister for Aboriginal Affairs has a strategy for addressing issues for Aboriginal people in New South Wales and it is called Opportunity, Choice, Healing, Responsibility and Empowerment [OCHRE]. Under the strategy, which came about when Minister Dominello was in power, it identifies what is called a solution brokerage provision. This can be triggered by the Minister for Aboriginal Affairs for very specific issues where it is identified that they require a whole of government approach.

The Minister triggered one of these in particular for not only the issues around infrastructure on former missions and reserves but also economic development issues relating to Aboriginal land and land councils. So that is currently underway. The process involved there is that, once it has been triggered, the parties that have been pulled together have six months to formulate a plan to respond to the issues, and then from there it commences.

The Hon. PAUL GREEN: One of your comments about the mission was the fact that maybe the zoning through the local environmental plan [LEP] process has been overlooked and either restrictive or the wrong zoning. Can you make a comment on that?

Miss McHUGH: As I indicated, a lot of the former missions and reserves exist on one title. Except on this one title you may have 30, 40 houses, residential properties and then a whole bunch of infrastructure, be it water and sewerage, and all the rest of that. So the NSW Aboriginal Land Council has been going through a process for some time where we are looking at working with those land councils with the former missions and reserves to see if they would like to move towards a subdivision to try and alleviate some of those concerns. But with the issue of subdivision comes broader questions that come from communities, such as once we subdivide and there is individual ownership, potentially, of these houses, how do we ensure that those properties and houses stay within our community?

There are a whole bunch of issues that come up with that as well that we have to work through. But we have found it has been a long slug and we have found we have hit a number of brick walls in those processes. Trying to get those former missions and reserves up to the standard that we need them to get to in order to comply with the local planning authority costs hundreds of thousands of dollars, and we just do not have that money. So we have kind of hit a threshold, I suppose you could say, that we need to cross. We are hoping under the Solution Brokerage initiative we might be able to find some solutions.

I would also like to say that I get concerned when we talk about a particular agency looking at finding a solution for an issue that other agencies then drop away and think, "That is good, someone is carrying the can". I think there are a lot of cans that need to be carried when we are talking about these issues. We need all levels of government to continue to chip away to help try and find solutions in partnership with communities.

The Hon. RICK COLLESS: What about infrastructure in those areas? If you were to go down that path of subdivision, would you be required from your own resources then to provide roading, power, water, those sorts of things as well? Or should that come into the broader local and State infrastructure plan?

Miss McHUGH: Once we get to a point where we bring the former missions and reserves up to scratch, then it becomes a question, I would say, of having discussions with local government and talking about: How would you feel about taking on responsibility for the maintenance of our roads into the future? How would you feel about collecting garbage from our houses? And so on. And they are issues that obviously every local government will feel slightly different about. But definitely regional planning systems and the regional plans that are being developed across the State—which I have noticed there are a few that are out now with Aboriginal issues to varying degrees—can definitely play a role there in helping to provide a need, possibly, for local governments to step into those spaces.

The Hon. RICK COLLESS: If we are serious about removing the discriminatory practices, those things need to be addressed, do they not?

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Miss McHUGH: Yes, for sure.

The Hon. PAUL GREEN: In terms of starting off, at least with the missions, why would not the Aboriginal Land Council, which does have a bit of money, underwrite those opportunities one by one?

Miss McHUGH: As I mentioned earlier, the majority of the former missions and reserves are out in regional areas. When you look at the land rights network you will see that the land councils that exist on the eastern seaboard are generally in a far better position economically and financially than those that are across the Divide and over the mountain because the land that they are able to claim is worth a lot more than, say, land in Brewarrina or Wilcannia. So the asset base of a number of land councils—I think there are 59 missions and reserves managed by 49 land councils, and the majority of those are not wealthy—just cannot afford to foot the bill. Have any of the committee been to a former mission or reserve? Yes? Good. We have one in the city, which is La Perouse. But even in terms of their position it is a big ask for them to find an extra few hundred thousand dollars in their bank account.

The Hon. PAUL GREEN: That is why I was asking why the NSW Aboriginal Land Council would not underwrite it. They have a bit of a pot there I hear.

Miss McHUGH: We do. And it is something that our council has definitely considered and we have entered into a water and sewerage agreement with the Federal Government, and I think the State Government plays a role there as well, to try and alleviate the issues around water and sewerage, because they are the massive ones. But it is somewhat unfair to ask Aboriginal people, because it is a fund. Even though it is managed by the NSW Aboriginal Land Council, it is Aboriginal people's money and it is compensation money and you cannot ask them to foot a bill for issues that were created because of past government policy. You cannot hand us a massive liability and then say, "Fix it with money that is there to provide opportunities to advance Aboriginal people".

CHAIR: You have the ongoing problem too once you do these subdivisions obviously you are liable for rates on the individual properties going into the future.

Miss McHUGH: Exactly. So they are questions for community definitely on an individual basis to work out "What does this mean?" and for them to have all of the information at hand to be able to make those informed decisions before moving forward.

The Hon. NATASHA MACLAREN-JONES: Your opening remarks—and I apologise if I got the information incorrect—you were talking about your investment fund. I think you indicated it was \$16 million that you are allocating to specific projects. Were they projects for economic development or just broadly? And if so, could you go through some of those examples?

Miss McHUGH: The council recently—I am trying to remember all the dates; I went off and had a couple of babies, so it is back and forth, back and forth. Recently the council approved an economic development policy and a strategy. We have all that information, and I would be happy to send it over for you guys. It outlines a commitment by our council to contribute \$16 million over the next five years. I think we are into year one now. We have just completed a trial period and it is very much focused on helping local Aboriginal land councils develop business enterprise. It is not focused at individuals.

The council had a big discussion about where they want to focus this money. It is all about really lifting land councils to take that next step into securing greater economic development opportunities for their communities under the belief that if our land councils flourish so do our communities, and then therefore so does the broader community. We are one year in and we did a trial period, I think there were 19 short-listed proposals. I think we had about 46 expressions of interest from local Aboriginal land councils around accessing this opportunity and from those we narrowed it down to 19 based on our own capacity to manage it.

Under the program there are three, I call them streams. There is a business development grant. A land council can apply for up to \$50,000 to develop up an idea or a business idea. The way we differ, we do not want to duplicate services, that is for sure, and we do not want government stepping away from services like the Indigenous Business Australia [IBA] and all the stuff that exists out there.

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The way we differ, I think, from those services is that we work quite closely with the community to develop a bit more community planning, I suppose, and looking at what the region is doing and making sure that the business idea they are thinking about is something that would potentially have the best success. Once we go through that process they end up with a feasibility study or business plan and that is put through a process where we have an independent assessment panel.

That comprises experts around funding agreements and things like that, from external, from NSWALC, and those with business expertise, and they can sometimes help to look at these proposals. One of the proposals we had was a quarry, and we have had the goat farming, and we have had tourism. So there has been a broad range of interests. They generally fall into the categories of residential development, agriculture, tourism, and—I am missing one—but there has been a general interest from the land councils in those areas more broadly.

We obviously do not have all of the necessary skills in-house, so we have called them in from outside. They go through that process and then once everything is ticked off the NSW Aboriginal Land Council, or the councils when they were considering this process wanted to make sure that land councils are getting into the mindset of business. So we were very clear that that stream where we offer a grant to help develop your idea up we work closely with you to make sure that the idea is going to have the most success, and the stage two is early stage investment. That is all about, "We are going to enter into a loan agreement". It might be a low interest loan agreement where loan repayments would not be triggered until you start to generate a proper income.

It gets everyone into the mindset that we are all about business. We are getting serious here. It is a loan, it is not a grant and you really have to have a go at what you are doing when you enter into this field of business enterprise. After the early stage investment we have equity investment. The consideration of the council was that we have some really big players out there in the network and we have land councils that are doing some really great things and maybe we can partner with those land councils and invest money as NSWALC in partnership. So they are the three streams that we are kind of operating under.

With the loans, it is up to half a million dollars. We are very keen to make sure that when we loan the money there are other partners that come to the table. I think with the goat farming model up in Wilcannia we have the Indigenous Land Corporation interested, the Commonwealth Bank and NSWALC. It is all about making sure if there are other parties like the mainstream banks that are keen to invest in these businesses we are pretty sure that they are probably going to be more successful or have a better chance of being successful.

