LEGISLATION COMMITTEE ON THE NATURAL RESOURCES MANAGEMENT COUNCIL BILL 1992 AND COGNATE BILLS

Parliament of New South Wales

November 1992

MEMBERSHIP OF THE COMMITTEE

CHAIRMAN	Mr Russell Smith, M.P.	
MEMBERS	Ms Pam Allan, M.P.	
	Mr Andrew Fraser, M.P.	
	Mr Andrew Humpherson, M.P.	
	Dr Peter Macdonald, M.P.	
	Mr Robert Martin, M.P	
COMMITTEE STAFF	Ms Amanda Olsson -	Project Director
	Ms Kendy McLean -	Assistant Committee Officer
CLERK TO THE COMMITTEE	Mr Greg Kelly	

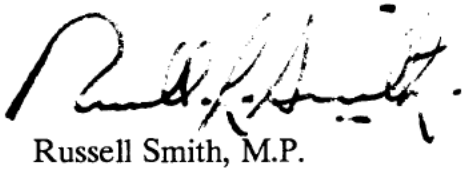
FOREWORD

I take the pleasure in presenting to the Parliament the Report of the Legislation Committee on the Natural Resources Management Council Bill 1992 and Cognate Bills.

This report deals with a number of issues which relate to the Natural Resources Package as presented to Parliament.

It is also the culmination of evidence (both written and oral) received by the Committee. It should be noted that the evidence received has been collated and edited into sections dealing with each of the five Bills for ease of understanding.

If interested parties would like a full transcript of the evidence received, this can be obtained from the Committee Secretariat through Parliament House, Sydney.



Russell Smith, M.P.
Chairman

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CHAPTER 1
OBSERVATIONS

Natural Resources Management Council Bill 1992

The principal objects of the Natural Resources Management Council Bill 1992 are set out in Clause 3 of the Bill.

The objectives as stated in the Bill are:

> 3. *(1) The object of this Act is to establish an independent authority to improve the decision-making process with respect to the use of public land so that:*
>
> *(a) the Government may make sound decisions about the balance between the conservation and other natural resources use; and*
>
> *(b) the allocation of the use of natural resources to industry is secure.*
>
> *(2) In particular, the object of the Bill is to ensure that:*
>
> *(a) comprehensive and reliable information about the natural resources of public land is compiled and available for the purposes of that decision-making process; and*
>
> *(b) all values of public land (including conservation and economic values) are assessed; and*
>
> *(c) those assessments are made on a systematic regional basis instead of by different government agencies on a site by site basis; and*
>
> *(d) principles of environmental policy (as agreed between the Commonwealth and the States) are applied in that decision-making process as the basis of ecologically sustainable development.*

The Committee noted the concerns from a significant number of witnesses that the

NRMC as proposed would simply be another layer of bureaucracy and red tape on top of the existing process for land use allocation.

Indeed, many witnesses did not view the NRMC as a body which would resolve disputes, but instead viewed it as a body that would simply transfer the location of the dispute.

Many witnesses, after further questioning by the Committee, did acknowledge the usefulness of a body or agency to collate scientific data from the many resource-based departments into one data base.

The Committee also notes that this assessment of all public lands in New South Wales would require significant funding in the vicinity of $100 million over a five year period as foreshadowed by the former Premier, the Hon. N.F. Greiner.

The Committee also acknowledges the concerns raised by many witnesses as to the membership and composition of the NRMC.

Endangered and Other Threatened Species Conservation Bill 1992

The objects of this Bill are to replace the Endangered Fauna (Interim Protection) Act 1991.

> *3. The objects of this Act are as follows:*
>
> *(a) to maintain the genetic diversity of animals and plants and their potential for evolutionary development in the wild; and*
>
> *(b) to prevent the extinction and promote the recovery of endangered and other threatened species of animals and plants; and*
>
> *(c) to protect the critical habitat of endangered species through the public process of environmental planning and assessment; and*
>
> *(d) to ensure that the impact of any development on endangered and other threatened species of animals and plants is properly assessed.*

The Committee notes concerns as to whether the listing eligibility of endangered species should be on an Australia-wide basis or a state basis.

