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REPORT OF PROCEEDINGS BEFORE

STANDING COMMITTEE ON STATE DEVELOPMENT

INQUIRY INTO NEW SOUTH WALES PLANNING FRAMEWORK

At Sydney on 17 August 2009

The Committee met at 10.00 a.m.

PRESENT

The Hon. A. Catanzariti (Chair)

The Hon. R. H. Colless
The Hon. M. R. Mason-Cox
The Hon. C. M. Robertson
The Hon. M. S. Veitch

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BRUCE MACKENZIE, Mayor, Port Stephens Council, 2684 Nelson Bay Road, Salt Ash, sworn and examined:

DAVID RICHARD BROYD, Group Manager, Port Stephens Council, 116 Adelaide Street, Raymond Terrace, affirmed and examined:

CHAIR: Welcome to this ninth public hearing of the Standing Committee on State Development's inquiry into the New South Wales planning framework. In accordance with the Legislative Council's guidelines for the broadcast of proceedings, only committee members and witnesses may be filmed or recorded. People in the public gallery should not be the primary focus of any filming or photographs. In reporting proceedings of this hearing, the media must take responsibility for what they publish or what interpretation is placed on anything that is said before the Committee. The guidelines for the broadcast of proceedings are available on the table by the door. I remind everyone that any messages for Committee members or witnesses must be delivered through the Committee clerks and mobile phones should be switched off.

I welcome our first witnesses from the Port Stephens Council. Would you like to make an opening statement? Before doing so, I point out that if you consider at any stage that certain evidence you wish to give or documents you wish to tender should be heard or seen only by the Committee, please indicate that fact and the Committee will consider that request. If you do take any questions on notice today, the Committee would appreciate it if the response to those questions could be sent to the Committee secretariat within 21 days of the date on which the questions are forwarded to you.

Mr BROYD: Yes.

Mr MACKENZIE: Yes.

CHAIR: Would you like to make an opening statement?

Mr MACKENZIE: I welcome the opportunity to come here today. I have with me our manager, who is held in great esteem in Port Stephens. He is forthright and to the point, and I am here to support him. He goes into the detail and I like to look for results. He is frustrated at times with the Government, the Department of Environment and Climate Change and all those other government organisations. I was first elected to local government in 1968. I had eight years off between 2000 and 2008. I am back again because I am not happy with the results not only in Port Stephens but also from the State Government.

We face enormous red tape and obstacles, especially with the Department of Planning and the Department of Environment and Climate Change. The department is driving development out of this State and it is obstructionist. I witness it all the time. Even the council has problems with the department with its own developments. Many people come to see me wanting to do things and all I hear about is problems with the Department of Environment and Climate Change. As I said, I think it is holding New South Wales back. David Broyd has prepared this document, which I hope members have read. He will point out the technical parts. I am interested in that part of it, but I am not as savvy with it as he is. All I look for is results.

The council wants to sell land at Salamander to raise money for ratepayers. We have been trying to get the subdivision through for two or three years or more. The latest thing I have heard is that the department wants us to cut out three blocks that are probably worth \$250,000 each. The state planning people have told us that if we remove those three blocks voluntarily they will call off the Department of Environment and Climate Change. That is a joke. I doubt that DECC is accountable to anyone except itself. It is the same with the Roads and Traffic Authority and the Environment Protection Authority. It is about time the politicians had the guts to stand up to some of these departments that are running riot with regard to development in New South Wales. They are stifling this State's development.

The council had another incident at Karuah. The highway went around Karuah. We tried to get residential land rezoned and local plans prepared. We experienced obstruction, obstruction, obstruction. We also have to start doing plans for Great Lakes. As far as I am concerned, Great Lakes can look after itself. Port Stephens is looking after itself and it is doing very well. These are the things that get on my goat. It is about time that the Government and politicians stood up to be counted and made these departments accountable.

Mr BROYD: Thank you for the opportunity to present to the Committee. I have been involved with the State Government on planning reform issues for about 12 to 15 years, and I have been in senior management in local government planning in New South Wales for 18 years. I would like to cover three main issues briefly in my opening remarks. I dealt with many of the planning reform issues when Craig Knowles was Minister, when Frank Sartor was Minister and now that Kristina Keneally is Minister when I was president of the New South Wales branch of the Planning Institute of Australia.

We have reached the point at which the fundamental legislation, the Environmental Planning and Assessment Act—now almost 29 years of age—needs a major overhaul. We have so many different Acts of Parliament now that govern the way in which development and environment outcomes are reached in New South Wales. It has become so fragmented, so complex and so reliant on multiple local government and State Government agencies in reaching a decision that it is almost an unworkable, dysfunctional system. As stated in our submission, I urge in the Committee to recommend a major overhaul of the New South Wales planning legislation.

My second point relates to the working relationship between the State Government and local government. It is partly driven by the legislative structure, but it is adversarial rather than collaborative. The legislation has made many ad hoc fixes and changes in the reform process in the last year or so. It has happened very quickly, relatively speaking. Parts have been taken off and put back on the car and it is now not running smoothly at all. There has a great need for increased engagement between the State Government and local Government to work through reform of the planning legislation.

The third comment I make relates to what I call the culture of planning in New South Wales. It is a blame game between the development industry, local government, State Government and community interest groups. That is in many ways generated by unworkable legislation. It is so hard to reach a clear outcome that everybody has their go at different stages. It is a relatively difficult system to work with and that leads to the blame game being very influential in the planning system in New South Wales. As a passionate planning professional, I find that very disappointing. We should work through a new legislative framework that engages all those parties. It will probably take three to five years to achieve that revised planning framework. However, if we do not do it and start doing it soon, in five years we will be in more trouble than we are now trying to encourage investment, good planning and viable outcomes in New South Wales. We must start that process.

That will require a lot of political commitment. We do not want the process to lose momentum because of short-term political expediency or because an election will take place during that period. We really need that political commitment so that in five years New South Wales has a much clearer framework to achieve not only development outcomes and investment attraction but also good environmental outcomes. We need a good balance between development and the environment.

The way in which the legislation has shifted is partly because the State Government—no criticism intended—is trying to encourage investment and development in New South Wales. As a result, the system is very much at one point in reacting to development proposals whereas it should be shifted to what the profession is really about with strategic planning to facilitate good outcomes. There is a dominance of development assessment and process management as distinct from real planning in New South Wales. The legislation should encourage that and, indeed, strategic planning should have statutory status.

CHAIR: What groups of people, individuals or agencies would you have around a table to discuss these matters?

Mr BROYD: The Property Council of New South Wales, New South Wales division of the Urban Development Institute of Australia, the Total Environment Centre, the Local Government and Shires Associations, the Planning Institute of Australia and representatives of professional planners in local government and the State Government. An implementation advisory committee comprising most of those agencies has been established as part of the reform of planning in New South Wales. However, it needs to become more of a working group as distinct from the way it is operating at present. It should also have terms of reference to achieve the overhaul of the legislation. As needed, director generals of State agencies would need to be involved in that process as well, to look at the Bushfire Protection Act, the Threatened Species Conservation Act, and other legislation like that. It needs to have more integration with our mainstream planning legislation.

CHAIR: Would you say that the people who are involved at the moment, what is needed today has passed those people by? Should we be looking for new faces rather than what is there at the moment?

Mr BROYD: I am sorry; I do not quite understand the question?

CHAIR: What I am getting at is, it seems to me that perhaps the work that needs to be done has passed by or passed over those people who are there at the present time. Would that be a fair assumption?

Mr BROYD: I think that is a fair statement in the way in which momentum of change has occurred. Engagement of what is needed at those agencies should have happened some time ago as an integral part of that process.

Mr MACKENZIE: You have to have government cooperation though too.

CHAIR: We note you made your submission to the inquiry in March this year. What is your view on the various elements of planning reform that have been implemented so far this year?

Mr BROYD: Firstly, the joint regional planning panels that were introduced on 1 July, I hold the view on behalf of local government that that was an imposition and a withdrawal of local democracy and decision-making on some development applications they should not have occurred. What we need is some greater clarification of what is State responsibility and what is the regional planning responsibility that may in all fairness and effectiveness be the Minister's responsibility and what are local applications to be determined at the local level. But, I think there is a level of denial of rightful decision-making by councillors. Because of the promptness in which the State Government brought in the code of conduct, and the operational guidelines. These were not clear to enable councils to make a fair decision by the nominated date of June this year.

The exempt and complying provisions have not been effective in terms of the State code because, firstly, they are very restrictive and more restrictive in many cases than most local provisions for exempt and complying developments in local environmental plans. By anecdotal feedback, which is quite substantial, most councils are finding that more applicants are taking up the exempt and complying codes of councils than are taking up the State code. That needs a major rethink, particularly as of 27 February next year those local codes are to be made ineffective legislatively and replaced totally by the State code. The key differences are that the local codes in many ways, as we do in Port Stephens, enable accredited bushfire assessment to occur to enable single dwellings to be approved if it is all endorsed through the process as per the Rural Fire Service. The State code does not provide for that. Many other councils do the same. In Port Stephens about 8 per cent of properties are open to that code, for exempt and complying development there is a bushfire protection, flood liable land and other factors. That needs a significant rethink.

The Hon. CHRISTINE ROBERTSON: Does that make a difference to practice?

Mr BROYD: Yes, it does, in terms of service delivery to the community because they are still very much electing to go to a development application with councils instead of a certificate of complying development, so that service delivery is not being achieved as was the original intent.

The Hon. CHRISTINE ROBERTSON: Does that extend to floods?

Mr BROYD: Yes. Because the land is flood liable, complying development cannot be applied.

The Hon. RICK COLLESS: Mr Broyd, given your statement that you see the JRPPs as a withdrawal of local democratic processes, do you believe there should be some sort of—I will use the word overriding, but I am not sure that is the right word—overriding process, be it a regulatory process or an advisory process, for the assessment of large developments, and do you believe that local government has all the resources it needs to assess some of those very big developments?

Mr BROYD: A good question. Many councils have used independent hearing assessment panels, which have made recommendations to the elected body of council. I think that has worked very effectively. Many councils use design review panels, so they bring in urban designers and landscape architects and architects that are not on their staff and therefore cannot provide the expertise within the organisation. They are good mechanisms to provide an enhanced level of advice to the elected body to make decisions on those relatively major applications that are categorised to go to the panels. I have no argument that if a development of a certain type or value is nominated in a regional strategy by the State Government as being appropriate for determination by the Minister, I have no question about that, but when development applications of \$12 million,

\$20 million, they can have very significant local impact, and I think the local political involvement is being denied there to an unwarranted extent.

Overall, I think there is a difficulty with resources in local government to service the planning system, and extra support from the State Government to provide additional resource recruitment would be very welcome. The Independent Pricing and Regulatory Tribunal, I understand, has recently handed down some provisions that may enable an increase in development application fees to a more appropriate level that would in turn potentially increase income for councils through the assessment process, and therefore potentially enable more resources to be brought to the matter.

Mr MACKENZIE: Could I just comment on that regional panel? I can understand to a degree where the Government is coming from with those regional panels. Over the many years I have been mixed up with local government I have to admit some local government areas are absolutely pathetic when it comes to dealing with development applications. They take years and years of procrastination, and they are the local government areas that probably should have those things taken away. But I am really proud of the way Port Stephens Council at the present time is dealing with development applications. In the past six months we have dealt with a multimillion-dollar development of the Volgren bus manufacturing at Tomago. We have another multimillion-dollar development at Sandvik, which I think David's department is going to approve in something like 10 weeks, and I would hate to think how long some of the surrounding local government areas around our way would take to do it. I am very proud of the way we are dealing with development applications at the present time, and I cannot say that for a lot of other local government areas.

The Hon. RICK COLLESS: Mr Broyd, when you mentioned in your answer before about extra assistance from the State Government to those areas developing quickly, what form should that assistance take? I guess it could be the form of having money available to employ contract assessors, and so on, or do you see that councils should be supplemented in some way to have some sort of permanent staff in your system to allow those assessments to happen?

Mr BROYD: I guess my answer is in three parts or three mechanisms by which that could happen. Firstly, I think an increase in fees for development applications could assist councils in recruiting more resources for the very purpose for which those fees are paid. I think it is quite equitable to do that. Those fees for development applications, firstly, have basically been statutorily defined since 1979 without any CPI increases or any other increase.

The Hon. RICK COLLESS: They are on a sliding scale, are they?