CHAIR: That might be a good point to say thank you. Your evidence was very helpful.

Miss McHUGH: Thank you for having me. We will send that detail through.

(The witness withdrew)

(Luncheon adjournment)

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CHRIS HANGER, Director Regional Development, Skills and Industry Policy, Department of Industry, Skills and Regional Development,

GARY BARNES, Deputy Secretary Skills and Industry, Department of Industry, Skills and Regional Development,

MITCHELL ISAACS, Director Planning Policy and Assessment Advice, Department of Primary Industries, and

DEREK RUTHERFORD, Director South, Regional Operations Group, Office of Environment and Heritage, affirmed and examined:

STEPHEN MURRAY, Acting Executive Director, Regions, Department of Planning and the Environment, sworn and examined:

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

Mr MURRAY: I would like to thank you for the opportunity to be here today representing the Department of Planning and Environment. Regional planning is critical across government and is core business for the department in ensuring land use planning addresses the housing and development needs of regional and rural communities. The department leads the implementation and oversight of the planning legislation across New South Wales and supports regional New South Wales through our network of regional teams and offices.

The submission to the inquiry represents a whole-of-government submission prepared by the Department of Planning and Environment with the assistance of the Office of Local Government, the Office of Environment and Heritage, the Department of Industry and the Department of Premier and Cabinet and provides a coordinated approach to continue the Government's focus on regional planning. The submission responds to the terms of reference by recognising that the needs of regional areas are different from metropolitan areas, focusing on the current planning framework and how it provides the flexibility needed to respond to regional planning issues.

The New South Wales planning legislation provides consistency and certainty for its users in both regional and metropolitan areas. The system is flexible enough to customise its approaches to the needs of different users, such as regional areas, and can be tailored to the nature of the development. This flexibility can be driven through the design and application of our planning policies, statutory controls and other processes associated with the planning system. The planning system continually evolves and adapts to new and emerging regional challenges. This is highlighted by the development of regional plans providing for the sustainable growth and change of regions into the future; our e-planning initiatives that are improving access to planning tools and data for regional areas, making it easier for councils and everyday people to "self-serve" when getting access to planning information; and development assessment policies such as the Integrated Mining Policy.

The Department of Planning and Environment's dedicated regional teams work closely with regional councils and stakeholders to support the administration of the planning system and delivery of planning outcomes. The New South Wales Government will continue to look for opportunities within the current planning framework to respond to emerging challenges facing regional areas and to provide additional support and flexibility where suitable. I look forward to providing evidence to this inquiry and to the outcomes of this inquiry on how we can continue to improve regional planning in New South Wales.

Mr ISAACS: The Department of Primary Industries [DPI], as part of the Department of Industry, is pleased to contribute to this inquiry. We are proud of the efforts we are making as a department and as a government to improve the value of primary industries in New South Wales. DPI's stated purpose in our strategic plan is to increase the capacity of primary industries and communities to drive economic growth across New South Wales. This includes economic growth through sustainable use of, and access to, natural resources and ensuring risks to community and industry confidence are managed and mitigated. The DPI portfolio is broad ranging and covers the following areas: agriculture; biosecurity and food safety; fisheries; land and natural resources; and water.

The existence of my team, which is the Planning Policy and Assessment Advice within the central policy branch, demonstrates the commitment of DPI to providing a better coordinated and more responsive

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approach to servicing the New South Wales community. DPI is not alone in seeking to ensure continued improvement in service delivery. We work closely with Local Land Services across all levels of the organisation. We also work closely with our colleagues across government to stimulate and remove barriers to regional development. Some of the recent initiatives or reforms that DPI is working on include: the recently released Right to Farm Policy; ongoing reviews and revisions to various State Environmental Planning Policies, led by the Department of Planning and Environment; Crown land reforms; native vegetation and biodiversity reform; improved marine estate management; the Agriculture Industry Action Plan; and regional water security.

I welcome the opportunity to provide evidence to this important inquiry, and we look forward to the Committee's consideration of how we can continue to improve outcomes for rural and regional communities across New South Wales. Our Right to Farm Policy actually references this Committee and commits to bringing on board the recommendations and findings of this Committee.

CHAIR: We will make a note of that.

Mr BARNES: Thank you for the opportunity to be here today representing the Department of Industry. Regional planning processes are critical enablers supporting the Department of Industry's initiatives and I appreciate the importance of the Standing Committee's inquiry. The department leads the State Government's efforts to make New South Wales a fertile place to invest and create jobs and opportunities for our citizens. We deliver this through being the trusted partner of our business clients in New South Wales. The department has a number of important goals and measures which are reliant on regional planning processes operating optimally. They include facilitating economic growth and supporting the creation of 150,000 new jobs by 2019, including 30,000 in regional New South Wales, and creating a positive business environment. We do that by supporting government decision-making for infrastructure, regulation and priorities and thereby delivering increased business confidence in New South Wales.

Along with the Department of Primary Industries and the Division of Resources and Energy, my Division of Economic, Skills and Regional Development plays a significant role in supporting regional development. The division focuses on ensuring that New South Wales is a place where all businesses can thrive. We collaborate with industry to ensure that the New South Wales economy continues to grow and that the workforce is suitably skilled to support future economic growth. As well as policy, economic, industry and skills functions, the division includes the Office of Regional Development, which provides greater focus on critical regional development policies, programs and functions—highlighting the importance of regional New South Wales to the State's continued success.

The Office of Regional Development is represented here today by its Director Chris Hanger. Further support for regional job creation has been delivered recently in the form of the Jobs for NSW initiative. To accelerate regional growth, a minimum 30 per cent of the \$190 million Jobs for NSW fund will be allocated to regional areas. By combining the policy, economic, skills and regional and industry development functions within one division, and working with colleagues across the New South Wales public sector, we hope to provide a whole-of-government approach to regional development. Efficient and effecting planning is an important part of that. I welcome the opportunity to provide evidence to this inquiry and we look forward to the Committee's consideration of how we can continue to improve outcomes for regional New South Wales.

CHAIR: Mr Barnes, can you, like Mr Isaacs, give us your undertaking that your department will accept our recommendations too?

Mr BARNES: Did you say that, Mr Isaacs?

Mr ISAACS: For the record I think I said we committed to take on board the recommendations, not to accept them fully at this point in time.

The Hon. MICK VEITCH: Part 3B of the Environmental Planning and Assessment Act came in as part of the Greater Sydney Commission Bill. What I would really like to know is how each of your departments see that being rolled out and what role you have in ensuring that part 3B of the Act works. Have you any idea what I am talking about?

Mr MURRAY: In regard to the ability to—

The Hon. MICK VEITCH: This is about regional planning.

Mr MURRAY: Yes, I know what you are talking about—the strategic plan. Strategic planning is embedded in the Department of Planning and that is very much evidenced at the moment by the Government developing and rolling out growth plans. The Act provides the opportunity for the Minister to declare regions across New South Wales and then give strategic planning effect through relevant parts of the Act. At the moment the plans that we are preparing are non-statutory, but there is that option available there for government to consider that and to have regard to it, so we have the cascading of plans through the system.

The Hon. RICK COLLESS: Can I just follow up on that question? On page eight of the Government submission you say, under Regional Plans, "New regional plans will support its work to achieve planning outcomes by ensuring decisions are based on sound evidence and a strategic approach in regional areas". What do you mean by that and what is actually going to be in these plans? What are going to be the key components?

Mr MURRAY: I can direct the inquiry. There is a finalised plan available now, which we can provide a copy of, if you would like, and that is for the Illawarra. There are draft plans currently on exhibition for the Hunter, the Central Coast and the North Coast. When we say these plans are evidence-based we have gone out and looked at the evidence that underpins the trends that are driving or in some cases impacting on rural and regional communities, such as the population trends—what is happening in terms of population, where people are moving in New South Wales or, for instance, on the North Coast; it is very interesting to see the movement of people between Queensland and New South Wales and the majority of people coming into the North Coast are coming in from other parts of New South Wales. This is what we mean by the evidence.