The Committee also notes concerns raised by witnesses about "critical habitat" which was viewed by some industry groups as poorly defined. This could be cause for further disputes.

Environmental Planning and Assessment (Amendment) Bill 1992

The objects of this Bill is:

> *to amend the Environmental Planning and Assessment Act 1979 to provide that, where a Government agency is both the proponent and the determining authority for any activity for which an environmental impact statement has been obtained under Part 5 of that Act, the Minister for Planning and not the agency will finally decide whether the activity may proceed and any conditions to which it will be subject following the examination of the statement and public responses to it.*

The Committee notes that currently government agencies have a duty to consider the environmental impact of any activity and under existing laws the proponent agency itself assesses its environmental impact statement and decides whether its proposed activity should proceed.

The Committee notes suggestions made that an amendment be included in the Bill to include an amendment to the definition of 'activity' under Part V of the Environmental Planning and Assessment Act. That is, that the designation of National Parks and Wilderness Areas are an 'activity' and require an EIS.

Forest (Resource Security) Bill 1992

The objects of this Bill are:

3. *(a) to provide for resource security with respect to forested public land by its allocation for timber production in accordance with Government decisions based on reports of the Natural Resources Management Council; and*

(b) to provide for resource security with respect to forested public land by contractual arrangement for compensation for withdrawal of that land from timber production.

This classification will be based on the reports of the NRMC and the Bill will give resource security for that land classified as Timber Production Forest.

The Committee notes concerns raised as to whether forests would be amply protected if the NRMC was not independent or objective.

Industry witnesses believe that because of the fact that long-term decisions about starting new projects, alteration of infrastructures, investments in plant and equipment and investigation of new products have not been made the timber industry has not been able to operate as effectively and efficiently as possible.

Heritage (Amendment) Bill 1992

The object of this Bill is to amend the Heritage Act so as to exclude from the operation of that Act:

(a) *places that are part of the natural environment and are significant only because they are part of that environment; and*

(b) *Aboriginal relics or places within the meaning of the National Parks and Wildlife Act 1974.*

Further protection is afforded natural heritage by the Wilderness Act.

Conservation groups and the NSW Aboriginal Land Council are against the amendment whilst industry groups favour it.

CHAPTER 2

2.1 TERMS OF REFERENCE

The Legislative Assembly of NSW has referred the draft Natural Resources Management Council Bill and Cognate Bills - the Endangered and Other Threatened Species Conservation Bill, the Environmental Planning and Assessment (Amendment) Bill, the Forest (Resource Security) Bill and the Heritage (Amendment) Bill to this Legislation Committee for consideration.

The Bills aim to integrate and co-ordinate all aspects of public land use and natural resource management. The Committee is to assess the general contents and principles of these Bills.

CHAPTER 2

2.2 COMMITTEE MEETINGS

MINUTES
OF THE MEETING OF THE
COMMITTEE ON NATURAL RESOURCES MANAGEMENT COUNCIL BILL

No. 1

Wednesday, 16 September 1992, at 6.45 p.m.
Museum, Parliament House, Sydney

MEMBERS PRESENT

Ms Allen
Mr Fraser
Mr Martin
Mr Smith

APOLOGIES

Dr Macdonald
Mr Yabsley

The Clerk of the Legislative Assembly opened the meeting and read the following:

Entry No. 15, Votes and Proceedings of the Legislative Assembly, 30 June 1992.