Mr BROYD: Yes, they are on a sliding scale, and that sliding scale would certainly need to be retained. Secondly, there could be use of the Planning Reform Fund for such a purpose to at least in part enable councils to provide more resources to the development assessment and/or strategic planning role. Thirdly, I think the State Department of Planning could potentially assist the process in this way, that the majority of staff in the State Department of Planning are now engaged in assessing major developments—not future planning but assessing major developments. If there was greater clarity between what is State and regional and what is local, I believe there could be a shift of resources to local and regional offices of the department, which are less effective because of certain centralisation of those processes on major projects to the Sydney office of the Department of Planning. So, more resources to the regional office of the Department of Planning could also support councils more in dealing with major projects, particularly, as the mayor referred earlier, in facilitating outcomes amongst the State agencies at the regional level, which is a major problem. The Department of Planning could play a greater facilitating lead there to get the Department of Environment and Climate Change, the Roads and Traffic Authority and the Rural Fire Service to the table early and work through the issues with these major projects at the regional level to enable approval to be given at State or regional level.

The Hon. RICK COLLESS: How does the State Plan that the Government has at the moment impact on your regional planning processes? The mayor mentioned that Great Lakes look after themselves well and you look after yourselves well, and so on, but from a State perspective do you think there needs to be some sort of coordination between local government areas to make sure there is a continuum of the various environmental issues in particular that run between different local government areas?

Mr BROYD: Definitely, yes.

The Hon. RICK COLLESS: Is that there under the State Plan?

Mr BROYD: No. Firstly, the State Plan itself is very welcome and it is great the State Government is doing a plan for the State. Similarly with the regional strategies prepared by the Department of Planning; it is great that it is doing those strategies. However, the State Plan is at a very generalised level. It does not connect with Port Stephens or any other council in a particularly direct way. Neither does the regional strategy. State government agencies operate in very much a fragmented way. There is no real coordination between them on a whole lot of fronts. I would advocate that two things occur around that. One, that there is now—I understand the Premier has initiated a director general's or CEO's committee. That needs to have more strength to get their various agencies to respond to the planning system and implement the State plan. The State agencies themselves should really be saying for the Hunter region—our region, for example—the regional managers need to be saying we need to do A, B and C to fulfil the State Plan at a regional level and have a plan of our own to implement the State Plan and the regional strategy.

They do not have that. That needs to be driven either by the Premier's Department or the equivalent of a Coordinator General or by the Department of Planning if it is given the strength at the regional level to make that connection between the State Plan and Port Stephens and Great Lakes and Lake Macquarie, to implement by prioritisation. There is no connection between the State Plan, the regional strategy and the work program of the Roads and Traffic Authority for the next five years or the policies of the Department of Environment and Climate Change or whatever it might be. There is no real connection. So, those State agencies need to upgrade their planning and programming in a public way to implement the State Plan and the regional strategy.

The Hon. RICK COLLESS: In the rewrite of the Environmental Planning and Assessment Act do you see that all those facets then should be incorporated into the new Act?

Mr BROYD: Yes.

The Hon. RICK COLLESS: And that reference should be made to all those different agencies and their respective responsibilities?

Mr BROYD: I do, and that is difficult because of the politics, ministerial portfolios and territorial defences of State agencies. Let us be honest about it; that is what the situation is really influenced by.

The Hon. RICK COLLESS: But that, in effect, is part of the problem now, though, is it not?

Mr BROYD: Yes.

Mr MACKENZIE: It is a big problem.

Mr BROYD: But they have an integrated planning Act in Queensland, as you may be aware, and that really puts a lot more direct obligation in a legal sense on the State agencies to respond in those ways. South-east Queensland regional planning is a great example where the State Minister—the State Department of Planning equivalent—State agencies and local government have engaged in the process of linking infrastructure delivery to the planning of development in that area. I think New South Wales, quite honestly, can take some real lessons out of that situation.

The Hon. MATTHEW MASON-COX: Mr Broyd, your reference to real planning, if you like strategic planning, rather than superficial colourful documents, is that really at the heart of what you are saying now?

Mr BROYD: Yes, I am sorry, I should have been clearer there. Yes, that is right.

The Hon. MATTHEW MASON-COX: That is really what you mean by real planning, the real integration of all those things and infrastructure that goes along with it on a regional basis as it affects local communities, if I might paraphrase you?

Mr BROYD: Yes, that is right. It is really saying, "What are the outcomes we want in the future and what are the means of getting there in a pragmatic sense?" That is what I meant.

The Hon. MATTHEW MASON-COX: Can I ask you whether the regional panels have made any decisions in your area since 1 July?

Mr BROYD: No.

The Hon. MATTHEW MASON-COX: Can I also ask about your local environmental plan [LEP]? Where is that up to?

Mr BROYD: Our LEP is year 2000. It is out of date; it is problematic in some ways and it does put me in a situation where I have to recommend one way because of the legal content of the LEP but on a merit basis I may not fully agree with the LEP. It is substantially out of date. We are working through to a new LEP being approved by the State Government in the year 2011. The LEP process again is very slow and cumbersome. The written answer to your question is we have an out of date and to some extent inadequate LEP for the current needs of Port Stephens.

Mr MACKENZIE: Totally, absolutely.

The Hon. MATTHEW MASON-COX: Why is it taking to 2011?

Mr BROYD: There was no move to change it before my arrival there and the total revision of the standard LEP by the State Government and in association with that they set, as you may be aware, time frames for each council to complete their LEPs. The time frame given to Port Stephens Council was March 2011. I would like to bring that forward, but I think in terms of the work to be done on our part and the priority that is nominated to be given by the State Government to our LEP, it is going to be difficult to achieve before that kind of time frame. It should not take so long to redo an LEP, I agree, and I think council should be required to do a comprehensive revisit of their LEP every five years maximum.

The Hon. MATTHEW MASON-COX: You also mention in relation to the implementation advisory group that it needs to be working as a working group rather than as it currently is. Could you please expand on the way that it is operating at the moment and how you see that perhaps changing or what you think needs to change?

Mr BROYD: The feedback that I have had is that information is delivered really quite late by the State Department of Planning to that committee and therefore the ability to respond with great substance is limited. It does tend to be at a superficial debating level, if you like, between local government and the local managers association and the Property Council, so it is not really given a mandate, terms of reference or commitment to look at the reform content in a really substantial way. It does not have the time or the terms of reference to do so.

The Hon. MATTHEW MASON-COX: So it is a one-way sort of process, is it?

Mr BROYD: I should preface my remarks by saying that I have only anecdotal feedback. I have not been present at those meetings myself but on the basis of that anecdotal feedback, yes, that is correct.

The Hon. MICHAEL VEITCH: A number of questions arise out of your opening remarks and in response to other questions and I am cognisant that the time runs out quickly at these meetings. You stated in your opening remarks that the Environmental Planning and Assessment Act 1979 has pretty much run its course. This Committee has heard lots of evidence on both sides of the debate about what that full rewrite would look like. I put to you a suggestion that seems to be accepted more than refuted that rather than have the one Act now, we are actually at the stage where we would probably need an Act for strategic planning for the development of plans, an Act for the assessment and approval of applications, and maybe all of the environmental legislation would need to come under some sort of umbrella legislation, so instead of just having the one Environmental Planning and Assessment Act, we are at the point where we need those three structures. What is your view on that?

Mr BROYD: I think we have to be reasonably pragmatic about it as well, is my first remark. In the simplest form, my take on it is that we would have something called an Integrated Planning Act or a Resource Management Act that does include both the strategic planning and development assessment as major components but integrates within it the provisions that go to development environmental outcomes that are currently the responsibility of the Department of Environment and Climate Change, the Rural Fire Service, the Roads and Traffic Authority, et cetera. I know that is a difficult balance to strike between what still is retained in the Native Vegetation Act or the bushfire protection Act but I think we have to integrate responsibilities for

development and environmental outcome in one single piece of legislation and place some direct integrating responsibilities upon the State agencies who are major stakeholders in achieving those outcomes in the same Act of Parliament. That is my simplest answer to you. That is complicated. It will take, as I said, three to five years probably to work through, but I think we must go there. We must try and work that through and get that balance right between the parent legislation of those State agencies and what they are obliged to do under a planning Act of some description. It must happen.

The Hon. MICHAEL VEITCH: If I can move now to LEPs. I think it might have been in Albury, but it was put to us that rather than have arbitrary time frames on LEP reviews and things like that, that in fact it may be better, particularly for rural councils, to actually have trigger points, similar to boundary reviews for electorates because of population shifts, and if a particular shire's population increases by a percentage point, that would trigger an automatic review of their LEP to ensure that it is meeting the needs of the community, so rather than mandatory time lines, there could be specific triggers. I pose this question to you, the mayor and your council because population shift would be a significant issue for your council as Port Stephens is a coastal area and people are moving to your area. What would be your view on legislative trigger points rather than mandatory time reviews of LEPs?

Mr BROYD: To their credit the Department of Planning did ask for every council to nominate their trigger points in reprioritising the program for LEPs, and we did that. I think the trigger point should be when a council can prove that their LEP has a major outdated set of contents that are just not fit for their current social and environmental economic situation. That is the first major trigger point, and that should be the trigger point given priority to redoing the LEP or part thereof in the local area.

The second one is growth. For example, in Port Stephens there are two major urban release areas called Kings Hill and Medowie. We are planning those separately whereas really we should be looking at making those part of the overall LEP, but we had need to do those ahead of our major LEP for the local government area as a whole to respond to the regional strategy and really we should be doing the local government area-wide LEP with that release area rezonings.

Mr MACKENZIE: I spend a lot of my time talking to people. They come to see me about everything. I attract that sort of attention because I like to see things happen and I make things happen. When I go to David and his crew I say, "Why can't we do that?" "The LEP says you can't". The most silly, stupidest looking things that you would ever think council should be able to say can happen. We are now doing an LEP at Seaham. A guy cut a block of land in half for a purpose and that purpose was a ski school. He started his ski school and the powers that be on the waterways said, "You can't do that because you are making too many waves and you are eroding the river". So now the guy has got two blocks of land. He wants to sell one but he cannot sell it because that approval was because he was going to have a manager's residence on his business. How ridiculous in this day and age that we cannot say, "Mate, sell it. Get a quid". No. I am sure David's planners agree with me that the same bloke should be able to do it but we cannot do it. We have to do an LEP, haven't we, David?

Mr BROYD: That is correct.

Mr MACKENZIE: It is rubbish.

The Hon. MICHAEL VEITCH: In your submission you talk about the airports. One of our terms of reference is planning around airports. You make some comments about some issues that you have had with that. Can you talk specifically about the air force base there and talk about your issues with airports?

Mr MACKENZIE: Airports or the RAAF, they are two different things?

The Hon. MICHAEL VEITCH: They are two different things but our terms of reference specifically talk about airports?

Mr MACKENZIE: We do not have a lot of problems with the airport as such. The only problem or discontent that residents around our area have is with the RAAF. As to the commercial side of it, I do not get any complaints. The RAAF side of it with the bombing range, plenty of complaints. To me they are two different things.

The Hon. RICK COLLESS: Whereabouts is the bombing range in relation to the airport itself?

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Mr MACKENZIE: The bombing range is probably no more than, as the crow flies, about five or six kilometres. I have lived near the bombing range all my life.

The Hon. RICK COLLESS: From the airport itself?

Mr MACKENZIE: Yes. I have witnessed propeller planes to the planes we have today on the bombing range.

Mr BROYD: I do not think we have any real issues with the way planning for aircraft noise issues have been taking place through the Department of Planning or through the Department of Defence. It has taken quite a while but it is quite a rational process and there will be on our LEP in terms of how aircraft noise presents an impediment to development occurring.

The Hon. MICHAEL VEITCH: Finally, your submission also talks about an enhanced Commonwealth Government approach to planning?

Mr BROYD: Yes.

The Hon. MICHAEL VEITCH: You have listed in your written submission a number of areas where you think the Commonwealth should be involved. How do you come to the point in your submission that they are the items where there should be greater Commonwealth involvement?

Mr BROYD: Constitutionally and legally of course the Commonwealth cannot dictate planning systems at the State level, however the two fronts in which the Commonwealth Government should be playing a role, which they are to some extent now, firstly is through the development assessment forum and the ministerial council on legislative structures for development assessment nationwide. I think if New South Wales revisits its planning legislation it should do so in a way in which it reflects national level consistency. There has been a formal declaration of intent, if you like, by State Ministers to go with what the development assessment forum has proposed at the national level. I think we should be working towards greater consistency in development assessment at a national level in the way at which the State legislation is reviewed.

Second is the provision of infrastructure. There is major funding input that the Federal Government provides to infrastructure. That must be and needs to be more integrated with the planning for development at the State level. I think that is another way in which coordination is improving and where the Commonwealth has a very significant role to provide the infrastructure to facilitate the staging of development, supported by roads, rail and other infrastructure.

The Hon. CHRISTINE ROBERTSON: The concept of regional strategic planning processes is very good when one thinks with their frontal lobes, but across the State some individual groupings do not perceive that they actually need to participate in any regional level because they are push in their own right, or disagreeing with the regional concept proposal. Have you any solution to those sorts of issues? How would you define a region for strategic planning processes? The State has some examples of very strange definitions of what is a region.