We have gone out in other parts of the region and we have looked into the housing market—what are the trends in the housing market, what are the demands for housing, is the current housing stock meeting the supply of that? We have looked at the opportunities for economic growth through building and identified key areas for growth. For instance, in the North Coast plan, which is currently on exhibition and we are seeking public feedback, it has got some clear actions about identifying Port Macquarie, Tweed Heads and Coffs Harbour as regional cities where the majority of the population growth there is major government investment in those areas in terms of hospitals, education precincts and major airports.

So there are opportunities for those areas to be a focus for growth. There is evidence to support that and the plan sets about making sure that the Government looks at that, but at the same time it realises the importance of the other settlements in the region and the fact that everyone interacts—not everyone will live in this spot so how do we make sure that people have good access to service?

So when we say evidence-based, it is going forward, collecting the information, providing that information and, from that, suggesting, through our draft plans, the future direction, the goals and the actions that the Government will undertake to ensure we can build on the strengths of those regions and address the issues that they are facing.

The Hon. RICK COLLESS: A lot of what you have just described to me is a reactive approach rather than a proactive approach. I am more interested in the proactive parts of these regional plans which are going to get people not onto the coast—because plenty of people want to move to the coast; that is not an issue—the issue is west of the range where our towns out there are suffering because of a lack of development. What sort of proactive processes can we put in place to get people to move west and start rebuilding some of those declining country towns?

Mr MURRAY: In terms of the growth plans, they are not actually reactive plans; they are proactive plans because they are set in the future for the next 20 years and they are looking at the opportunities. The plans at the moment to deal with the western parts of the State are still being prepared, but they are looking at the key issues being faced. As you just said, in some areas we have declined, so how can communities work together with State government, local government and create opportunities to develop that?

But in terms of our plans—and Gary may wish to talk about some of the economic activities that his agency is delivering—they also talk about the opportunities out there. For instance, if we take the New England North West, it is one of the most agriculturally productive areas in New South Wales; it has great opportunities to look at freight networks and get greater access into the markets, whether that be through the port of Brisbane, the port of Sydney or now, with the Toowoomba airport opening up, how do we create the links into that? All of a sudden these industries have that.

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Also, if we look around the Tamworth area, we have a lot of value-add in terms of agriculture and a lot of agriculture food production and food processing, say in terms of chicken and meat. So it proactively looks at the opportunities that creates and directs. What the other plans do, and I imagine these plans will be looking towards that, is directing government and agencies to work with councils, businesses and the communities to build on these opportunities and the strengths that these regions have.

CHAIR: We have had some evidence already this morning where the Illawarra-Shoalhaven plan was praised but there was some criticism as well in four areas. The first was that the planning process looks like it takes the last 20 years' numbers and extrapolates that out rather than actively going after growth opportunities and so on, and you were just addressing that in part. I would be interested to hear a little bit more on that. Secondly, the alignment in infrastructure delivery and growth plans. Thirdly, the question of whether the plans are just a statement of intent or they actually outline implementation plans, and the accountability for the delivery of those implementation plans. I know that is a bit of a mouthful but if you could address some of those and perhaps Mr Barnes can help with that as well.

Mr MURRAY: In terms of the population projections, the projections within the plan are, like anything, a projection on the way forward and the plans understand that and note that, and changes that can come about through job creation, industry, whether it be private investment or government investment, they are not locked in; the department reviews those every five years after the census period. So they are set as a base. Just because we say them, we are not saying that will happen, because things change rapidly both economically and in terms of population drivers.

In terms of alignment of the infrastructure, for the first time these plans are going to set in place very clear monitoring requirements of development activity, land release, housing and take-up of industrial and employment lands, and the clear purpose of that is so all that clear data that we will generate can inform the infrastructure planning across regional New South Wales so we can go in and say this is the activity that is happening, here are the pressure points, here is the data, and that can inform that planning.

In terms of implementation, one of the clear things about the regional plans is they have a very clear governance structure and the plans will be overseen by an implementation committee which will have members of relevant councils on it and they will be slightly different for each region. That group will be responsible for reporting to government on implementation and actions and charged with taking the actions from the plan and actually implementing it, setting out a plan for implementation and reporting back on it. We agree that you can have a plan and it can have great visions, great goals, great actions, but it needs a clear group that is based in that region that drives the delivery of it, oversees it, reports back and makes sure we implement the key actions.

The Hon. MICK VEITCH: Is there a budget for that committee?

Mr MURRAY: The department funds it through its own work. The committee comes together and any works that would be needed go through the normal budgeting process of government.

Mr BARNES: Could I just say that we are doing complementary work; in fact, our officers contributed to and will sit on the governance committees that have been created and led by planning. The economic development of planning does require attention to what has happened in the past, what is happening now and what could happen into the future. So we are doing complementary work at the moment to identify what the regional opportunities are for economic growth in every one of the regions, regardless of whether they have growth towns or not, because if you put a forward-thinking cap on, every one of our regions will have opportunities that emerge that can be identified and need supporting.

We are doing work with Jim Betts who is the head of Infrastructure NSW because there will be infrastructure money available, as he does up his next version of the regional infrastructure plan, to put economic enabling infrastructure in place. Sometimes all it takes to unleash potential new lines of opportunity coming to fruition are electricity upgrades, off-stream water storage, passing loops on rail lines or making it easier to get freight to a certain export point. We have had our economists doing work and we are out in the market at the moment to identify in every one of the regions those opportunities for growth.

We have set aside Wollongong and Newcastle so that we do not, in those regional areas, have everything just focussed on those two areas otherwise you would miss the rest of the Illawarra regional area if it all became about Wollongong. It is us working together in a complementary way to make sure that we create the public amenity that is going to be required. Everyone needs a good and available set of public services and the

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infrastructure that supports that—hospitals, schools, good roads, access to all of those things that you would expect if you were living in regional New South Wales. It is about being clever about where you put your next raft of infrastructure expenditure so that you can unleash some of the potential that is not just driven by population growth and where people happen to be gravitating towards.

The Hon. MICK VEITCH: Earlier in response to the Hon. Rick Colless you spoke about migratory trends. Can you provide the Committee with the most recent migratory trends, intra-trends for New South Wales? Can you do that from post code to post code? How do you carry it out?

Mr MURRAY: It is based on the census: the current address and the past address in the census, and there is other data. I would have to take that on notice and go back to our demographers but we are happy to investigate that and provide the Committee. My understanding is that they can do it at local government area but not necessarily at post code level.

The Hon. MICK VEITCH: I am an old shearer. Is it possible to get an A4 schematic or a flow chart about the planning processes and instruments that people have to work their way through? If I were to submit a development application to Young Shire Council, for instance, how would I move through what appear to be a plethora of instruments?

Mr MURRAY: Most of them will not apply, depending on your application.

The Hon. MICK VEITCH: Is there a simple flow chart or a schematic?

Mr MURRAY: We could prepare a schematic. Most councils have their own schematics. A lot of councils provide that kind of information direct to their communities. Say you want to lodge a development application for a house, it will spell out what they do, and that is the role for councils to do, not the department because they look after the local development. We could prepare something that shows an overview of the planning system.

The Hon. MICK VEITCH: Just a visual view.

Mr MURRAY: We are more than happy to do that.

CHAIR: More specifically, earlier the Committee heard evidence about the way that the standard local environment plans have been adopted and about a template that apparently came from your department to various councils. The Committee would like to see that template?

Mr MURRAY: Yes.

CHAIR: There was discussion about E zones. Is there a template or some other instruction as to how councils were to go about that?

Mr MURRAY: I can answer the E zone one right now. In terms of the template we will get it off the legislation web site. It is unpopulated because it is just the base template document. In terms of the E zone that you are talking about, the E zone review applies only to five councils in northern New South Wales. What was prepared for that, which we can provide a copy, are: the final recommendations report, the submissions report and also what we call a direction by the Minister that tells councils how they need to go about it. Basically the direction only applies to these five councils and says that they must follow the recommendations. We can provide a copy of that. One of the recommendations that the Minister made regarding the applicability of these outcomes for the north coast is whether they would be applicable for the rest of New South Wales.