NATURAL RESOURCES MANAGEMENT COUNCIL BILL
ENDANGERED AND OTHER THREATENED SPECIES CONSERVATION BILL
ENVIRONMENTAL PLANNING AND ASSESSMENT (AMENDMENT) BILL
FOREST (RESOURCE SECURITY) BILL
HERITAGE (AMENDMENT) BILL

(1) Mr Murray moved, on behalf of Mr Fahey, pursuant to notice, That leave be given to bring in the following cognate bills:

(a) A bill for an Act to establish the Natural Resources Management Council of New South Wales; to confer functions on that Council with respect to the decision-making process on the use of public land and its natural resources; and for other purposes.

(b) A bill for an Act to conserve endangered and other threatened species of animals and plants; to repeal the Endangered Fauna (Interim Protection) Act 1991; to amend the National Parks and Wildlife Act 1974; the Environmental Planning and Assessment Act 1979 and certain other Acts; and for other purposes.

(c) A bill for an Act to amend the Environmental Planning and Assessment Act 1979 with respect to proposed activities of government agencies that are subject to environmental impact statements under Part 5 of that Act; and to consequentially amend other Acts.

(d) A bill for an Act to provide for resource security with respect to forested public land; and for other purposes.

(e) A bill for an Act to amend the Heritage Act 1977 with respect to the application of that Act.

Question put and passed.

Bills presented and read a first time.

Mr Murray moved, That these bills be now read a second time.

Debate adjourned (Mr Amery) and the resumption of the adjourned debate made an Order of the Day for a future day.

(2) Ordered, on motion of Mr Murray (by leave), That:

(1) The Natural Resources Management Council Bill and cognate bills be referred to a Legislation Committee for consideration and report to the House on such amendments as it considers should be proposed to the Committee of the Whole on the bills.

(2) Such committee consist of Ms Allan, Mr Fraser, Dr Macdonald, Mr Martin, Mr Tink and Mr Yabsley.

(3) The committee report by 31 October 1992.

ELECTION OF CHAIRMAN

Resolved on motion of Mr Fraser, seconded by Ms Allen: That Mr Smith be elected Chairman of the Committee.

PROCEDURAL RESOLUTIONS

Resolved on motion (in globo) of Ms Allen, seconded by Mr Fraser:

1. That arrangement for the calling of witnesses and visits of inspection be left in the hands of the Chairman and the Clerk to the Committee.

2. That, unless otherwise ordered, parties appearing before the Committee shall not be represented by any member of the legal profession.

3. That, unless otherwise ordered, when the Committee is examining witnesses, the press and public (including witnesses after examination) be admitted to the sitting of the Committee.

4. That persons having special knowledge of the matters under consideration by the Committee may be invited to assist the Committee.

5. That press statements on behalf of the Committee be made only by the Chairman after approval in principle by the Committee or after consultation with Committee members.

6. That, unless otherwise ordered, transcripts of evidence taken by the Committee be not made available to any person, body or organisation: provided that witnesses previously examined shall be given a copy of their evidence; and that any evidence taken in camera or treated as confidential shall be checked by the witness in the presence of the Clerk to the Committee or an Officer of the Committee.

7. That the Chairman and the Clerk to the Committee be empowered to negotiate with the Presiding Officers for the provision of funds to meet expenses in connection with travel, accommodation, advertising, operating and approved incidental expenses of the Committee.

8. That the Clerk be empowered to advertise and/or write to interested parties requesting written submissions.

9. That upon the calling of a division or quorum in either House during a meeting of the Committee, the proceedings of the Committee shall be suspended until the Committee again has a quorum.

10. That the Chairman and Clerk make arrangements for visits of inspection by the Committee as a whole and that individual members wishing to depart from these arrangements be required to make their own arrangements.

COMMITTEE STAFFING

Mr Kelly, Parliamentary Officer—Table introduced, by Ms Miller, Clerk Assistant (Committees) to the Committee as Clerk to the Committee.

The Committee deliberated on the aspects of assistance of a project officer.