Mr BROYD: Firstly, it is very hard for many interest groups to connect at the regional level. It is not exactly my "backyard" stuff but, obviously, the local level is where the interest of the public interest groups really resonates because that is where the impacts are. So it is difficult in some ways to get that by at a regional level. However, it is crucially important. The way regions are defined at the moment I think is done quite reasonably. There are three major factors. Firstly is basically where natural water catchments occur. Very often the ecological factors go with that water catchment definition. Secondly is looking at the social economic structure. The Hunter Valley is a good example of that where transport networks of coal from the Upper Hunter to the Lower Hunter et cetera is a significant kind of economic factor to define a region. Thirdly, I think it is important and they should basically react to that, is the administrative boundaries of the Department of Planning. How Department of Planning regions should be defined is in accordance with those regions on a catchment basis or social economic basis.

The Hon. CHRISTINE ROBERTSON: Feed into each other rather than one saying the other designates such and such?

Mr BROYD: Yes, that is right.

The Hon. CHRISTINE ROBERTSON: We have heard quite a bit about the functions of the regional offices-type processes. Many witnesses have said that the service assistance they received was very high, but they had great difficulty getting the specific issues back into the central level because the office had become a feedback office to the central centre instead of becoming an assessment office in its own right. Have you solutions for that? More resources could just mean that they had more resources to work harder for individual councils rather than participating in the strategic discussion?

Mr BROYD: So that we have the regional level of the Department of Planning?

The Hon. CHRISTINE ROBERTSON: Yes.

Mr BROYD: Certainly over recent years the responsibility of the Department of Planning has shifted from regional level to central office level. I think there could potentially be more effective use made of professional resources at the regional level, and the regional offices given more opportunity to lead regional planning than they have been. I think that would benefit local government too because to some extent we have lost that connection between the councils of a region and the regional office of the Department of Planning.

The Hon. CHRISTINE ROBERTSON: Does that affect your perception of belonging to a region?

Mr BROYD: I do not know whether that would be true, but because we deal much more with the head office of the department on major projects and LEPs now, there does tend to be, one, a delay factor and, two, quite a lack of awareness in the head office of the department of local and regional issues they are dealing with. I give credit to the department for having an LEP panel that provides more consistency on LEPs, but I think now is the time perhaps to make the shift back to the regional offices through criteria and taking that consistency forward. I think the time is right now to look back and delegate more to the regional offices of the department.

The Hon. CHRISTINE ROBERTSON: What were the three blocks to be set aside for? You were not allowed to put three blocks in your development?

Mr MACKENZIE: There are half a dozen trees on it.

The Hon. CHRISTINE ROBERTSON: Thank you, that is a good answer.

Mr MACKENZIE: That is the truthful answer.

The Hon. CHRISTINE ROBERTSON: The development in south-east Queensland is not everyone's cup of tea, is it?

Mr BROYD: No, that is right.

The Hon. CHRISTINE ROBERTSON: You talked about how effective it had been having everyone work together. If everyone worked together and created south-east Queensland in Port Stephens, what would people think? Port Stephens is a beautiful place.

Mr BROYD: I am not necessarily saying that the outcomes of that planning process are what we should be striving for, but the actual process itself whereby there has been a regional committee, State Minister, State Department of Planning, local government and State agencies engaged in the process is, as a process, what we should be looking for.

The Hon. CHRISTINE ROBERTSON: It was nice, but we are not sure about the outcome?

Mr BROYD: I think the outcome is a result of that process, but I am not necessarily saying that the outcome of south-east Queensland should be translated into coastal New South Wales. No, I am not saying that.

CHAIR: I thank you Councillor MacKenzie and Mr Broyd for attending this morning and contributing to this inquiry. Thank you for giving us your contribution. You have not taken any questions on notice, but the Committee may have further questions as time passes. If so, could you please make sure that the answers are received by the Committee secretariat within 21 days from the date on which the questions are forwarded to you?

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Mr BROYD: Certainly.

(The witnesses withdrew)

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MALCOLM PETER RYAN, Director, Planning and Development Services, Warringah Council, 725 Pittwater Road, Dee Why, and

DAVID RICHARD BROYD, Group Manager, Port Stephens Council, 116 Adelaide Street, Raymond Terrace, affirmed and examined:

CHAIR: What agency are you representing today?

Mr RYAN: I am here today representing the Local Government Planning Directors Group.

CHAIR: Mr Broyd, you might tell us whom you represent?

Mr BROYD: For this session I am representing, I guess, as the Chair of the Local Government Planning Directors Group. If I may, I should like to take a couple of minutes to explain the history of that group and basically who we are. The group originated from about April last year when three of us wrote to Minister Frank Sartor making strong comments about the way in which the planning reform agenda was tracking at that time. Mr Sartor invited us the next day to meet with him in his office. It was as a result of that meeting that the group of nine local government planning directors was formed being three planning directors or equivalents from councils in coastal New South Wales, three councillors from rural-regional New South Wales and representatives of three councils in the metropolitan area.

Malcolm, as the director of Warringah Council, was one of those three from the metropolitan area. We are a group that is very passionate about our profession. We are a group that is there to talk pragmatically about the implementation of planning reform as it affects local government and rolls out to be implemented by local government. We have never purported to represent local government planners or any profession as a whole necessarily. We never purported to represent local government in a political sense at all. I make that clear. If I may add, we were meeting once a month with Minister Kristina Keneally, director general Sam Haddad and other senior management with the Department of Planning. I place on record that their receptivity to us has been very good indeed.

CHAIR: Before Mr Ryan gives an opening address, if he wishes, I point out that if you consider at any stage that certain evidence you wish to give or documents you may wish to tender should be heard or seen only by the Committee, please indicate that fact and the Committee will consider your request. If you take any questions on notice today, the Committee would appreciate if the responses to those questions were sent to the Committee secretariat within 21 days of the date on which the questions are forwarded to you. Before we proceed to questions, Mr Ryan, would you care to make a brief opening statement?

Mr RYAN: Thank you. I was contemplating over the weekend what I was going to say when I got here. This is the first time I have been in such an august Committee. I suddenly realised that I started work the same year the Environmental Planning and Assessment [EPA] Act started activity. I started working in February 1981. I was the first year in my year at my school to be taught the EPA Act and my lecturer was Peter McLellan, who is now I think a Chief Justice. So, I have seen the changes come and go right up to the present day. I have always worked in local government. I have worked in metropolitan, rural and coastal councils. It has reached a point now I think, and hopefully David will agree with me, that the system is incredibly complex to work with; requires a lot of staff, a very well trained staff, to operate it effectively; and I believe there is, in general, a lot of frustration amongst the community with the outcomes that go on to the ground. I think there is also quite a high expectation that what the community think the planning system is going to deliver and what it actually does deliver is actually quite a long way apart from each other.

As you work in different communities you get a different level of ability to express that frustration. My particular community is a very-well informed and articulate community that will go to great lengths to protect relatively small things: a small loss in view, a small change in shadows from a neighbour's house. Their expectation of what we can do is very high and in reality we cannot do that much for them. It is that difference in expectation and reality that is causing a lot of frustration for local government, particularly for my staff and myself. I reiterate David's commentary about our relationship with the Minister and the director general. I came late to this group; I was not one of the original members. I do represent metropolitan Sydney, north-east sector. At least participating in the group we have an understanding of what the Government reform agenda is and we have made some commentary about it. I guess my personal observation is that the reform agenda is ambitious and not well directed towards where the biggest issues really are.

The Hon. CHRISTINE ROBERTSON: Do you mean the current changes?

Mr RYAN: Yes. I think I would agree with David that the current legislation is too cumbersome, too complex with too many interrelationships with other legislation. The reform agenda that is being undertaken now really is sort of fixing up the peripheral issues. It is not really attending to the basic fundamental structural issues, which is the Act itself, which is now overburdened with too many amendments and is too cumbersome to use anymore.

CHAIR: Mr Broyd, is there anything you wish to add?

Mr BROYD: I concur with Malcolm's comments about the cumbersome and complex legislation essentially. Minister Kristina Keneally I think is sending some very good messages about the intent for transparency being a fundamental legislative change, about getting decisions made at the most appropriate levels of government. So, the fundamentals and intents are there; it is a question of how we basically overhaul and direct the legislation to enable those very supportable intents to be fulfilled.

CHAIR: Your submission states that the main need in New South Wales is for more consolidation under one revised Act to respond to what in reality and practice is a real, broader planning system. The question the Committee must deal with is how do other departments, such as the Department of Environment and Climate Change, the Rural Fire Services and the Department of Primary Industries, with their specific expertise maintain an effective voice and influence that an all-encompassing Act is the responsibility of a single Minister? Do you think the role and input of these departments can remain effective under a consolidated Act?

Mr BROYD: That is a complex question. My answer would be that there is an opportunity to include in one consolidated Act the responsibilities of agencies insofar as they deal with strategic planning and in relevant assessment matters and to have clearer responsibilities under one Act insofar as DECC and other State agencies are concerned in planning for development and environmental outcomes and in assessing and determining development applications. The amendments in 1998 included integrated development, which basically identifies sections of other legislation to which agencies needed to respond for development assessment. I believe we could work towards mechanisms by which those responsibilities could be defined under one piece of legislation. I cannot categorically say that can be achieved because I have not looked at it in the full detail, but that is my anticipation.

CHAIR: The difficulty would be which Minister or how does one Minister do it all?

Mr BROYD: I do not think it necessarily has to be under one Minister. I think one piece of legislation can go in that direction, but as it is now I think there can be a number of Ministers involved. It really puts the legal responsibilities on their agencies to deliver policy-making and the fulfilment of a process to assess a DA in that piece of legislation.

Mr RYAN: There is a parallel, I think, in the way a council operates. We are bound by a variety of legislation, to a principal Act and I think 10 other pieces of legislation that we have to deal with on a daily basis, and we are expected to respond to all our responsibilities under each of those pieces of legislation. So internally we will refer applications to our employed experts in that particular field—whether it is natural environment, community services, hazard reduction, whatever—and they give us answers back. We consolidate the answers and would respond to the public if it is an application or to council if it is a request from the councillors. So we consolidate their view.

The difficulty I, like David, have with the current integrated development solution is that the policy position seems to move cyclically and what response you might get one year from a department is different the next year on the same issue, and that could be as a response to some request of the public or some changes in the direction of Parliament. So if they were to, in fact, on a regional basis—which is in David's thesis and my thesis—give us the guidelines for the region and empower us to manage the work under those guidelines and if we do not take the appropriate actions against us, which the Minister for Local Government certainly can do at any time, and let us get on with that job in the same way as the council expects me as a director to get on with the job that they give me in a policy direction of council and a budget and I carry it out and I get reviewed annually on my achievement of that goal, I do not see why the same model cannot apply in the relationship between us and the government agencies.

The Hon. RICK COLLESS: Just following on from that, Mr Ryan, in the submission it states that the establishment of the joint regional planning panels has been a political overreaction to a small number of councils that are not doing the right thing, and you say also that systems should have been put in place to make local government accountable and to support that increase in efficiency. What sort of models would you have in mind about the sorts of systems that should be in place to allow that to proceed?

Mr RYAN: I guess I am in a somewhat unique position in that my council has delegated all its planning application powers to an independent body. Manly Council and us are the only two councils who do that. So, in some respects the JRPP, to me, is a duplication of what we are already doing. I made that position to the Minister and she understood that, that it was a duplication of what we were doing. So my council under administration, and also recently confirmed by elected council, resolved to continue that process of having an independent panel assess all development applications and determine them—not just make advice but to determine them.

So, again, the same theory applies. If the council is upset over the way that panel is working—the interpretations of the policies are not being carried out—their job is to change the policy. It is not their job to interfere or influence the panel in its decisions; it is their job to give them a different set of tools to work with. I fully expect my council to review the work of the panel and then say do they like what is being built on the ground or not. If they do not like what is being built then change the policy to give the panel a different set of rules to work under. The same parallel could operate just as easily with State government. Again, as I said earlier, we could have performance-based arrangements between the departments and my general manager or my elected council and we would have to respond on a period to those performances. They are tested every day.

The Hon. RICK COLLESS: So your planning department then is only basically a skeleton of some other councils, I would presume, if you are outsourcing all that work?

Mr RYAN: No. The panel only determines the applications. Instead of reporting to council I report to an independent panel. I have a large planning staff as a result of the somewhat cumbersome system that we work under, and I have also a unique local environmental plan, which is not easy to work with either. Warringah is a bit out there in terms of what has happened in the past. But the development assessment panel, instead of reporting to elected council I report to this panel. They are independent experts with community representatives. They determine the application just the same way the JRPP is going to work. So to me—JRPP and my panel—there is no difference.