The Hon. PAUL GREEN: I note the far south coast has issues with it as well and made some comments about the E zones and the issues are of overlays. This morning I mentioned an article from *The Land* out of the far north coast where a macadamia farmer said that the property did not fall within an E zone but was subject to restricted LEP biodiversity overlays which could even make building a shed a bureaucratic nightmare. An E zone is one thing but there is connectivity with the biodiversity overlays. I constantly say that farming is such a need in our regional areas for our security of jobs and then these overlays cripple their opportunities. One farm has been sterilised with 50 per cent of its macadamia area because the council decided it would put an overlay on it.

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Mr MURRAY: The five councils to which you are referring—

The Hon. PAUL GREEN: That was one of the councils.

Mr MURRAY: There are no E zones or overlays in those local environment plans at the moment.

The Hon. PAUL GREEN: But there will be?

Mr MURRAY: No, there may be, subject to councils only being able to do it in accordance with the recommendations. In those five council areas, councils can no longer propose to put a biodiversity overlay because they would like to achieve a biodiversity corridor against cleared farmland, or farmland that is clearly macadamias. They cannot do it under the recommendations. If an overlay applies, and it can only apply where the vegetation meets the criteria that has been set out and does not restrict development. It does not prohibit or permit anything. What it says is when you need development consent council must consider these matters before granting consent.

I understand the communities felt that these overlays are actual prohibitions that would require them to do things: they do not. They are only matters that must be considered. If I am running a farm and I can put up a hayshed as exempt development or complying development I do not need an application; an overlay would never apply to me if I had an overlay over some vegetation and I wanted to put my shed there. If I wanted to build a tourist facility on my farm as a second income, and I chose to do it in an area of high-value vegetation, all it says is before council grants me consent towards that they have to consider the impacts. It might be as simple as saying "Yes, you can do it but will you just put a few more trees down here."

The Hon. PAUL GREEN: The far south coast had the same issue but did not get the same attention as the far north coast. The strategic land use committee put recommendations to council but council chose to go a different way. They are in the same position that the council has endorsed those E zones and the issues in their local environment plan. The point about a local environment plan, for the record, is that it is a high-level legal document and once something is put in at that level, if bureaucrats ask for a study, for instance, that is enough to cripple a couple building a house, a shed or doing something on their land. My concern is that it is not about having the E zones it is about where they apply. It is great to hear that news about the far north coast but that should be the same approach for the whole of New South Wales.

Mr MURRAY: That is one of the clear recommendations of the final review adopted by the Minister. It was that we will go out and consult the rest of regional New South Wales and ask "Is this applicable or does it need to be adjusted for your area?" Obviously we have picked vegetation types that are unique to that area of New South Wales whereas if you went west of the range it is totally different vegetation.

The Hon. RICK COLLESS: Who do you consult to get to that point?

Mr MURRAY: In regards to this or going forward?

The Hon. RICK COLLESS: Going forward?

Mr MURRAY: Going forward we will consult with local government and we will consult with the community. We will consult with peak groups within rural and regional New South Wales and obviously we will consult other relevant government agencies within government so we just do not go and talk to councils; we actually put it out on exhibition and seek input to it.

The Hon. PAUL GREEN: With all due respect, the power and choice being made comes back through the bureaucratic reports to council laws and if they have a heavy sway on them, for whatever reason, it is enough to put the elected body in a position to go the way of the staff rather than the way of the community because they have led into a certain way to make a certain decision. I dare say that the Hon. Rick Colless got it right. Who are you talking to; where is the weighting of the decision because on the far South Coast that committee was put together to make that decision and say, "Look, we don't want the weight to be that heavy in the LEP. We appreciate you want to go that way but we would like to sit outside that. Let it be a consideration but not that weighting in the LEP."

Mr MURRAY: I do not know if you have read the final outcome of this, and I would understand if you have not.

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The Hon. PAUL GREEN: No, I have not but I have been made aware that it is going through.

Mr MURRAY: The submissions report actually reflects the broad range of spectrum of what landowners, peak agricultural groups, environmental groups, local government and other government agencies said, so this was a balanced response and actually looked at it very carefully because we understand all groups have an interest; it was balanced. When we go out for comment the same approach will be taken because we need to take that at the same time. This document recognises that agriculture is significantly important to rural and regional New South Wales, as is environmental protection, but you should only be identifying areas that have high value and we should just be making sure it actually is on the ground and validated before you try to put it into a zone.

The Hon. PAUL GREEN: And that is where another witness came with an illustration saying that the Office of Environment and Heritage had the peak decision when the Department of Planning and Environment should be taking all the consultations into consideration and making the decision, not the Office of Environment and Heritage?

Mr RUTHERFORD: That is the case, with respect, Mr Chair. The Office of Environment and Heritage has an advisory role and will provide advice into strategic planning processes, particularly in relation to high conservation value, native vegetation, Aboriginal cultural heritage values, natural hazard areas relating to coast and flood and the like. That is an advisory role.

The Hon. PAUL GREEN: That certainly was not the evidence we heard this morning; those things had more weight than the actual decision?

The Hon. RICK COLLESS: They have the power to stop the development.

The Hon. PAUL GREEN: Yes, they have the power to basically kneecap the development?

Mr RUTHERFORD: But ours is only an advisory role.

CHAIR: There are two practical issues; one is the capacity of the department or the agency, by listing their requirements, to delay and strangle the proposal and, second, where there is a licensing role, to use the licence to effectively countermand the approval. We are interested in your comments on those two things.

Mr RUTHERFORD: In relation to timeliness, we operate typically within statutory time frames. We will provide advice to the Department of Planning and Environment in time frames that are required so we are not holding processes up there. We do not have a licensing or approval role typically under the Environmental Planning and Assessment Act. Where we come into any statutory role, it is fairly limited. Relating to where species impact statements are required, we have a concurrence role but beyond that ours is an advisory role to the Department of Planning and Environment.

The Hon. PAUL GREEN: If I could use some personal experience relating to the Link Road, I think it was, down on the South Coast. I do not know how many times we were asked to jump through environmental hoops. I have seen the studies; we paid for them. Time and time again because that was not a favoured route the goalposts kept being moved. We definitely answered the questions asked of us but the ridiculous thing was that the goalposts constantly being moved really only hurt the community because the community was paying for the reports. So it does happen.

That was a strategic route that would have had economic benefits for that side of town. The goalposts were moved in that particular case and I do not doubt that in other cases it happens if the department has a particular view and is hell-bent on a particular view. It should really be up to the Department of Planning and Environment to be considered whereas in that case it is my personal view it was used to hobble the whole process and eventually what was planned happened; it got deleted.

Mr ISAACS: Mr Chair, can I add something?

CHAIR: I was going to ask you to comment?

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Mr ISAACS: It goes Mr Veitch's question about: if I want to build a shed what sort of instrument applies and how do I work through that, and also, Mr Green, your comment about the high level legalistic approach. I refer particularly to page 11 of the Right to Farm policy, which was only released in December, so it is fairly new. In that policy it commits the New South Wales Government to reviewing current land use planning mechanisms with the aim of delivering a planning policy framework that supports the management of current and future farming practices. The intent is to deliver flexibility and really try to make it easier to understand and go through that approach. To that end the Department of Primary Industries [DPI] and the broader government would be very interested in any recommendations this Committee has to make about how those instruments or framework might be better structured or better framed.

CHAIR: Does DPI have a process of advising when you go over statutory time limits, delays and things like that?

The Hon. MICK VEITCH: Is there any sort of internal management mechanism?

Mr RUTHERFORD: Yes, we certainly have our own performance internally within government.

CHAIR: Is it possible to publish that information somewhere in terms of transparency?

Mr RUTHERFORD: We have that information. We report that information to the Department of Planning and Environment typically.

The Hon. RICK COLLESS: Following up on the statutory time frames, I had been contacted by a number of council areas around New South Wales that have had unacceptable delays in getting approvals, especially for State significant developments. The one I have in front of me relates to the Deniliquin Council area for an abattoir extension, not a greenfield site—an expansion of their existing abattoir. That has taken 2½ years. As part of that process they actually had additional requirements added to the original director general's requirements through the process. This is exactly what Mr Green was talking about; the goalposts changing, the hoops getting higher and so on. There are something like 400-jobs involved with this proposal and they are now asking why they simply would not move the whole thing 75 kilometres south across the Victorian border where they can get approval in four or five months.