Resolved on motion Ms Allen that Ms Amanda Olsson assist the Clerk to the Committee in committee operations. Further that the Committee approach Cabinet Office (Ms Robin Cruck as Cabinet Office co-ordinator) for assistance regarding current situation and specific issues under consideration.

Further resolved: that consideration be given to seeking liaison officers within ministerial officers whose portfolios are relevant to the issues of this Committee.

TIMETABLE

The Committee deliberated, resolving that an extension be sought to 25 November 1992 to give the Committee an adequate timeframe in which to operate.

Date for closure of submissions to be 31 October 1992.

ADVERTISEMENT

The Committee considered the advertisement as circulated by the Clerk.

Resolved that the advertisement be forwarded for publication subject to an approval for extension.

NEXT MEETING

That the Committee meet Wednesday next, 23 September 1992 at 5.15 p.m., room to be advised.

That Ms Robin Cruck be invited to attend to brief the Committee on Cabinet Office progress thus far on the issues involved within the Bills.

The Committee adjourned at 7.05 p.m. to Wednesday 23 September 1992 at 5.15 p.m.

Chairman

Clerk to the Committee

MINUTES
OF THE MEETING OF THE
COMMITTEE ON NATURAL RESOURCES MANAGEMENT COUNCIL BILL

No. 2

Wednesday, 23 September 1992, at 5.15 p.m.
Room 1136, Parliament House, Sydney

MEMBERS PRESENT

Mr Smith (Chairman)
Ms Allan
Mr Fraser
Mr Martin
Dr Macdonald

APOLOGIES

Mr Yabsley

CONFIRMATION OF MINUTES

Resolved on motion of Mr Fraser, seconded Mr Martin, that the minutes as circulated be accepted as record.

CORRESPONDENCE

The Committee accepted correspondence as circulated to all members.

CABINET OFFICE BRIEFING

With the concurrence of Members present the Chairman adjourned the meeting. A briefing session was then held with Ms Robin Cruck and Mr Roger Wilkins representatives of Cabinet Office on the proposals within the Natural Resources Management Bills package.

The representatives withdrew.

The Committee resumed.

COMMITTEE STAFFING

Ms Amanda Olsson, Committee Officer introduced, by Chairman to Members of Committee.

TIMETABLE

Report date:
The Committee deliberated, no information has been forthcoming relating to the Committee's application for an extension of time to report to the House

Motion: Mr Macdonald that the Chairman approach the appropriate Minister seeking clarification on the extension issue, and final date for report.

Hearings:
The committee discussed possible hearing dates, resolving to meet on two days during the first week estimates committees are to meet (20 to 23 October 1992); meeting times to be either 4.00 p.m. to 9.30 p.m.

Witnesses:

Discussion ensued on the nature of the issues involved and the parties interested in being heard.

Resolved that the Chairman and support staff contact possible witnesses for hearing, whilst striving to give maximum feedback on both views on the bills.

NEXT MEETING

The Committee adjourned at 6.12 p.m. sine die.

Chairman

Clerk to the Committee

MINUTES
OF THE MEETING OF THE
COMMITTEE ON NATURAL RESOURCES MANAGEMENT COUNCIL BILL

No. 3

Tuesday, 13 October 1992, at 4.15 p.m.
Room 813\814, Parliament House, Sydney

MEMBERS PRESENT

Mr Smith (Chairman)
Ms Allan
Mr Fraser
Mr Martin

Ms Olsson, Committee Support officer, was also in attendance.

APOLOGIES

Dr Macdonald

HEARING

The Committee proceeded to take evidence.

The press and public were admitted.

By direction of the Chairman the clerk read Legislative Assembly Standing Order No. 362 relating to the examination of witnesses.

Mr A.P.G. Walker, Executive Officer of the Nature Conservation Council of NSW, affirmed.
Mr J.S. Angel, Co-Director of the Total Environment Centre, affirmed.
Mr G.B. Douglas, President, National Parks Association of NSW, sworn.
Ms S.F. Salmon, Campaign Co-ordinator for Australian Conservation Foundation, affirmed.
Mr P.C. Wright, Editor, National Parks Association Journal, affirmed.
Mr J.A. Connor, Parliamentary Liaison Officer, Peak Environment Groups, affirmed.