The Hon. RICK COLLESS: How do you select the members of your panel?

Mr RYAN: It is by advertisement, recruitment selection and the general manager appoints them.

The Hon. RICK COLLESS: What sort of people do you have on that panel?

Mr RYAN: It is four-member panel. There are mandatory qualifications for the chair: there must be a lawyer; we must have an architect or urban designer; we must have an environmental scientist—they are prescribed qualifications; then the last member is a community representative. We have a panel of four and we rotate them because they have an inherent conflict of interest because they obviously live in the area, so we make sure they are not determining applications in the area they live in, and they take it cyclically through the application so they are also not overwhelmed by too much work. However, the JRPP will take away a significant amount of that workload.

Mr BROYD: If I can just add to Mr Ryan's comments. As a group we have written to the Minister to respectfully ask her to review the operation of the joint regional planning panels after six months or 12 months. At the moment, a DA that goes before a panel is going to take 90 days, whereas a "dog of a DA" that should be rejected in 14 days or where it could be determined for approval within 40 days under a delegation it still will go to a panel under the current set-up. We have asked her to reconsider some councils who are demonstrably performing strongly on assessing those DAs—they could have made a determination after 40 or 50 days—to delegate back to those councils DAs that are currently classed to go before a joint regional planning panel. We believe that legally can occur. As you alluded to earlier in your remarks, in some ways the establishment of joint regional planning panels may be a reaction to a number of "non-performing" councils—and, let us face it, there are those councils—but the performance of the others I do not think should be detrimentally affected by that factor.

Mr RYAN: As an example, for instance, some moderate residential flat building in Collaroy is \$13 million worth of development—no objections, we processed that in 28 days. We have to wait now for the panel to go through the panel cycle for the same outcome—the approval could have been issued six weeks beforehand. That, to me, is a retrograde step. We would not even report that to our own panel. There are no objections; I am empowered to determine the application.

Mr BROYD: No objections, fully in accordance with policy and legal provisions—

Mr RYAN: Everyone is happy.

Mr BROYD: Everyone is happy; it could be approved.

Mr RYAN: And it is not a very big development—\$10 million in Warringah is not a very big development anymore.

The Hon. MATTHEW MASON-COX: Given you have got your own criteria for your own regional panel in the Warringah-Manly area, how do you think the State Government's criteria for selecting members of the proposed JRPPs stacks up against your criteria? Are you happy with what you see?

Mr RYAN: I cannot comment, but I do draw a conclusion. They have engaged one of my panel members on the JRPP so I assume that she at least has fulfilled the criteria for both of them. Council has voted that council's delegates are in fact its DAP members, not councillors or council staff. So they have reinforced it. It is difficult for me to comment on what procedures the department went through; I was not involved in it.

The Hon. MATTHEW MASON-COX: I was just interested in whether you had any issue, but it sounds like you are reasonably outside that process.

Mr RYAN: Yes.

The Hon. MATTHEW MASON-COX: In terms of the regional basis upon which you would like to see planning decisions promulgated in the future, what do you define as a region? How do you go about defining what a region is?

Mr RYAN: We could give the textbook answer of areas that feel as though they belong to each other. That is sort of the glib answer.

The Hon. MATTHEW MASON-COX: It depends on who you ask then, does it not?

Mr RYAN: Exactly. Where you belong is your perspective of where you live at the present time. One easy demarcation would be the department's regions, which I am in Sydney Metro East; the rest of my council's colleagues are Metro West. There is a group of regional organisation of councils which generally divide metropolitan Sydney up into some sort of coherent group of councils of like minds, except perhaps for SHOROC—we are a bit out by ourselves; just a small group of councils on the peninsula. Or you could argue that Sydney should be treated as one region: because there is one metropolitan area it should be managed as such, which was the old Sydney region outline plan's philosophy from the sixties, that you managed a metropolitan area as one region. That is just as strong an argument.

The Hon. MATTHEW MASON-COX: What do you think about the idea that has been put to the Committee of border catchment areas perhaps as a region?

Mr RYAN: I too have worked in western Sydney in Hawkesbury council with the Hawkesbury-Nepean Catchment Management Authority, and that catchment goes from Lake George, Cessnock, Gosford, down to Pittwater. It is an interesting group of people and quite a large diverse area. Completely different communities, I would suggest, reside within that catchment. Also to the point is that part of that catchment is a regulated waterway in terms of the Nepean end of it, but if you live at Cessnock or Gosford it is an unregulated waterway. So it can be completely different issues for each of those catchment areas.

In, say, David's case, the Hunter Valley, maybe it has some logical sense that the Hunter Valley is treated as one catchment because they are one catchment draining into one large metropolitan area. In Sydney there are three or four major catchments. The diversity, particularly in the Hawkesbury-Nepean, is huge and I do

not think that there is a community of values that you could relate a regional management to, except for the management of that waterway. I think at the last count Sydney removes 90 per cent of the Hawkesbury-Nepean's flow for drinking water, so there is not much left for the rest of the users of the river.

The Hon. MATTHEW MASON-COX: Your focus on a regional approach I suppose begs the question: should we be looking at regional councils to reflect a regional approach?

Mr RYAN: I will preface this by saying this is my personal opinion and does not reflect my council's opinion. I think that is probably a wise idea.

The Hon. MATTHEW MASON-COX: So a rationalisation of local government areas would be, if you like, a part of rationalising how we deal with planning processes in New South Wales? Is that what you are putting to the Committee?

Mr RYAN: That could be an outcome. It could just be as simple as administering a set of regional policies, a framework that we work inside of, which is what we had with the subregional strategies—which our draft at the present time is trying to do that. At least the State Government also has a vehicle in which to deliver the services for that region and we can all see this road is going here or this train line is going there in this many years, we will gear up to match those things, provided they are, of course, actually delivered.

The Hon. RICK COLLESS: Which was the purpose of the ROCs, was it not, or one of the roles of the ROCs when they were introduced years ago?

Mr RYAN: It is different. The ROCs are different depending on where you work. I have worked in WSROC, which is a completely different organisation to SHOROC where I work now. The Hunter Valley, I understand, has a different structure again. They were created as a lobbying vehicle or presence vehicle for the State Government to relate to, yes that is for sure, and to also ensure that cross-regional infrastructure was actually delivered in a coordinated manner.

The Hon. RICK COLLESS: Following on from Matthew's question about regional councils, do you see that we are better off to have a regional council per se or a better-defined ROC mechanism or a strategic alliance? What sort of structure is going to best reflect the needs of local communities?

Mr RYAN: I do not think there is one clear answer to that. I have looked at lots of different structures from the county council operation in Pennsylvania in America where there is a big county council with a big organisation and staff and then there is a series of metropolitan councils, which are really just elected bodies with no staff, and the county delivers all the services but the local people create their policy and their directions for the local area. That is one extreme. The other extreme is, clearly, the Brisbane City Council, which is almost a state government in its own right in terms of the size of its budget and its sphere of influence, as opposed to areas in Adelaide, for instance, where there are a whole lot of little councils operating coherently inside a structure. But I guess the one I come back to, which seems to be operating most effectively, would be the Perth model where there is a regional planning framework for metropolitan Perth that is administered by the state government, which collects money to fund regional infrastructure by taxes, and on-ground delivery is carried out by local councils.

Mr BROYD: In the Hunter, we have the Hunter councils. They are essentially a lobbying-advocacy-research organisation that includes Taree, Wyong and Gosford. They have been very effective in providing, through consolidated funding from the constituent councils, good research to do planning and to deal with the environment. While regional councils or amalgamation councils may be a reasonable long-term outcome, with lots of politics in between, I think a possible short-term outcome goes back to the State Plan and how it connects at a local level. We used to have regional planning commissions. They could be comprised of the State Department of Planning, Premiers, State agencies and local councils and looked at how the State Plan gets rolled out regionally and how a regional strategy gets rolled out regionally.

They pick up all those issues that go across the borders of council areas in a planning and environmental sense. Catchment management is a key example of that. Those commissions could also go to protocols for state agencies preparing the policies. That would enable a state agency to say, "We have this policy. Council, you can have a delegation to implement the policy at your local level." It will also talk about protocols for responding to development applications within the region by the state agencies. I think that maybe

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a good short-term option to implement some of the outcomes you are looking for is having a large organisation to deal with planning matters beyond an individual council.

The Hon. MATTHEW MASON-COX: You are right: it is a complex area, but it is interesting to explore the potential options.

Mr BROYD: Yes.

The Hon. MATTHEW MASON-COX: I have one last question. In relation to climate change, which is a topic on everybody's lips at the moment, I note in your submission that we need an adequate response with leadership from the State Government. I want to know your views on what leadership the State Government should be providing on climate change.

Mr BROYD: Firstly, and the State Government has gone here, is some consistent statement about what sea level rise might mean in 2050 or 2100 along the New South Wales coast. The 0.91 figure that comes from the intergovernmental committee and from the CSIRO has been adopted essentially as that number. But that needs a lot of translation at the local level. For instance, in Port Stephens, it might be 0.91 at the opening of the estuary, but it is not 0.91 as it impacts around the estuary and inland.

There should be more studies and more research to get to that point in many areas, but the key point is to have a policy about how we manage and development our infrastructure on the coastal zone that is potentially impacted by climate change. There needs to be consistency along the whole of the State's coastline in that regard. I am sure the insurance industry is looking to that, as are planning authorities.

Mr RYAN: The difficulty that I have is that I also have a highly eroding Collaroy Beach area. That could be just a local phenomenon caused by the currents inside the embayment, or it could be driven by coastal processes up and down the coast. We do not quite know that. But if it is a general coastal process and the sea level rises by 900 millimetres, the erosion in escarpment theory will move landward by approximately five times as much. So if it is a metre rise, it will be five metres inland, and after a while it will begin to go across Pittwater Road.

You can imagine, if Pittwater Road is cut, that that would mean some serious impact for metropolitan Sydney, if that were the case. What is the long-term management? What do we do with applications? I have applications to build balconies; is that okay? I have applications to build house extensions; is that okay? There are blocks of flats eight storeys high inside this zone; what do we do with those when they come up for renovation? There are houses on Narrabeen Lagoon that are less than 300 millimetres below the mean high water mark now, so what happens to them? Do we keep the mouth open? Do we keep it shut? We are in the position that we do not really know what our policies are to be in response to that climate change. Are we to restrict development? Are we to approve development and wash our hands and say, "Well, it is at your own risk"?

The Hon. MATTHEW MASON-COX: How have you dealt with that in your local LEP?

Mr RYAN: Our local LEP has erosion escarpment lines on it based on the science at the date on which it was written, which is the year 2000, so it is a little out of date. We certainly have flood management. Again, that deals with catchment, and we do have the standard freeboard argument to give us a bit of flexibility above the 1 per cent flood level. But our coastal engineers are looking for some direction as to how to advise me, for instance, where those escarpment hazard lines should go—landward, seaward, or stay where they are at the present time.

The Hon. MATTHEW MASON-COX: So some State overarching framework that provides you with that level of detail is what you are looking for?

Mr BROYD: That is right, yes. As Malcolm is saying, if it is 0.91 in 2100, which is the State policy, half that—0.46 in 2050—we are likely to approve buildings potentially that go beyond 2050 in terms of their lifespan. Does council approve them? What is the insurance potential for those buildings if they are approved? All that needs some consolidated policy, I would suggest, statewide.

The Hon. RICK COLLESS: Gentlemen, what is the expected lifespan when, for example, you talk about a development application for an eight-storey block of flats? Is it 100 years? Is it 200 years? There are lots of buildings in Australia that are 200 years old now.

Mr RYAN: That is right.

The Hon. RICK COLLESS: There are lots of buildings elsewhere in the world that are thousands of years old. How do we balance that, if we are looking at something that is as nebulous as sea level change? The only thing constant about the level of the ocean over the last millions of years is that it is continuously changing. How do you incorporate that into your LEPs or your planning processes?

Mr BROYD: That is a very good question. Certainly the risk management-insurance industry would say, "Be very cautious if you are approving any building whatsoever within the coastal zone impacted by climate change under the current forecasts." The only answer I can give you at the moment is that councils need to increasingly become risk managers in making those decisions for any building in that potential impact zone. Again it comes back to your original question. There is a policy vacuum.

The Hon. MATTHEW MASON-COX: Yes. The best management of risk is for it not to happen.

Mr BROYD: It is not so much a vacuum but policy gaps that need consistency statewide.

Mr RYAN: There are solutions. In my previous employment at Byron council, we had a severe coastal erosion issue in that Byron-Hastings Point embayment area. Their planned retreat policy is one I wrote in whatever year I was working up there; it is quite a long time ago now. That policy is still in force. The court has upheld it. Essentially it is if the escarpment comes within a prescribed distance of your building, your consent lapses and you vacate the site. That has a sliding scale of construction standards from a mobile home to a normal house, depending on your distance away from that escarpment.