These are the sorts of things I am concerned about as Parliamentary Secretary for Regional Planning. Processes are in place stopping proposals going ahead, costing towns like Deniliquin 400 jobs, a town that has just lost its forest industry and hundreds of jobs through that process. The town has an opportunity to get a good solid development going forward that will provide good jobs for 400 people yet it has taken 2½ years to get there. They are the sorts of issues we want to get sorted out through this inquiry; to make sure that those things do not happen. There are many reasons why it has been held up— they are probably all good reasons but that does not change the problem that councils like Deniliquin face; it is happening in other council areas too. They are the things we really want to drill down on, find out why those things are happening and what we can put in place to stop them happening again.

Mr MURRAY: I cannot speak to that particular application.

The Hon. RICK COLLESS: I do not expect you to.

Mr MURRAY: What I can say is that the Department of Planning and Environment is very focused now on achieving much faster determinations and approvals. It has put significant effort into its assessment teams, which are a special part of the department that deals with State significant development, to ensure that they have the resources available to do that. We are also, in some areas of the department, assisted by case managers. Their purpose is to make sure that, first, we are achieving the time frames. Secondly, they assist the department when it needs to work across government to resolve an issue that may arise and, thirdly, they oversee the process. The department has made a significant commitment to that. We will continue to do that because we understand the importance of giving people who are investing in New South Wales greater certainty one way or the other.

With regard to the other focus of the department, the rezoning of land, we work to strict benchmarks. We try to respond to a request from a council within 25 days and we achieve that, on average, 85 per cent of the time. Wherever possible after that we are now delegating the plan-making process. We quote statistics on that in our submission. Once we have checked it against the strategic plan to see that it is consistent with State and

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regional planning policy, a large number of matters are delegated to local government. Therefore, the timing is as fast as the council wants to work. At times a developer will come to us and say that a council is taking too long. We are more than happy to be proactive and talk to the council to try to resolve blockages.

In fact, one of the reasons the department reinforces its regional teams and has them across New South Wales is that they are aware of the community issues. They are aware of the needs because they talk to the community and the groups involved. They have the contacts with the State agencies. Where an issue is raised by an agency they come in and try to broker an agreement. We are committed to speeding up the assessment and rezoning process because we understand the importance of it to investment.

CHAIR: Are all those things, the director-general's requirements [DGRs] and the reissue requirements, published? Are the time limits published?

Mr MURRAY: There are guidelines on the time limits on our department website. They are called the secretary's environmental assessment requirements now, but we all probably use the old term DGR.

CHAIR: Sorry.

Mr MURRAY: I still think that way too. When they are issued they are placed on our website. When extra information is requested, that is put on there. Any information that comes in is made available publicly on our website and can be tracked. We also provide for tracking of all rezoning applications in New South Wales on the department's website. It says when an application is lodged, when it is being assessed and when it is finalised. Anyone can look at all the documents.

The Hon. MICK VEITCH: If it is being held up for any reason, can you also look at that? Take a development like the one the Hon. Rick Colless was talking about. If there is a delay, can someone go to the website and click on that development and see where it is up to?

Mr MURRAY: It may say that we have requested additional information. If not, with State significant developments there is always a person's name listed and a contact number.

The Hon. PAUL GREEN: So it says which department it is with?

Mr MURRAY: No, it just gives you the status of where it is, that it is under assessment, and all information that is being assessed. If the department has asked for more information the website will say that.

Mr BARNES: Mr Hanger's team are working with that very group to help get the development through the process.

The Hon. RICK COLLESS: Good.

Mr BARNES: Certainly the Department of Industry's role is to assist businesses to get their development applications through in a timely fashion because, particularly in the bush, they work on thin margins and it is high stakes. In a place like Denilquin that is a big chunk of jobs in that community.

The Hon. RICK COLLESS: Absolutely.

Mr BARNES: There are a lot of secondary and tertiary knock-on effects if those things do not happen. It is fair to say that the overall process out in the bush to get planning approvals through seems to be going pretty well. It could get better. We were in Wagga Wagga the other day. A couple of firms that have just set up out there were talking to us about how delighted they were with the local government, which had been delegated to do things. Their experience was in Western Sydney and they had chosen to set their businesses up in Wagga. They are recycling businesses. So there are some positive stories as well as the ones that we all need to get better at.

The Hon. RICK COLLESS: I guess it is the bad news stories are brought to our attention. I appreciate what you are saying.

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The Hon. PAUL GREEN: Out there in regional land, those who do not want the industry there, for whatever reason—rightly or wrongly; I am not trying to take away the democratic process—are well aware that if they can stifle a project daily that is a lot of money. As you say, there are not big margins in regional areas.

Mr BARNES: They are thin margins.

The Hon. PAUL GREEN: In Sydney it is not a problem. You can get over it and go somewhere else, but in the regional areas there is not much of a margin. That is why we are having this inquiry. We cannot afford to lose industries in regional areas. The Government is offering an incentive and saying, "Go out; get out of Sydney and relocate," but what to? There is no housing and there are no jobs. It is very important that we have e-planning so that people can look on the website and see whether a development is stuck at a certain point. People say, "Where do I go, because I am pouring a lot of money into this and I need answers?" It is good to hold their hand through the process. That is what a lot of regional councils are doing. They are holding people's hands and saying, "We will lead you through it and partner with you because we want your business." But a lot of businesses leave because the process takes too much time and time is money.

Mr BARNES: You are exactly right. Some of them have taken almost an account management approach. They have said, "We want you to come here. We will work alongside you and help you over the hurdles." It is important to get these processes right. If you are running a battery recycling business it is important to get the process right and give the community confidence that everything has been done in the right way. At the same time, there is a clear need to say on behalf of Government that none of us have reached a state of grace and got it right. That is the very reason why, as Mr Isaacs was saying, we want feedback from farmers to make it better. No-one wants to be tied up in knots when they want to put up a shed on their own farm. They want it done quickly.

The Hon. PAUL GREEN: I know that some development people do not want to do the studies. I understand that too. I am not trying to wave through people who try to take a shortcut and do not give the department the information it seeks. But people who do the right thing do not deserve to be put on hold. Are there any statistics to show that e-planning is productive and that things are getting better because we are doing them electronically?

Mr MURRAY: I will take that on notice and refer that to our e-planning team. I know that they monitor it.

The Hon. PAUL GREEN: It would be interesting to see if the statistics show that it is any better than the previous system. Fit for the Future reform is causing anxiety in regional areas right now. KPMG, Ernst & Young and others have provided statistics to government. Statistics on council mergers make the bottom line look good because there are fewer councillors. One of the big factors is that a lot of backroom staff will be moved on. Is there a concern that that will have implications in the rural and remote areas and that we will lose opportunities out there because people will no longer have the expertise?

CHAIR: In a planning and assessment capacity.

The Hon. PAUL GREEN: Yes.

Mr MURRAY: I would really like to take that on notice to the Office of Local Government—

The Hon. PAUL GREEN: I thought you might.

Mr MURRAY: because that is a matter that the Office of Local Government is dealing with.

The Hon. PAUL GREEN: It surely is.

The Hon. MICK VEITCH: Earlier the Hon. Rick Colless spoke about the Deniliquin abattoir as an example of a development and there was a line about packing it up and going across the border. What mechanisms does the government have in place to manage cross-border issues when it comes to planning or instruments that encourage regional development and growth through the planning systems? Do you have dialogue with our counterparts about smoothing the way for development? That is the first part of my question. The second part of my question is around the many anecdotal statements we hear that it is easier to do business in Victoria or in Queensland. What are your comments on that?

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Mr MURRAY: In terms of working with cross-border jurisdictions, in a planning sense we do work closely with our counterparts. In particular there is a lot of cross border work and agreements have been set up between the Australian Capital Territory [ACT] Government, Queanbeyan council and New South Wales. The Government has also appointed a Cross-Border Commissioner. We in the planning department, and I am sure the industry department do to, work very closely with him, particularly in looking at issues that may block the ability to have a development on the border. We work closely, both through a lot of our regional teams and centrally, with him to resolve those issues.

People do not see a line on a piece of paper as being a different area. For instance, a lot of people live in Tweed Heads and travel into south-east Queensland to work. When you start to look at south-east Queensland, particularly the Gold Coast end, you see that future releases are basically in New South Wales in the Tweed Heads area. So there is a lot of work going on between councils and talking to the agencies about how we do that, how the infrastructure links and how we go forward.