I guess the essential difference with the Byron situation is that the erosion was relatively predictable and averaged approximately one metre a year. That was a predictable response, although in some places it went faster than in others. I think we lost 13 metres in one night for one of the places right next to the Byron groyne field. That response satisfies the council's liability question. They have turned their minds to the issue, given a reasonable response to that issue, and given consent or otherwise based on that. The courts have determined that that is a valid response. Actually, one of my old approvals was recently upheld by the chief judge of the court.

There are planning solutions, but the question I have—for instance, in Collaroy—relates to that eight-storey block of flats, which is something from the sixties. It is nearing the end of its life. What do we do with those 10 or 12 strata title owners there? We have bought the land around it because they were single dwelling houses, but it is still there.

Mr BROYD: There is certainly the potential now for land zoned for residential or other development that does fall within that coastal impact zone. The council will find it quite hard to refuse development under the current policy framework that relates to climate change. However, that same council may, in 20 years time, be subject to legal action by the landowners who then cannot insure the property because of the climate change impact. It really is a very complex risk management situation that local government finds itself in at the moment.

CHAIR: It is a big issue all right.

The Hon. MICHAEL VEITCH: It is not just water levels either. For instance, rural councils are concerned about temperature. When there is one degree of change in the average temperature, the horticultural growth industry is at risk. There are a whole lot of other issues around climate change that need to be considered.

Mr RYAN: It is also the same relationship between temperature rise and bushfire risk.

The Hon. MICHAEL VEITCH: That is right.

Mr RYAN: It actually has a bigger effect on my council, I suggest, than the sea level rise will have.

The Hon. MICHAEL VEITCH: Yes. Moving on, it has also been put to the Committee as a different arrangement that it would be very beneficial in New South Wales if you could go to a webpage portal, type in your lot number or you could use Google Earth or Google Maps, and run your the cursor over a particular block, and up would come all the development control plans and all planning instruments that affect that particular block—in a very user-friendly process. We have heard that it could happen. We have been told that cannot happen. Can you give me your views on, first of all, whether you think that is something we should be moving towards—that type of user friendliness for the average punter in the street? Secondly, at your own councils, do you do that? Do you foresee that you could be able to do that in the long term?

Mr RYAN: We will be live in October this year with that facility in our new local environment plan. Our neighbouring council has had it live for at least four years, the Pittwater Council. It is a lot of work to do that, but we have actually compiled our new local environmental plan, even though it is inside the template format, to go electronic. We do not ever envisage that we will print that document on paper anymore.

Will we use it as a consultation process? Every member of the community can log on and see how the LEP will affect their parcel. Hopefully they will then be able to make online commentary and submissions to the exhibition, and that way it would flow through to become the online system. It is easy to do. It is not that difficult to do. There is a lot of reluctance by people who are scared of it. There are a lot of privacy issues. At the present time you can go to my council and track all applications online, everything from a construction certificate to an occupation certificate to a development application.

Soon we are going to ask the council, "Do you want to give members of the public who own land the full ability to see all council records pertaining to their parcel of land?" Every document the council has will be available online for that property, if you log on and get the right password for it. I will have the ability within several months to be able to view any request for council work, such as leaky taps, a pothole, or a dead dog on the side of the road. All that will be online. You will be able to apply for your certificates and receive them instantaneously online. Yes, it is all possible. It is very scary because every council document is technically available to be displayed online.

Mr BROYD: It can be done. The State Government had planned to do it; it was called iPlan back in 2004. On the question of investment and resources, not all councils cooperated—I could think of some—but I think a lot of councils, Port Stephens included, that will be looking to upgrade a whole lot of data for data input before it can go there, including data input on flooding, bushfires and basic land constraints. That needs to be made accurate and available, as well as the whole electronic development application process enabled, before we will go to that stage. It certainly can be done. It is certainly a longer-term aim of most councils, I would say.

CHAIR: Should that be the norm?

Mr BROYD: I do think it should be, in terms of service delivery to the public and the efficiency in the whole system. If a landowner goes onto the website and runs the cursor over a block, the constraints that will show up are "subject to flood", "subject to bushfire" and so on. It makes the whole preparation of the development application so much more efficient. Ideally, yes, it is something that should be aimed for.

Mr RYAN: We will prepare basically a draft or do up an application form based on all the constraints that they have, and then set out the questions we will need to have answered for them to make that application. They will be able to lodge that online, if the Federal Government ever sorts out the National Lodgement Protocol, which is lost in the quagmire of the Commonwealth public service at the present time.

The Hon. MICHAEL VEITCH: We have also heard evidence that the electronic lodgement of development applications cannot happen because of the knowledge base and skills sets of some of the applicants. I am keen to hear that you are doing about it. How do you overcome or address the issues of the average punter in the street wanting to put in a development application electronically? How do you do that at your own council?

Mr RYAN: At my council I guess I have a high penetration rate of use of the Internet. I do not know if that is normal or not but we have a lot of people who are quite skilled at using the Internet and are used to using it. So what we have to do is create—I do not believe that is actually the issue at all in terms of lodging development applications online. You give them enough skills, enough training and enough help to walk them through the process. To quote people with a mums and dad's application, most mums and dad's applications to Warringah Council are prepared by an architect or a draughtsman anyway. At my previous council I would get

the hand-drawn sketch of someone who wanted to build a farm shed that was 300 metres by 90 metres by 10 metres high, just a small shed to be knocked up for a few million chooks, and that had come in on the back of a pad.

We would then have to tell them we needed a bit more information than that to put that shed up. You would have to spend the council's resources to help them through that process and encourage them to get professional help. But if someone wants to build a verandah addition to the back of their house—hopefully they will not need consent in the future to do that but if they still do—the council staff should still be there to help them through that process. So that is an investment some council's cannot afford to make, and especially my rural colleagues will have that difficulty. I have a big planning staff—just to give you an idea—I think my budget is about \$9.8 million per year. Development application fees cover 25 per cent of that and council fund 75 per cent.

Mr BROYD: I think electronic lodgement of development applications sounds efficient and so it is an option we would like to offer, however, at the end of the day you still need printed plans on site and you still need to print a lot of the documentation to properly assess it. So in many ways we are running an electronic development application option but in many cases the hard copy stuff is what we really deal with. For electronic development applications to really work you need the State agencies also to take referrals electronically and get that immediate transfer of the data and information happening. Once you have got that then it may well have a lot of net benefit.

Mr RYAN: To me the real issue is the handling of the data interchange from outside council to inside council. Most of us have proprietary information systems run by probably a handful of companies—there are properly four companies across the nation that do most of councils work—and they are reluctant to have people write free-form into their systems because of security issues. The Commonwealth Government is proposing a standard for that purpose and they, with all due respect to them, do not really understand what they are doing. We are all running around in circles doing our own thing waiting for that pipe to be opened and it is not going to be opened in the short term I do not suggest. I will give you the ability to lodge and pay online but I will still take the document manually from one system and insert it into another system. We will not have the full integration because of that data management and data security issues.

Mr BROYD: I think it took Pittwater probably a couple of years with two or three planners off-line to basically set up the system to really work efficiently.

Mr RYAN: Yes, my guys have been going nearly three months now and they will finish in October—that is a team of five planners full time.

The Hon. MICHAEL VEITCH: But how do you maintain it? What is the maintenance process after you go live?

Mr RYAN: As David said, most of our data is held on our geographical information system, our electronic mapping system. I will have a full-time staff member whose job will be to maintain the database. It will be the responsibility of my strategic planning manager, who signs his life away to say the data is accurate, and then it goes live into the system. He is responsible for the data; his staff will maintain the data. Just the same way as we maintain all the information for a 149 certificate now—it is a huge database.

The Hon. MICHAEL VEITCH: We have also heard evidence in our travels around the State that it could well be beneficial to have, whether it is the Department of Planning or somewhere else, one government bureaucrat that then liaises with all of the government departments that are involved in the planning approval process. So rather than the councils doing all that—

The Hon. CHRISTINE ROBERTSON: One per region.

The Hon. MICHAEL VEITCH: Yes, one per region. It would go to that particular person in planning and it is their job to deal with the Roads and Traffic Authority, the Rural Fire Service or whoever. Would that make things easier?

Mr RYAN: I think I have been there and tried that. In western Sydney the Premier's department tried that. I think there was a Premier's department liaison officer who worked with us in western Sydney and they were just swamped. The amount of referrals we do to government agencies is huge. The previous issue you had

about electronic data, and David made the point that the agencies need to be geared up, if the State did put all their data into a central place that we could read then we could obtain the constraint mapping or the issues for that—that is quite easy to do in terms of the computer technology but the hard work is the data—and if we had some clear policies from their referral agencies to work under then we could do that work ourselves.

Mr BROYD: The Premier's department had regional coordinators and the like appointed in the 1990s. When I was in Tweed Shire there was a regional coordinator for the northern region. Again she was swamped. What we did was we actually had the regional directors in a number of forums and it really heightened their awareness of the importance of time and providing advice with substance in it. That was the benefit of it. Again I think you need the buy-in of the chief executive officers or the director generals or the regional directors of the State agencies, they have got to own it; otherwise there will be internal resistance and fobbing off and whatever. So instead of having a regional coordinator I think that there should be a protocol negotiated by the director general's of all the major State agencies around delivery of assessment responses and delivery of policies relevant to planning and development assessment so there is actual ownership or buy-in basically.

The Hon. MICHAEL VEITCH: So if we were to pitch a recommendation around those words, catching those phrases, would you be happy?

Mr BROYD: Yes.

The Hon. CHRISTINE ROBERTSON: You might help us tidy it up.

Mr BROYD: Yes.

The Hon. CHRISTINE ROBERTSON: The Affordable Rental Housing State Environmental Planning Policy [SEPP] was released recently. From our inquiries and from individuals contacting us there has been quite a lot of reaction about affordable housing that relates directly, it would seem, to the socio-demographics of the individual local government areas. Has your group discussed it and are there any issues in implementation or the practice of the affordable housing SEPP?

Mr BROYD: The group has not actually discussed it. We had a forum last Thursday of about 170 senior planners throughout the State from local government that met with the Minister and the director-general—Gabrielle Kibble was there also. In the group sessions that was a significant issue raised in terms of, firstly, the sheer lateness and what was called imposition of the policy without prior consultation with particularly councils that have that kind of social demographics and affordable housing need and, secondly, it was not targeted and tailored properly to those areas where the need or potential is greatest for such provision of affordable housing. That did get quite a lot of criticism last Thursday at that forum but more because of the lack of consultation and awareness before it was brought in than the content.

The Hon. CHRISTINE ROBERTSON: There is another socio-demographics issue that seems to have come up about local government areas with incredibly high-cost housing because of their environment and the people who live there but they still need workers. Excuse me but Byron is a perfect example. Byron operates off the tourist industry and therefore needs workers but they cannot afford the housing at Byron and they are not classified as requiring community housing. It is very difficult to get planning decisions that mean they have accommodation for people to work in the tourist industry.

Mr RYAN: We have exactly the same difficulty. The average age of our outdoor staff is over 55 at the present time. We do have a large amount of housing by the Department of Housing but most of our staff does not live in that housing. Manly Council buses its staff in from the Central Coast. A lot of my staff come from the Central Coast and drive down every day. Some of the outdoor staff who commence work at six o'clock in the morning leave home at four o'clock in the morning to travel the two hours to come to work, they do their day's work and travel back home again. We see it as a significant issue for us in maintaining our workforce in the long term. It could be if we have no-one living locally to take up the workforce we will have to outsource that work and they will come in from western Sydney as contract staff. I think Mosman Council has no-one employed at that council who lives in Mosman anymore—the general manager actually lives in Warringah—for that council area.

So it is a significant issue for us and personally I do not think affordable housing SEPPs will deliver anything to assist in that. One of the unique properties we understand is that it will allow housing to be constructed in our rural areas because it is within 400 metres of a bus stop, and that is not the way to deliver

housing. If you want to deliver housing you have got to make it economically worthwhile for the people building housing to provide that housing by giving them sufficient incentives, whether it is greater density or higher buildings and they will provide the affordable housing. Hand it over to a trust or manage it for 20 years or something. You have to give them the incentive, not hope that a SEPP is going to provide that.

Mr BROYD: I think every council—not every council, but a lot of councils work around affordable housing exactly the way Malcolm explains it. So I think council has to take responsibility here for planning for alternative forms of housing, be it mobile homes or some other different or diverse form of housing stock, which is not done very well at the moment. Also the sheer question of land supply and demand is having a major impact on affordable housing throughout the State and, of course, in Sydney. So I think the State Government's recent initiative to try and get land supply momentum happening is certainly a worthy initiative as well but it has a long way to go to respond to the current mismatch between demand and supply.