Mr BARNES: I would like to make a quick comment on that. James McTavish is the Cross-Border Commissioner. He works for me. He is based in Albury and he is very proactive, particularly across issues pertaining to borders with Victoria, Queensland and the ACT. We are very close to signing a memorandum of understanding [MoU] with both Queensland and the ACT at the moment that will define a set of first principles around the contentious issues that have bubbled to the surface.

Cross-border commissioners are as good as the people who work in the respective agencies. It is about actually sitting down with their counterparts are nutting things out. Nothing becomes starker in terms of businesses differentiating where they are going to put their energy if they are close to a border than issues like how they are going to be treated by planning approvals processes and environment protection authorities, and what sort of support they are going to get et cetera. So we are very aware of those things. I guess the mantra of this Government has always been to beat Victoria—

The Hon. RICK COLLESS: and Queensland

Mr BARNES: and Queensland, although they do not do too well in the football. We do need to keep a constant eye on that. We must provide a set of approvals processes that are competitive because people in those areas will filter across the border and we do not want that.

The Hon. MICK VEITCH: This morning we heard from the Planning Institute of Australia. Have you had a chance to read the other submissions to the inquiry?

Mr MURRAY: A number of them but not all of them.

The Hon. MICK VEITCH: The Planning Institute of Australia in their submission spoke about the concept of open zoning provisions. It was about turning closed zoning on its head. Do you have a view about how that could be accommodated? Could that concept be accommodated in our current arrangements or do we need to make changes?

Mr MURRAY: The way you draft a zoning table can, in planning speak, be either open or closed. An open zone is where you would only list the uses that you wish to prohibit. So obviously if you are talking about a residential area then you would say that you do not want a supermarket and you do not want a recycling plant in that zone. I am talking, say, about in the middle of town in a country town.

The Hon. PAUL GREEN: I thought you were talking about Eastern Creek.

Mr MURRAY: Other than that it would be open and then all of the other uses that you could have under the planning scheme would be permitted, either with development consent or without development consent. A closed zone is where you list only what is prohibited with consent and then you, say, prohibit everything else. So we allow that flexibility now within the standard instrument. Some zones we allow to be open and others we suggest should be closed so that we can actually maintain the integrity of what that zone is for.

For instance, if you took the prime rural zone then you may want to avoid allowing someone to build an out-of-town shopping centre because you had an open zone. You have to be very careful how you approach

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that. There is merit in it in certain areas. But if you get too flexible then you will get things that can, particularly in rural and regional areas, really adversely affect the existing towns. People look for the cheapest and easiest land to use. It is logical. If you are investing money, you want to minimise your input so that you maximise your return. So there is some benefit in having open zones but at the same time closed zones are good in particular areas where you say, "This area is predominately agriculture and we do not want to undermine that so we won't allow uses that are unsuitable or, more importantly, create or bring in uses that end up complaining about the agricultural use, cause conflict and then create an issue within the area."

CHAIR: There were two types of examples that the witnesses used this morning. One was that of wine bars in a closed instrument where hotels and restaurants are available but wine bar is not defined and how you deal with that one. The other was, and it was more significant I think, changes where, for example, farming is allowed but somebody wants to do some intensive farming because that is the way the market is going. They have to get a development application for that and it is basically prohibited. Maybe you could look at both of those examples.

The Hon. PAUL GREEN: It is also about the lot sizes, for example, it might be 40 hectares, which are just nonnegotiable where they should be open.

CHAIR: It is about both things: The lot sizes and the actual zoning.

Mr MURRAY: In terms of agriculture most of that does require a development application because most intensive agriculture has the ability to pollute. Therefore it is important not to stop it but to make sure that it is right. Under the planning system, councils are open to choose the minimum lot sizes that they think suit their rural areas. But we do, through a State policy, ask them to consider a range of things. One of the things is that, as the Committee would be aware, agricultural markets change very quickly.

So one of the things we have to be careful of is that if we truly do over-fragment rural land then it is very hard to pull that land back together if we have a change back to more extensive type agriculture. So there may be scope in future looking at the planning system to better define what becomes intensive agriculture. So something like a glasshouse or greenhouse system may have fewer assessment requirements than, say, a piggery or a cattle feedlot where you do have potentially significant issues with odour and waste disposal.

The Hon. MICK VEITCH: This morning we also heard from the New South Wales Aboriginal Land Council. They raised two separate issues which I think tend to go to the same issue. The first was that when the former missions and reserves were handed over there was a whole range of planning instruments—it really sounds like a nightmare the way they described it—which prevents them from doing stuff with that land. Have you been engaged with them at all in trying to rectify that issue? The second part is that they are suggesting that when land is transferred to a local Aboriginal land council under the Aboriginal Land Rights Act there may well be a need for an Aboriginal SEPP or an Indigenous SEPP to try to accommodate the uses that are applicable to that piece of land that has been transferred. So there are two separate things.

Mr MURRAY: In terms of the missions the department is working on an Indigenous Land Use Agreement with them now to actually go through and work out what lands would be suitable, how to make sure the infrastructure is correct and how to set out a path to allow subdivision if that is appropriate.

We do not know the mechanism, whether it would be a State policy, whether we would amend local plans, or it could be some other way. In terms of the Aboriginal lands, the regional plans that we are developing have a clear action in them. The Illawarra, for example, does and the draft North Coast does, where we will work with the local land councils to work out how we can deliver economic outcomes from land that is suitable for appropriate development. We can go in, provide that assistance and help and work with them, and I am sure we will bring other agencies into that process. Where a land is suitable for a higher and better use, it should be looked at and we should be able to work with them and assist them in that.

CHAIR: There is a more fundamental issue here. That is—perhaps it is a misconception—a lot of the land that is going to land councils under that process is already zoned basically environmental or protection and so on, and there is a suggestion that they are not being consulted and being given the opportunity to use that land, particularly where it is rezoned from something like industrial or residential and while they are waiting for the process to be concluded it becomes environmental. Do you have a comment on that aspect?

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Mr BARNES: One comment is that Indigenous Land Use Agreements [ILUA] typically need to be more flexibly crafted because what happens is that you sometimes cannot conceive of what the economic opportunities might be when you are actually crafting those agreements. If you become overly prescriptive—and, believe it or not, on many occasions it has been the traditional owners who in retrospect had wished they had not argued so hard for constrained planning arrangements on those lands. As a government, we need to look at flexibility being a first principle so that we do not lock down the opportunity for economic growth on that land. But having said that, these things always need to be a negotiated outcome but with a set of first principles in mind.

CHAIR: Before we leave this space, I noticed in the Government's submission there is a paragraph on page 19 on the Aboriginal cultural heritage work that you are doing which relates to data and material rather than consultations. It would help us—this is a bit unusual, I suppose—because we have had quite a bit of evidence in relation to some of these issues, if you, Mr Murray or Mr Barnes, could take from me the Aboriginal Land Council submission No. 25 and on notice give us some responses to that so that we have the answers. Are you happy to do that?

Mr MURRAY: And we will collaborate with the Office of Environment and Heritage.

CHAIR: I will hand you the hard copy. As you know, we are conducting another inquiry on Aboriginal enterprise. Some of the material we have just been hearing is very relevant to that. Would you be happy if we were to use your evidence in that other inquiry?

Mr BARNES: Yes.

The Hon. PAUL GREEN: I guess we see that flexibility in planning needs for Aboriginal people because they get all these land claims and most of it is on Crown land or a national park or something like that. They are pretty locked in with what they can do. We need to unlock that opportunity for them to have the flexibility to generate income.

Mr BARNES: Just on Crown land, probably there is an area that sits within the Department of Primary Industries that focuses just on this. Mr Isaacs is not the right person, potentially, to talk about it.

CHAIR: He will have a go.

Mr ISAACS: You would be aware of the Crown land reform process that is underway and part of that process is designed to streamline how Crown land is managed. We are looking at bringing eight Acts into a single Act and make it easier to understand and work your way through if you want to do something on Crown land while ensuring that Crown or public land where it is necessary for a public purpose is retained for that public purpose. I think there are certainly some reforms in that space that will help and I would hope work hand in hand with some of the other work that is happening in the Aboriginal land use space.

The Hon. PAUL GREEN: I guess with the local environmental plan [LEP] and other things that you are talking about, an Aboriginal land State environmental planning policy [SEPP] would be really handy because it is not one size fits all, it is delicate, it has to be flexible, but you could still write something that can advance their cause.

Mr MURRAY: That can certainly be considered. But as I said, one of our clear actions is we want to work with them because not all land is suitable for a higher and better use.

The Hon. PAUL GREEN: No, I understand that.

Mr MURRAY: Part of the problem is that the planning system is hard for certain groups of people to be involved in and that is why we made the conscious decision in the plans that are out on exhibition or finalised to go and work with the Aboriginal land councils and Aboriginal groups to see what opportunities there are for them.

The Hon. PAUL GREEN: The missions are low hanging fruit, I think. That is a good place to start.

Mr MURRAY: And we are working on that.

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The Hon. MICK VEITCH: On page 19 of your submission about a third of the way down under the section "Economic Development Strategy for Regional NSW", the second last bullet point says, "Reduce cross-border regulatory barriers to business." How?

Mr BARNES: That does sit fairly and squarely in the scope of the Cross Border Commissioner. The memoranda of understanding [MOU] or heads of agreement that we are looking to put in place and are imminent with both the Australian Capital Territory and Queensland will mean that companies that have a client base across the border would be subjected to a compromise or one set of regulatory requirements, not having to satisfy both. So taxi companies, for example, that operate between Tweed Heads and Coolangatta would pull their hair out having to satisfy both sets of requirements where their base clearly means that they have to draw their clientele from both sides of the border. It is picking off those regulatory issues where there is not consistency.

I was talking to some men in Albury the other day who run a regional training organisation. Again, they have to satisfy the New South Wales regulatory requirements and then a slightly different lot for Victoria. They also operate up into the Australian Capital Territory as well. Three different things. They are not always the same and it just causes them to waste a lot of time and effort. From our perspective we are knocking off a long list of those and seeing if we can come to an agreement.

The Hon. MICK VEITCH: Would those memoranda of understanding be reviewable in some period in the future?

Mr BARNES: They have to be living documents because things change.

The Hon. MICK VEITCH: That is why I was wondering if they are going to be reviewed.

Mr BARNES: One of the things at the moment that we are working on with the Queensland Government is how they will treat workers who come from New South Wales and are going to work on the Commonwealth Games. Because, again, there are a whole host of differences about where they are employed and their place of work around things like WorkCover and workers compensation. It is our job to get in as the Department of Industry and try and sort out the big things.

I have to say that most companies are very proactive and both jurisdictions, usually on either side of the border, if they have some level of empathy and understanding are prepared to give ground, which is a really important thing. You see it happen all the time in the education space as well where kids might be domiciled on one side of the border but go across and they are copping allowances and things like that.

The Hon. MICK VEITCH: The Australian Capital Territory is a very good example with Goulburn and Yass.

Mr BARNES: Absolutely. Together we often go to the Commonwealth where the problem exists sometimes with their regulatory environment which treats different jurisdictions differently. We have just got to keep actively working on this. We have got a list and that list gets elevated to us through need, because the best people are the people on the ground; they will tell you exactly what is causing them to stay awake at night. If you presume to know better than them—

The Hon. RICK COLLESS: They will let you know.

Mr BARNES: They will let you, don't worry about that—particularly people in the bush.

The Hon. PAUL GREEN: In your review of the State Environmental Planning Policy regarding exempt and complying development codes did you find it was going well or it is going to need significant change?

Mr MURRAY: Of particular interest for rural and regional New South Wales is a discussion paper on improving exempt and complying development codes in western New South Wales that has been released because councils and stakeholders clearly told the department that the metropolitan standards, because it was written to suit the whole State, do not work. In response to that we have just released a discussion paper with the aim of bringing in a range of provisions that make exempt development and complying development much easier in rural and regional New South Wales.

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I spend most of my time working out of regional New South Wales. We all know when you get out on the black soil plains saying a 200 square metre shed should be an exempt development or a complying development is not appropriate. They do not want to build 200 square metre shed—that is a garage. They want big sheds, silos. We are trying to address those issues but also letting regional and rural towns have different setbacks and different heights that actually reflect those areas and make things quicker, easier and cheaper. We have particularly been aware of those issues and have just released a discussion paper.

Also in terms of the other exempt and complying codes we are always looking at opportunities to expand it and make it easier and simpler so people can understand it and use it. There are certain things you do not need to go through a development application for. Everyone expects the house next door is going to be this high and set back from the side boundaries this far. You bought in a residential area. If people can just do it quickly they should just be able to get on with it. When someone wants to do something different that no-one expects, that is when you should go through that process.

The Hon. PAUL GREEN: Private certifiers were introduced to speed up processes and planning outcomes. Is that working in regional and rural areas or has it become a problem?

Mr MURRAY: Our submission talks about one of the issues potentially being in getting appropriate certifiers to work, particularly in far western New South Wales. I will not be able to give evidence on whether it is working or not but I know, for instance, that we often hear from industry and councils from our western region that one of the things councils raise is that it is hard to get certifiers into that area. One of the things the department has looked at and thought about is whether we could work with the Building Professionals Board and look at training and opportunities.

The Hon. PAUL GREEN: And incentives? The final SEPP you have mentioned is the one relating to caravan parks and manufactured home estates. Given that we have an ageing population and we do not have enough affordable housing, how is that SEPP looking and how could it play a bigger part in regional development?

Mr MURRAY: It has been on exhibition, I have not got an update on the outcomes of the consultation. Part of that was just trying to make the whole process simpler and clearer. Located in the right area and close to public transport with ease of access to shops and particularly jobs, manufactured home estates and caravan parks do provide an opportunity for much-needed affordable housing. They also provide temporary housing in other instances where you may have an itinerant workforce come in because of a major infrastructure project and then move out. One of the reasons the department has been looking at this is to simplify the framework, make it a lot easier and make it a lot clearer while also making sure we protect those people who live within those estates at the moment.

CHAIR: Is any work being done in looking at requirements for bigger developments in relation to noise, dust, odour, car parking requirements, overshadowing and those sorts of things? We have had anecdotal comments that out in the bush you are required to do all of these reports and get experts in and pay for them and so on. What is the department thinking about those things?

Mr MURRAY: In terms of the impact of those?

CHAIR: The necessity to have those sorts of things and whether they are really relevant. If you are building a shopping centre in Wellington do you really need to get the overshadowing reports that you might need if you build something in the centre of the CBD?

Mr MURRAY: A lot depends on the actual site and what surrounds the site. One of the things the planning system enables is that it is fit for purpose and it should be use fit for purpose by councils. Therefore, you should look at the actual site that you are dealing with and saying, "This is taking an entire block. It is going to be this high. There are streets all around it. Why do we need overshadowing?" Car parking potentially is an issue that should be dealt with in the local community. I know when I worked in local government there was never enough car parks. Those issues should be fit for purpose and the planning system enables that.

The planning system does not prescribe that you need to do all these things; a lot of these things are brought in by the local consent authorities because they feel that is their response to their community. When the department looks at the major, major development it only identifies those issues that are relevant. Obviously, if

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you looking at something that is noise generating or dust generating and it does have people nearby it is really important that that work is done.

CHAIR: What sort of simple mechanism is in place for a developer or owner who is basically disputing those things other than going to the Land and Environment Court?

Mr MURRAY: If they were given a consent they can ask for a review under the Environmental Planning and Assessment Act. So if staff gave a consent under delegation you can have another review within that. If the development is of a certain amount, over \$30 million, except for a few other things, they are dealt with by the Joint Regional Planning Panel, which has three State representatives and the two council representatives. There is the opportunity to do modifications to your development. At times within the regional offices in terms of local development some people come to us and say, "We're doing this rezoning. We have some potential issues." Where it is appropriate—and we have to be very careful if we are the final decision-maker—we go in and try to broker solutions.

The regional teams also do a lot of work with their regional colleagues. We often get a call from local industry people saying, "We've got this developer looking at this area. Can you come to the meeting and help solve the problem?" If there is an environmental issue that comes up we will often get together with the council and the developer to work together to negotiate the outcome that people are after. It is probably one reason why in the opening statement I stressed that the department sees rural and regional New South Wales as so important. That is why we have those teams out there and those teams work with councils very closely because they are trying to get the right development outcomes.