The Hon. CHRISTINE ROBERTSON: Some of the local governments, particularly in country areas, have done developments where there are one-acre blocks for the professionals or whatever and then they have the small block allocations that have been put into their LEPs somewhere and they are actually happening in a lot of country New South Wales. Would they be coming in under the new SEPP or have they gone off by themselves and recognised they need affordable housing and professional housing?

Mr RYAN: This has been going on for years; it is not new to councils. I had a small lot subdivision at Suffolk Park in 1990 that—much to the angst of the developer who did not want to do it and I forced them to do it—they sold in one weekend. They asked if they could have more of them and I said, "No, you have used up your quota. That is it."

The Hon. RICK COLLESS: They did not want it last week.

Mr RYAN: "You did not want it last week and this week you want more of them. No." It is nothing new to councils. We have been trying to provide a variety of housing mix in the free market—

The Hon. CHRISTINE ROBERTSON: No, some.

Mr RYAN: Some councils—

The Hon. CHRISTINE ROBERTSON: Some persons do not want those people in their shire.

Mr RYAN: Of course, those people are less than desirable from some people's point of view but if you have a diverse community and a whole range of society to provide housing for, which most of us do have, especially the regional cities have that situation, and the point you raised earlier about providing a workforce for all the industries there and some of them need particular characteristics, councils have to try and provide that housing. But in a free market situation, you create the affordable house and it is bought cheaply and the next time it is traded it is on the market at the normal price. Unless you physically interfere with the market, either by housing trusts or force by covenant that that house must be sold by someone who meets some criteria, the affordable housing will just evaporate as soon as it is sold the next time.

The Hon. CHRISTINE ROBERTSON: It is almost insoluble, is it not?

Mr BROYD: There are a lot of misconceptions or assertions around developer contributions at the local level that land supplies are really the major factor for affordable housing and they are not; it is very much the Commonwealth fiscal policy mechanisms that really have a major effect I think on making housing affordable.

The Hon. CHRISTINE ROBERTSON: And the confusion of people with the word "affordable" housing with "community" housing; it is not the same thing.

Mr RYAN: There is social housing as well.

The Hon. CHRISTINE ROBERTSON: I meant "social", sorry.

Mr RYAN: There is a whole range of adjectives used to describe a variety of things and there is a demand for something between housing that is supplied by the Department of Housing as social housing and the

lower end of the free market. There is a group of people who cannot afford, particularly in Warringah's case, to live in Warringah because they cannot afford that land. Sydney City Council has the same issues with police and nurses and those sorts of things. As I said, the only way you can do that is that you have to interfere in the market by either council supplying the houses or the State Government agencies supplying those houses or a charitable trust or housing cooperative supplying those houses who turnover constantly for that particular sector of the market.

The Hon. CHRISTINE ROBERTSON: So that is community housing?

Mr RYAN: Yes.

The Hon. MICHAEL VEITCH: That is another inquiry?

Mr RYAN: Yes.

The Hon. CHRISTINE ROBERTSON: Yes, but is part of our issues.

Mr RYAN: It is, yes. That is actually probably the biggest issue facing this State that is not well addressed as yet.

The Hon. CHRISTINE ROBERTSON: You have talked a bit about the regional committee structure and there is some of it in your submission. What is your perceived role for the regional committees?

Mr BROYD: I think regional committees, if we are referring to those that might contain State agencies and councils in particular—

The Hon. CHRISTINE ROBERTSON: In relation to planning?

Mr BROYD:—could look at implementing the State Plan and the regional strategy, could look at establishing that kind of protocol for State agencies to prepare policies and delegate to councils or a protocol for referrals to development applications and timeframes and how that is done. But I think making the connection between the State Plan and regional strategy and local LEPs and planning is one of the key outcomes that such a regional committee could more productively achieve. Councils in many ways are operating auto independently outside of that regional context and the State Government agency relationship at the moment.

The Hon. CHRISTINE ROBERTSON: I am interested in the feedback from your group on what you perceive would be the necessary consultation and implementation processes for total review of the legislation in relation to planning in the future.

Mr BROYD: May we respond to that in writing?

CHAIR: Yes. At paragraph 3.9 of your submission you say the New South Wales planning system is overly legalistic and adversarial. You argue that any new legislation needs to remove unnecessarily legalistic content and that a major part of the planning system need not be statutory. You also note that development control should serve, not lead, the planning system to fulfil social, economic, environmental and governance outcomes. Can you expand on that and touch on the type of unnecessarily legalistic content that could be removed?

Mr BROYD: First, it goes to the point of multiple Acts that we deal with and therefore the legal complexity that goes with those. Secondly, the whole system is very dominated by legal interpretation rather than merit all the way through to the court system. The Land and Environment Court is very adversarial and led by cross-examination and legal content rather than a mechanism looking at the merits of a particular development application that is appealed. With regard to the Land and Environment Court Act, we should have a structure like the Victorian planning tribunal as an alternative. We should have professionals with commissioners getting to the outcome through a merit-based inquisitorial approach, not an adversarial, legally driven approach as we have in the Land and Environment Court.

The Hon. CHRISTINE ROBERTSON: The lawyers might take you to the Australian Competition and Consumer Commission.

Mr RYAN: I have a somewhat simplistic philosophy with regard to what has happened over the past 20 years in this business. Previously, the court was quite inquisitorial in that the commissioner would throw the issue on the table, have a discussion and then make a decision. It was a friendly, low-cost and relatively effective process. However, the plan-making process in New South Wales has slowed down so that most elected councils never see a change in their local environment plan during their term in office. I think I set the record with it taking eight or nine years for an LEP, which no-one objected to, to get through to gazettal.

We have relied on the development application system as a policy-making tool. As soon as we start processing applications in a policy or legal void because the plan cannot be changed, the developers get upset because new things are thrown at them. The courts become involved and it becomes very legalistic because they want to see black and white results. The situation has snowballed to the point where we have an incredibly adversarial-type court that argues about prepositions, pronouns, commas and full stops rather than whether we really meant to put a block of flats on a site. It is a baby-and-bathwater situation. The process for changing LEPs is too slow for a council to see a philosophical policy change take place in a four-year term. It is just about impossible and councils get frustrated. They want to respond to their community. We cannot produce an LEP in the time frame that they need to prove that they are responding to their community. As a result, they use development applications to achieve that end.

Mr BROYD: We are also saying that LEPs are really a means to implement the planning outcomes for a local area. At the moment they are seen as the lead documents in a local area. Councils do their LEPs, but there is no strategic planning foundation for them in many cases. Then parliamentary counsel gets hold of it, and because of that legalistic system, they cross the Ts and dot the Is, and it takes a long time to do that. That is why it is so legally dominated. If we had strategic plans that had statutory backing—in other words, strategic plans that are legal and declared as such in the Act—they would define the outcomes we are seeking for a local area and LEPs would simply be the legal mechanism to achieve that end.

The Hon. CHRISTINE ROBERTSON: So the LEPs turn into the process?

Mr BROYD: Yes. It would shift planning—real planning—to where it should be and define the outcomes the community, local government and the State Government wants for that local area and give them statutory force.

Mr RYAN: My council's comprehensive LEP has been with the department for 22 months waiting on a section 65 certificate to go on exhibition. We are on the top of their priority list and we have been there 22 months.

The Hon. MATTHEW MASON-COX: When you say "local area", do you really mean "regional area"?

Mr BROYD: I meant the local area, but it would embody what the regional strategy says about the local area.

The Hon. CHRISTINE ROBERTSON: So the local area has to have a strategy as well.

CHAIR: Thank you very much for coming in this morning and contributing to this inquiry. Do you want to add anything?

Mr RYAN: You have left us with a significant question to answer.

The Hon. CHRISTINE ROBERTSON: Just a little one.

Mr RYAN: We will take that on board and see what we can do.

CHAIR: The Committee may also forward other questions. Please get your responses to us 21 days after you receive the questions. That would be much appreciated.

Mr BROYD: We have to meet the time frames.

The Hon. CHRISTINE ROBERTSON: That may be a problem because they need to confer with their group. Can that be negotiated with the secretariat?

CORRECTED

CHAIR: Yes.

Mr BROYD: We welcome the question and very much look forward to responding to it and to assisting the Committee.

CHAIR: Thank you; that is much appreciated. I again thank you for appearing before the Committee and for travelling to Sydney to do so.

(The witnesses withdrew)

(Luncheon adjournment)

SUE-ERN TAN, General Manager, Policy and Strategy, New South Wales Minerals Council, P.O. Box A244 South Sydney, New South Wales, 1235, and

RACHELLE BENBOW, Director, Environment and Community, New South Wales Minerals Council, P.O. Box A244 South Sydney, New South Wales, 1235, affirmed and examined:

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

Ms TAN: Yes. We have just put a little power point together as well, partly to focus your attention after what I am sure was a delightful lunch, but also to help us pictorially to put together some of these issues. The Minerals Council is the peak industry association in New South Wales. It represents minerals explorers and minerals producers in the coal, minerals and extractive industries. One of our primary objectives as a council is to ensure that we have a legislated and a regulatory framework that is relevant and effective for an industry that essentially operates in a highly competitive domestic and international market. This is obviously why the planning framework in New South Wales is of such critical importance to our members.

To go through some economic contribution figures, it is a \$14 billion production value to the State. In 2008-09 we will contribute \$1.5 billion in royalties, and we know that is basically the State Government deficit at the moment, although I am sure that will increase. We employ about 47,000 people in New South Wales, supported by another 200,000 indirect jobs, and we note the major bulk of that employment is in regional areas, which is obviously critical to the continuing future of New South Wales.

To quickly talk about why it is so important that we have good planning frameworks, as I noted before, we operate in a very competitive market. The bulk of our coal, for example, is exported through the port of Newcastle, as most of you would know. Obviously, we also supply heavily the domestic power generation in New South Wales—over 90 per cent. One of the key factors for our members in making investment decisions about whether they should continue to operate mines in New South Wales, expand brownfield mines or start new greenfield mines is efficiency and certainty in the planning frameworks. They will compare this not just in New South Wales and Queensland, but coal is one of the most abundant resources in the world, so Indonesia, Colombia, South Africa, et cetera. One of the big things is that delay, complexity, inefficiencies can defer investments, which I will go into in a bit more detail.

Obviously the flip side of that is the benefit for government in having a more efficient planning framework. What we are talking about is the reduction of duplication in regulation, and that can only be a good thing for government because it reduces the strain on what is essentially a limited government resource. I note at the moment, for example, there is an employment freeze on the public sector, so we are looking for ways to maximise existing employment efforts within bureaucrats in the State, who all do a very good job. It is also important to get major mining projects up and running quicker, faster, and that brings with them a whole range of economic and social benefits, again predominantly to regional areas of New South Wales.

We have outlined for you—most of you have seen our submission—quite a lengthy submission. The key principles we want to see in an effective planning framework are certainty, and that is for all stakeholders, not just us as the industry but also the communities in which we operate and the Government itself. That requires a few things. One, in terms of the assessment processes and requirements, appropriate guidance should be provided from government and transparency in that so we know what we are working with, the community knows what it is working with and government departments know what they are working with. That requires clarity around the roles and responsibilities for the various agencies—at the moment, for all major projects, but particularly I am going to talk obviously about mining project approvals.

Many government agencies have a say in what is the final shape of a mining project. It is not just be Department of Planning but the Department of Primary Industries, which is now Industry and Investment New South Wales, the Department of Environment and Climate Change, and what was the Department of Water and Energy but now the water component of the Department of Environment and Climate Change, which sits with the super department now—things like the Roads and Traffic Authority, Sydney Catchment Authority and dam

safety committees. So, a whole stack of various agencies have a share of the pie, I guess, in making the final decision for a mining project. We think there needs to be some clarity to get rid of any overlapping responsibilities in those areas. There needs to be also a lot of clarity from the Government about what it is you are trying to get from an environmental outcomes perspective so we all know what we are playing with, and, finally, also, some strategic planning to guide development, which I will talk about some more.

The second thing is timeliness, and this is critical. We need time frames for the assessment and approval processes that we have to go through as an industry. More importantly, they have to be adhered to by government agencies. We have an example that I will talk about later where the Department of Environment and Climate Change, in giving an environmental protection licence, is meant to do so within 60 days, and that very rarely happens. In fact, in most cases it is much longer than 60 days. So, where we have a statutory timeframe, it is critical that the agencies adhere to that timeframe.