CHAIR: We have had some quite good comments about the regional offices but they have been followed with concerns that they are perhaps not resourced or trained enough and they are not able to make decisions. Could you on notice give us an outline of where the offices are, what resources they have and what delegations they have to be able to make decisions?

Mr MURRAY: Certainly.

The Hon. RICK COLLESS: Witnesses from the Planning Institute of Australia suggested that the department needs to be better resourced at the local level. Would something such as the decision-making regarding the Deniliquin State significant abattoir development normally be dealt with at the local office level or would it be handled from the Sydney office?

Mr MURRAY: State significant assessments are centralised within the Sydney office. They consult with the regional teams on regional issues and seek regional input. They also consult with other relevant regional agencies at that point.

The Hon. RICK COLLESS: Is there a reason for that?

Mr MURRAY: It is to ensure a consistent approach to dealing with State significant development across the State, that it is consistently dealt with and it has efficiencies in doing it because of expertise—you can have the expert teams instead of having to have maybe five specialists in a certain area sitting in different offices across the State; you can have some in head office that can give their range of expertise across that.

The Hon. RICK COLLESS: What sorts of approvals are given at those delegated levels in the regional offices?

Mr MURRAY: The director of regions, as we call them now, has the delegation—and we can provide a copy of the delegations—to let a rezoning process commence, modify that rezoning process that was asked for and make the LEP at the end of the process within certain parameters. They also have delegation to issue concurrence. So if a concurrence is required under, say, the wetlands SEPP, littoral rainforest or koalas under SEPP 44, we have the delegations to approve those plans and we deal with a whole raft of minor delegations under the Roads Act, a whole range of things.

So there is quite a lot of delegated authority that sits and that has grown in the last few years to the regional teams. We are always looking at further opportunities to even push it down within the regions so they are not relying on a director of the office—it could be a team leader level in our office could make those decisions. More importantly, as I said earlier, once we have started the rezoning process on a number of

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occasions we are delegating the finishing of the process and the making of the plan through to the council so they can make the local decision that suits their local area.

The Hon. RICK COLLESS: What sort of staff longevity do you have in those regional offices? Obviously it is an important issue for people getting to understand how a local region operates and works; it is not just a matter of coming in and ticking boxes, you have got to understand all the background information. Do the people in your regional offices tend to be there for a long time?

Mr MURRAY: It varies from region to region. For instance, prior to acting in the executive director role—my region is the northern region of the State—up until about five years ago everyone had been in the office 15 to 20 years except for me. Now I have got staff. I am the longest serving in that region, which is 13 or 14 years, but I have got staff that have been there more than five, six, seven, eight years. We really work hard. People do stay in the regions but, like anywhere, people seek to take job opportunities and we certainly encourage our staff to build their careers. But a lot of the regions do have staff that have been there.

The Hon. RICK COLLESS: Do most of those people tend to have a regional background themselves or do they move to the regions from the metropolitan areas?

Mr MURRAY: It is a variety. Some people come out from a metropolitan area because they want to get that regional experience; other people have been in regional planning their whole careers. For instance, I started in local government in the Hunter Valley, went to the South Coast and now work for the State Government regional planning on the North Coast. So my planning experience is basically all regionally based.

The Hon. RICK COLLESS: Can I just get back to the discussion we had a little while ago about the high-value land and moving land use to a higher value and that sort of thing? You would be aware that under the biodiversity review document that was completed a couple of years ago there was a recommendation that lands of high biodiversity conservation value should be mapped. It was one of the 43 recommendations the Government said it would adopt.

If we are going to look at mapping areas of high-biodiversity-value land should we also be looking more carefully at high-value lands for other purposes as well, such as forestry land, rural subdivision, residential, extractive industries, whatever you want to call it, and there is a whole suite of them that we could look at? If we were to go about a process of having a better idea where those high-value lands are, where their fit for purpose is, would that not make it a lot easier for potential developers to come into an area where those lands are reflected, knowing that they would get a much easier approval process on those lands?

Mr MURRAY: We actually do that. For instance—

Mr RUTHERFORD: It is reflected in the Illawarra regional strategy too, for example. Part of the purpose of the regional strategy is to indicate where those values are and where we want to shift development to.

Mr MURRAY: I will give you some examples. On the North Coast we have mapped what we call regionally significant farmland.

The Hon. RICK COLLESS: I do have a copy of the North Coast draft plan here.

Mr MURRAY: That was done on a scientific basis and worked through with the local farming community and was peer-reviewed. Minerals and Energy have provided mapping of all important extractive resources and we have put that information into the regional plans. As better mapping of biodiversity becomes available it becomes available. We strongly encourage councils to do strategic planning at the local level and part of that purpose is to clearly identify that so that they can say to anyone coming to the area, "We think this area is suitable for industrial development. We think this is suitable for residential development".

The Hon. RICK COLLESS: In a perfect world the zoning should reflect that, should it not?

Mr MURRAY: It does, but quite often part of the purpose of doing a strategy is also to show to the future what you want. On the North Coast we have worked with councils and we have mapped where urban growth should go because it is so highly constrained in terms of biodiversity, flooding, a range of other matters. We have worked with councils and said, "These are the growth areas", but we have made sure those areas that

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are mapped have way more land available than the predicted population so if something happens we are not on the back foot. It is looking forward.

CHAIR: Mr Isaacs and Mr Rutherford, having regard to the questioning and the issues that have been raised, is there anything that you have a burning desire to add that would help us at the moment?

The Hon. PAUL GREEN: I have a question for Mr Rutherford. In light of where we have been and how development is going in New South Wales, is there a paradigm change in the department to say that "Hey, we really can co-exist with our local environments and our endangered species and flora and fauna"? Is there a move towards being able to integrate and to look after it and be beside it?

Mr RUTHERFORD: The nature of our input to both strategic planning and development applications is to essentially facilitate good development in areas where government wants that to occur and communities want that to occur. Our role is to provide advice on where the higher environmental values are, where there might be particular values that should be protected that the community supports being protected. But certainly it is not from the perspective of constraining development or the like; it is there to support facilitating development in the right areas that the community will benefit from. I think the submission refers to the review of biodiversity laws that are there at the moment. The status of those at the moment is that we are expecting a draft bill to come out within the next few months or a period of time—

The Hon. PAUL GREEN: We are all anticipating that.

Mr RUTHERFORD: —which will create a new Biodiversity Conservation Act, put the right strategic framework in place, repeal some of the existing laws that are there now and provide the right strategic framework to enable development to occur that will still retain and support the environmental values that communities support.

CHAIR: Mr Murray, on page 21 of the submission you have listed several things under "Opportunities for further improvement in the planning system to support regional NSW". Can you give us 20 seconds on each one of those?

Mr MURRAY: Certainly. We have got a number of examples here. The first one is continually reviewing and updating the standard instrument. Wherever possible we are trying to reflect what we call local clauses to help that, but I think more work can be done on that and we can have clauses that may be appropriate for different areas of the State.

CHAIR: What is the process for that?

Mr RUTHERFORD: The process for doing that is that in some instances we can just work with areas of the State and develop a clause—make sure it can be legally drafted and then make it available and councils can have the option. We also have to go through a more exhibition process if we were to actually change the instrument that is being gazetted, and there is an opportunity to pick up any issues that should be fixed in that and go through consultation. If the model of joint organisations is continued to be rolled out, there is a great opportunity to work closely at a more strategic level across all of government in terms of service delivery and regional planning, because you are talking to a collective, which is always a lot easier at times than talking to individuals.

Exploring the opportunities—we talked about this earlier, about certifiers, so I will not re-emphasise that. Undertake further strategic planning—we give some examples in there, but the key issue I think is that if these plans go through and they are adopted through the governance structure and bringing together the groups, we go through and actually implement them, but, more importantly, we monitor the outcomes and we report back and to that respond and do the changes that may be needed.

CHAIR: Excellent. Thank you, gentlemen, it has been very helpful. You have helped us with a lot of information that has helped us clarify some of the other things that we have been concerned about.

(The witnesses withdrew)

(The Committee adjourned at 3.02 p.m.)