Thirdly, it is efficiency. We need a whole-of-government approach. These are major projects for the benefit of the State of New South Wales and the people of New South Wales. There needs to be a whole-of-government approach to managing that process. That includes basically getting rid of any duplication in conditions. Finally, flexibility; that is to do with the fact that mining is very large scale. Most of you who have ever flown over the Hunter Valley will know that. It is complex and it needs flexibility. Once you get the initial approval there needs to be flexibility where minor amendments need to be made to a plan, need to be made to buildings on site, for example. That really is not in existence at the moment.

This slide is a good example of one of the key problems we have with the current planning approval process. We have done it in a diagram because it really encapsulates the issues we face. We know that the part 3A process is meant to be an assessment-one approval approach, but the reality is this is not the case in practice. So, once you get the approval, which is the development application, there is a stack of other things we need to apply for which take time. We have given you an example within each one of these. These are real examples but obviously not for the same project. But they are real examples that our members have undergone.

So, you have a case there, once you get your development application, which is meant to be your assessment-one approach, and 17 months to then get a mining lease. Even though the member had lodged the application earlier, prior to the project approval, it then took four months to get the environmental protection licence, remembering that the policy is 60 days. Management plans tend to take over 18 months post the approval, and subsidence management plans—that is for underground mining—21 months, even though the policy is six months, and then there is a whole stack of secondary approvals from people like the Roads and Traffic Authority, water licences, bore licences, which can take up to two years.

CHAIR: May I just interrupt you. It is important that we put some questions to you. We are trying to make the most of the time we have available for you. By the time you finish this, we will not have any time for questions.

Ms TAN: You have seen through my approach. I am happy to stop there and take the questions as they come. The two slides we needed you to see is this one, just to get a picture of that, and what is one of our clear solutions, which is to get all of the approvals lined up at the one time, to have them concurrently. I want to make one final point. We are not talking here about having less regulation, less oversight of what happens when mining happens. We acknowledge that mining has an impact on the community and that needs to be monitored and complied with. We are talking, though, about getting rid of duplication, because you are not getting any additional environmental outcome or benefit out of having duplication of regulations. There is no tangible environmental benefit for it. That is the key point of our submission.

CHAIR: Your submission, on page 2, says that the regulatory duplication and delays are greater in New South Wales than in any other Australian States, particularly Queensland. You also state that the Queensland Government has recently taken additional steps to fast track approval process for mining projects. Can you elaborate on the Queensland regulatory and approval regime and describe those elements that New South Wales could or should seek to emulate?

Ms TAN: One of the things we should note is the actual part 3A process itself. The framework we do not have a problem with. It is a good framework and its intention is what we seek to have enforced in practice. The key thing we see in comparison with Queensland is the timeliness in which the approvals are granted. It is not a case of necessarily less rigorous information or obligation that is required. It is the timeliness in which

approvals are granted and the fact that they adhere to this notion of rather than sequential approvals having concurrent approvals. So, it is a timeframe question. Rachelle might have more to add on that.

Ms BENBOW: Essentially, when we talk to our members about approval processes here and in Queensland, one of the big things—and I have to go into the specifics about how that is delivered—is time and how long it takes in New South Wales compared to Queensland. One of the other references there was to a media release from Anna Bligh in relation to freeing up major developments and putting in a new process around the time of the global economic crisis. I think there is a reference there to when that media release was announced. I will see if I can find that, but we can certainly get more information on that if required.

Ms TAN: We should note that post the Job Summit the New South Wales Government and Minister Keneally has made announcements about fast-tracking major project approvals. I guess what we want to see is actually happening on the ground whereas in Queensland that actually does happen on the ground, so there is that mismatch that we are concerned about.

CHAIR: When you say that it does happen on the ground in Queensland, what are you actually referring to?

Ms TAN: The approvals are granted in a timely manner. When you look at this map here, you go through all the assessments, getting consultants in to test the water, test all the various facets of what the mine might look like; you lodge your development application, which might take, say, 12 months to get approved, which is okay, but then you have got to wait sometimes another two years before you get all of your approvals so that you can actually hit the ground running and start mining. That is not attractive to business. If I am a multinational company deciding where to open my next mine, I am sorry, but it is easier to pick somewhere where you can get your approvals all done at the one time. It is not talking about less regulation; it is just doing it in a more timely fashion.

CHAIR: Is it that New South Wales is doing more than Queensland or that Queensland has actually more people on the ground making sure that those developments are approved?

Ms TAN: I cannot talk about the staffing of the Queensland departments; I am not on top of that knowledge. The difference is that there is a lot more duplication here in the approvals so that something like water will be assessed during your development applications, during your project approval. It is then subsequently assessed again in your environmental protection licence [EPL], in your management plan, in your subsidence management plan [SMP] and in your secondary approvals. It is not more in the sense of variety and content of what you are assessing; it is more duplication of assessing the same thing more than once. That is the most accurate way to answer the question.

The Hon. RICK COLLESS: What are you talking about here? Are you talking about the approval of the mining project itself, the exploration licence or what?

Ms TAN: This is the mining project itself.

The Hon. CHRISTINE ROBERTSON: After the exploration?

Ms TAN: Yes, after the exploration.

The Hon. RICK COLLESS: So the exploration licence process precedes all this?

Ms TAN: That is right.

The Hon. RICK COLLESS: What are the hang-ups with the approval processes in relation to the exploration licences?

Ms TAN: It is different in the sense that with the exploration licences the main assessment that we have to do is where we want to drill a borehole. That is where we get the data to work out the quality of the coal, et cetera. That is managed by the Department of Primary Industries [DPI].

Ms BENBOW: There is a separate exploration policy process and that is primarily managed by DPI and that is actually undergoing a review at the moment, but there are three categories of assessment essentially,

depending on the scale of the impact. At the moment if it is a low impact, it is a category one, so you might just need to fill in some forms and let DPI know what you are actually planning to do. Category two, where there might be potential for more impact, you need to outline what activities you are going to do and then DPI makes an assessment whether you need to do a review of environmental factors or not, so that is often done under part 5 of the Environmental Planning and Assessment Act.

Ms BENBOW: The real delay around the exploration phase at the moment, in all honesty, is access issues and getting access with landholders, and I am sure the members of the Committee are aware particularly of some of the problems we are having in the Gunnedah region, for example. That tends to be where there are challenges from landholders about access and going through the Mining Warden's courts, and one of the cases out there is now going to the High Court for example. We do not have so much of a problem with the exploration process per se. The delay kicks in when you have decided, "This is what my mine plan will look like. This is how I would like to operate in community X".

The Hon. RICK COLLESS: Do we need to look at that exploration licence process as well to try to reduce those problems? That must be a significant delay to the process as well because it can take years to go through the EPL process?

Ms TAN: It can, and I guess that is a difficult thing because a landholder has a right to want to contest having an exploration company come on-site and drill a hole, for example. It is very difficult for us as an industry to make a comment on whether or not they have that right to do that. I think that should be accepted but one of the better ways that could be managed is not through regulation but through better communication from the Government as well as, to a lesser extent, the company when it later goes in to explore prior to an exploration licence being issued, to actually go in and talk to the community to say, "Look, we are issuing tenders for an exploration licence in this area. This is what an exploration licence is. It is not a mining licence or a mining lease. It is merely a right to explore to determine what is the resource in this particular area." I think a lot of that communication upfront will hopefully take off some of the heat in what is a very difficult area because you have coexistence issues in many of the areas that we are mining in or would like to mine in.

The Hon. RICK COLLESS: One of the issues raised with us up there is the time frame for the exploration licence and also the size of the exploration area. Those problems could be largely overcome by being more specific in the area that you wanted to explore and also shortening the time frame so that people are not left in limbo, in some cases, for years and years.

Ms TAN: It is a real Catch-22 unfortunately because in order for us to narrow down the exploration lease area you need to drill the holes to work out where the coal is and what it sits like. The information that an exploration company has at the start—and it depends on the area—is often not detailed enough for them to work out whether there is even a viable resource necessarily or what that mining footprint might look like, so you actually need to get on-site and do that drilling work. Very often that drilling work can be held up because of access issues with the landholders and being unable to get on the land, so it is almost a Catch-22. I understand the concerns of the landholders up there and obviously they do not want the process to drag on and on with uncertainty, but we have got to get on the land and drill the holes to work out what is the actual resource and how we can start to shape a mining footprint within what is obviously a very large exploration licence area in some cases.

Ms BENBOW: The other aspect of that with the timely factor is that there are also capital concerns. Exploration is a very high-risk activity, so speeding up that exploration process might then take the opportunity to explore away from smaller companies or people who do not have as big an access to capital so that is another side of the picture that needs to be looked at when looking at exploration. To have a healthy exploration industry, which is essentially the starting point of our future mining operations, it needs to be open to many operations and companies.

Reverend the Hon. FRED NILE: Just following that up, once the exploration licence is approved, are you suggesting that the Government should have a greater role in explaining to the community that it is approving the exploration licence. It should be the Government that talks to the people rather than the mining company being put on the front line, with the mining manager trying to explain what they are on about?

Ms TAN: I think it is absolutely important for a company, if it wants to explore that resource, to front up to the community and talk to the community. What I am talking about is prior to even the exploration licence

tender going out, that there is discussion with the community about the fact that an exploration licence tender is going out and this is what it means.

Reverend the Hon. FRED NILE: That is what I am getting at, that a Government representative should do that?

Ms TAN: Well, a company cannot do it because we do not know which company will eventually be the successful tenderer for that EL. I think the Government has a role to play there.

The Hon. MATTHEW MASON-COX: I will ask a couple of questions about a case you mentioned, *Williams v The Minister for Planning 2009* and the need for remedial amendments to clarify the scope of section 75W of the Environmental Planning and Assessment Act. Can you clarify exactly what remedial amendments you think are needed and the case for that?

Ms TAN: I might get Rachelle to talk quickly about the specifics but I note that that case is actually being heard.

Ms BENBOW: I believe it was heard on 1 July and we are still waiting for a judgement.

Ms TAN: It has been appealed and we are very conscious not to jeopardise the Court of Appeal outcome.

The Hon. MATTHEW MASON-COX: It is the New South Wales Court of Appeal, is it?

Ms TAN: Yes, it is the New South Wales Court of Appeal.

The Hon. MATTHEW MASON-COX: What was the decision in the first instance in that regard?

Ms TAN: It was in favour of the applicant.

Ms BENBOW: It went the way of Williams and essentially the Minister—I would have to check that.

The Hon. MATTHEW MASON-COX: Take it on notice, if you like.

Ms BENBOW: We would like to have a look.

Ms TAN: We can answer now the amendments we would like on section 75W, or can we?

The Hon. MATTHEW MASON-COX: You can take it on notice.

Ms BENBOW: We will take it on notice.

The Hon. MATTHEW MASON-COX: I have a few that you might like to take on notice, but I was impressed by the comprehensive nature of your submission, and this is a very specific area of specific concern, so I certainly understand that. I notice that you state in your submission that there is a need for greater emphasis on strategic planning in regional New South Wales. We have had a broad range of submissions, which have put forward the idea of meaningful regional plans that look at real planning issues, and by that I mean clearly the infrastructure requirements needed for a region being integrated into those plans rather than being dealt with separately and no-one really knowing exactly what is being planned but we have a lovely document which does not really mean much. Can you expand upon what you see as the best model for such regional planning from your industry's perspective?

Ms TAN: That is right, it is critical. We are fortunate in many ways—not everyone might agree with that—that in some of our regions we have more than one productive industry that can contribute to that region, but that of course means competition for things like particularly water, which is at the forefront of everyone's mind but also things like social infrastructure like schools, roads and hospitals. We know that when mining takes place, that is a lot of people coming into a local area and generally in New South Wales we do not do the fly in, fly out system that Queensland and Western Australia do. Most of our mining operators have people who work for the mines and live in the local area, so that this is a stress on that local area in terms of social issues but also of housing and other infrastructure needs.

We think that that is a very critical role that government can play in being proactive in looking at what the resources are in the region and the necessary consequences in terms of increased population in the local area and what that means for infrastructure to go with that, both in terms of hard infrastructure like water and energy generation, particularly for members in Far West New South Wales but also things like social infrastructure like schools, hospitals, housing, et cetera. That is a critical role. We have been advocating that for quite some time with government.

Ms BENBOW: In addition to that, it provides a more structured process to engage with the community on future land use going forward and I think that is a really valid process for government to be involved in and it also provides a lot more certainty for development. So if any industry is going into an area, the conditions of that development or what the limitations are in a certain area are known upfront so that people also know then what issues are critical to that area and what needs to be addressed.

The Hon. MATTHEW MASON-COX: You mentioned too that the Southern Coalfield panel and the Wyong panel had identified a number of opportunities to improve the interaction between the Environmental Planning and Assessment Act and the Mining Act. Could you provide full details to the Committee? That would be appreciated. You also make a few comments about the need to minimise Commonwealth involvement, which is very interesting, particularly in relation to the Environment Protection and Biodiversity Conservation Act requirements. Could you expand on how you see that operating in terms of best practice so far as the Environment Protection and Biodiversity Conservation Act and who should be the appropriate agency dealing with those issues and duplication issues you mentioned. Could you expand on what has happened with other States and what you think is the best way forward?

Ms TAN: I think the key comes back to not having duplication in assessment requirements, especially when there is no additional environmental gain from doing so. One of the suggested solutions we propose—and it is something that governments would have to agree through the Council of Australian Governments process—is to have bilateral agreements between our Government and the Commonwealth Government over as many issues as possible so that if something has been approved by the New South Wales Government for that to be accepted, that the key environmental issues, whatever they might be for a particular project, have been ticked off. It is the regional plans—

Ms BENBOW: There are a number of different ways that it can happen. There is a mechanism under the EPBC Act I understand for bilateral approval so that essentially the New South Wales Government undertakes the approval that then meets the Commonwealth requirements for matters of national environmental significance. The other way is through the strategic assessment and the regional plans. Essentially in that process the Commonwealth Government signs off on regional plans, whether they are local environmental plans, regional plans or strategic plans, that then in New South Wales' assessment the Commonwealth is satisfied that that meets its requirements.

Either of those processes would be more ideal than the situation we have now where, even though we have a bilateral assessment, the majority of companies still need to actually refer matters back up to the Commonwealth for its review and assessment. Even if it is not a matter of national environmental significance, it is still done to provide certainty so that they do not get caught up at a later date. There is definitely a role for the New South Wales Government to be able to approve and assess those matters of national environmental significance, but that had only been done once.

The Hon. MATTHEW MASON-COX: I understand that Western Australia has adopted the latter?

Ms BENBOW: The strategic assessment?

The Hon. MATTHEW MASON-COX: Yes, the strategic assessment on a regional basis.

Ms BENBOW: I think that is right.

Ms TAN: That is right.

The Hon. MATTHEW MASON-COX: Do you know the status of actually working through State-Commonwealth bilateral agreements in fast-tracking these types of approvals?

Ms BENBOW: I believe there are discussions. There is a dialogue.

The Hon. MATTHEW MASON-COX: This has been going on for years. This is not rocket science, is it?

Ms BENBOW: It has been going on for a long time and the mechanism has been there for a long time. So, where it is actually at, you would need to talk to the departments involved.

The Hon. MATTHEW MASON-COX: Let us be honest, it is a continuing frustration for your industry that these obvious problems have existed under these Acts for years? This is not difficult to fix. It just needs a bit of goodwill and a bit of organisation and focus, does it not?

Ms TAN: I guess it is a bit of a matter of history that people go, "Oh, this has always been the way, so let's just keep doing it." But we think certainly that there are some simple solutions that can be done that do not lessen the environmental outcomes overall, which is obviously critical from both a government and industry perspective.

The Hon. MATTHEW MASON-COX: I worked on this 10 years ago when I worked in government.

Ms TAN: That is not a good sign. Are you telling us that there are 10 more years to go?

The Hon. MICHAEL VEITCH: You did not fix it.

The Hon. MATTHEW MASON-COX: I am saying that, we tried then.

The Hon. CHRISTINE ROBERTSON: Then why did you not fix it? You said it was simple.

Reverend the Hon. FRED NILE: On page 6 of your submission you note that mining opponents may contribute to delays if assessment documentation is not entirely satisfactory and that this could be resolved through the provision of adequate guidance material and better dialogue between government agencies and proponents. Can you elaborate on what type of material and dialogue is required?

Ms BENBOW: Essentially at the moment there is no or very little guidance on what will satisfy the environmental assessment provisions. A lot of that information occurs just in dialogue between department officers and the proponent. What we believe would be very beneficial and has been discussed for some time is to have part 3A guidance materials so proponents understand the detail that is required for certain aspects of that proposal. In some cases we know what we need to do—we need to even meet an industrial noise policy that might be set by DECC or another policy for another area—but sometimes all of that information is not actually clear or for a particular project with particular potential impacts what depth of assessment needs to be done so that the Government is in a position to actually make an assessment of that. So, some consistency across the board that is easily available is what we believe would provide further certainty for proponents undergoing an assessment.

Reverend the Hon. FRED NILE: Which department do you believe should be responsible for doing that?

Ms BENBOW: The Department of Planning. Part 3A certainly for mining projects is the prime approval. In our submission you would remember from some of the diagrams that we think that that is the ideal primacy. All the subsequent approvals should be consistent with the part 3A approval and based on that the Department of Planning would be the most likely and most relevant department to do that.

Reverend the Hon. FRED NILE: That would be a more expanded checklist or something far more detail?

Ms BENBOW: More detail.

Ms TAN: It would be more detail. We acknowledge the complexity of mining projects and the impacts they have on the environment et cetera. It is important that there is that level of detail and it would have to be detailed guidelines. It could not be a one-page tick-off. There is no point having guidelines if they are not then actually implemented and, importantly, acknowledged by all agencies within government. While the

Department of Planning should have primacy over it, it is a whole-of-government approach and acknowledgement within the entirety of the Government, all of its agencies, that this is the process we have agreed to—this is the best way that will balance the environmental, social and economic benefits of major projects, in this case mining, and we are all going to adhere to that—is critical because at the moment, unfortunately, that does not always happen.

Reverend the Hon. FRED NILE: That is why I asked which agency and you said the Department of Planning?

Ms TAN: Absolutely.

Reverend the Hon. FRED NILE: Should not the Premier's office be the one that finally signs off?

Ms TAN: I think absolutely.

Reverend the Hon. FRED NILE: Then there would be no conflict with a department disagreeing with the Department of Planning?

Ms TAN: I think one of the things that has come out of some of the work that has happened since the Jobs Summit earlier this year is an acknowledgement that the Department of Planning should be the primary agency for this. I think that is what needs to happen. Once that tick-off is given from the Premier or the ministry and Cabinet, it is then the responsibility, unfortunately, of the bureaucrats within government to acknowledge that that is the decision of government and to abide by it.

The Hon. MATTHEW MASON-COX: I would hope so.

The Hon. RICK COLLESS: Given the input of the Department of Planning in the approval process, and you see that as the approval authority, what input do you believe local planning people should have in this process, particularly local government planning people?

Ms TAN: I think at the moment they are involved—

Ms BENBOW: Generally just in that consultative role. Local government also actually is very involved in their local environmental plans in the work involved with the developing phase and also in that consultation phase.

The Hon. RICK COLLESS: This morning we heard how long it can take to amend local environmental plans. In order for a mine to proceed, does the local environmental plan have to be amended?

Ms BENBOW: No.

Ms TAN: No.

Ms BENBOW: No, the mining SEPP.

The Hon. RICK COLLESS: Is that an undesirable feature of that process, given that the local community in that case really has no say as to whether the mine goes ahead?

Ms BENBOW: I would not say that the community has no say. There is a very involved community consultation process at several phases within the overall project approval.

Ms TAN: I guess it is two things. On one side mining is happening in a particular community and it has impacts on a particular community. So it is important for that community to be involved and consulted in that process, whether it is through its representative, the local government or through the community consultative committees that are set up or the particular company undertaking community consultation. But at the end of the day mining projects are major projects of State significance. They are for the benefit of the entirety of the State. The economic and social benefits that it generates has an impact at the local level but it is the royalties and taxes that we pay back into consolidated revenue that goes for the benefit of the entire State. So those decisions have to be made at a State Government level because they are the only people who can properly

balance the economic, social and environmental factors involved in mining. I think approving it at a local government level, while it is very important for them to be involved and consulted, is a very difficult problem.

The Hon. RICK COLLESS: I think everybody understands that but the concern of many local communities is that they are not being heard in the face of the mining giants coming in. You referred to the Liverpool Plains. That is a very good example of where these huge multinational companies with enormous financial resources are overriding the people on the ground, the landowners and the small communities that populate the area—their concerns are not being heard?

Ms TAN: I would say two things. One, I do not know if we are overriding anything in that local area. We are operating wholly within what we have been allowed to do legally through the rights of being granted the exploration licence.

The Hon. CHRISTINE ROBERTSON: There is no consensus on this issue in this room.

Ms TAN: Yes, but I absolutely understand at the same time the concerns of that local community up there having what they see as a significant change to their community, which is predominantly, obviously, a farming community, particularly in the Liverpool Plains area. I think that communication should continue to happen and consultation does happen, but it is actually an exploration licence in that area and they are trying to work out the resources. They need to get that data. That information is critical to the debate, which at the moment seems to be lacking in that area: data about the coal resource, data about water and data about how it interacts. I think injecting some science into the debate is very important so that everyone actually is on the same page and understands this is what it could look like, this is what it might not look like, these are the issues. It is very hard because it is a very emotional issue, particularly for the farmers up in that area. I absolutely accept that they have a long association with the land up there.

The Hon. MICHAEL VEITCH: My questions follow on from that. The first deals with community consultation. Looking through the schematic chart on the screen, in each of those processes do you have to undertake community consultation or can you do it just once and that community consultation process then can be used in each process? The project approval—

Ms TAN: —is where the bulk of the community consultation takes place prior to it being lodged. Obviously, once it is lodged very often it goes out for public comment and exhibition and there is feedback. At the moment a lot of them are going through planning assessment commission hearings and people can come in and make comments about their particular issue. I do not think there is much comment on the rest of the other ones.

Ms BENBOW: I do not think there is.

Ms TAN: The important thing to note is that our members will continue to consult with the community throughout this entire process and obviously through the life of the mine because they are a part of the community and they are obviously wanting to have good relationships with their neighbours in that local area. That community consultation does not switch off when the project approval, for example, gets granted. There is a continuation so that there is always feedback about any particular possible changes that might be coming up, how they are going with their dust monitoring or their noise monitoring or whatever it is. There are very good relationships formed by the bulk of our membership with the local community.

The Hon. MICHAEL VEITCH: That is the Minerals Council area. I posed this question about part 3A State significant approvals to the people of the Liverpool Plains: If it was not a mine, say it was a wind farm or a solar farm—to be fair, one witness up there said, "We didn't want those either"—they just did not want anything up there. Do they have to go through a community consultation process as well?

Ms TAN: That is right.

The Hon. MICHAEL VEITCH: From my understanding, people say the issues they are raising are not being addressed in the process—in fact a lot of people say, "We just don't want it?"

Ms TAN: That is right.

The Hon. MICHAEL VEITCH: And if it goes ahead then they say "We weren't heard."

Ms TAN: Yes.

The Hon. MICHAEL VEITCH: Is that the experience of the Minerals Council?

Ms TAN: Every community is different and we should say that at the outset. It is human nature that there will be some people who do not like change and do not want change in the community and that is their absolute right to have that view and belief. We do our best as an industry association and our members do their best to consult and communicate with every single one of its neighbours and every one of the people in their local community area in which they operate. But the reality is that there are just some people who you can never change their minds and that is life and we work to the best of our ability otherwise.

The Hon. MICHAEL VEITCH: In respect to part 3A State significant developments should New South Wales in rewriting its planning legislation do away with provisions for assessing and/or approving State significant developments or can we flick it back to local government and rely on the local government processes?

Ms TAN: No. We are strongly on the record as having said that we support the part 3A framework. We have supported it when it was being developed. We have supported it through its passage through Parliament and in the last couple of years that it has been in operation. However, we have significant issues with the operation of part 3A—some of the issues we have briefly gone through in our presentation but obviously detail very much in our submission—with the actual implementation and practice of part 3A, but the framework is critical. There are mining projects we would say are State significant projects and they must be assessed accordingly because it is only at that State level that we feel that an assessment can be properly done to get that balance between that economic environment and social benefits of, in this case, mining projects. But as you say, it would apply to other major projects as well.

The Hon. MATTHEW MASON-COX: You mentioned earlier that Queensland had a much better approval process in terms of timeliness. Could you perhaps take this on notice and provide us with the benchmark timelines that you have had experienced by your members under the Queensland approval process and how that compares with New South Wales and any points of difference that bear out any inefficiencies in the New South Wales system and if there are other examples of that across other States? What we want to get to as part of New South Wales moving forward is a best practice system, particularly for timings and approvals and better certainty. If you could flesh that out for us, that would be useful.

Ms TAN: They will be in case study form obviously because we will not necessarily want to specify them.

The Hon. MATTHEW MASON-COX: That is fine. Thank you.

CHAIR: Thank you both for being here this afternoon. Along with any questions that you took on notice today would you agree to receive additional questions that members of the Committee may not have had the opportunity to ask you today and to have a reply back within 21 days?

Ms BENBOW: Yes.

Ms TAN: Yes.

CHAIR: Thank you for your contribution.

(The witnesses withdrew)

(The Committee adjourned at 1.32 p.m.)