Witnesses examined concurrently.

Mr J.S. Angel tabled a supplementary paper entitled "Endangered Fauna (Interim Protection) Act—A review of its Operations". (incorporated into Hansard)

Examination of witnesses continued. Examination concluded the witnesses withdrew.

Mr R.A. Falconer, Director, Conservation Council (South East and Canberra Regions),

affirmed and examined.

Evidence concluded the witness withdrew.

Sir Owen Croft, Grazier sworn.
Mr A.A. Russell, Chief Legal Advisor, Rural Lands Protection Boards Association, sworn.
Mr H.G. Prell, Grazier, Chairman, Executive Council, Rural Lands Protection Board of NSW, sworn.
Mr C.G. Alchin, Rural Lands Protection Officer, Department of Agriculture, sworn.

Witnesses examined concurrently.

Mr Russell tabled a map of Rural Lands Protection Districts, together with a copy of a letter from the Director General of the Department of Agriculture.

Examination of witnesses continued. Examination concluded the witnesses withdrew.

Mr W.J. Hurditch, Executive Director of the Forest Products Association, Spokesman for the Forest Industries Crisis Coalition, sworn and examined.

Examination concluded, the witness withdrew.

NEXT MEETING

The Committee adjourned at 9.40 p.m. to Wednesday 14 October 1992 at 4.15 p.m.

Chairman

Clerk to the Committee

MINUTES
OF THE MEETING OF THE
COMMITTEE ON NATURAL RESOURCES MANAGEMENT COUNCIL BILL

No. 4

Wednesday, 14 October 1992, at 4.00 p.m.
Waratah Room, Parliament House, Sydney

MEMBERS PRESENT

Mr Smith (Chairman)
Mr Fraser
Mr Humpherson
Mr Martin

Ms Olsson, Committee Support officer, was also in attendance.

APOLOGIES

Ms Allan
Dr Macdonald

HEARING

The Committee proceeded to take evidence.

The press and public were admitted.

By direction of the Chairman the clerk read Legislative Assembly Standing Order No. 362 relating to the examination of witnesses.

Mr J. C. Hannan, Regional Manager, NSW Coal Association, sworn.
Mr F. Topham, Government Affairs Manager, NSW Coal Association, sworn.

Witnesses examined concurrently.

Examination concluded the witnesses withdrew.

Mr M. Kidnie, Secretary, Local Government and Shires Association of NSW, affirmed.
Mr R.W. Bonner, Environment Officer, Local Government and Shires Association, affirmed.
Mr P.R. Woods, Trade Union Official, affirmed.
Mr J.F. Musgrave, Farmer and Grazier, affirmed.

Witnesses examined concurrently.

Evidence concluded the witnesses withdrew.

Mr I.R. Wiskem, Lawyer, sworn.
Mr M.C. Wrench, Sworn

Witnesses examined concurrently.

Examination concluded the witnesses withdrew.

Mr F.T. Gulson, Executive Officer, NSW Farmer Association Limited, sworn.
Mr I.C. McClintock, Chairman, NSW Farmers Association Conservation Committee Sworn.
Mr J.A. McDonald, Member, NSW Farmers Association Conservation Committee, sworn.

Witnesses examined concurrently.

Examination concluded, the witnesses withdrew.

Mr W.F. Ponder, Principal Research Scientist, Australian Museum, affirmed.
Mr A.R. Jones, affirmed.

Witnesses examined concurrently.

Examination concluded, the witnesses withdrew.

Mr M.C. Penrith, Representative, State Aboriginal Land Council, affirmed.
Ms D.M. Lowe, Project Officer, State Aboriginal Land Council, affirmed.
Ms P.A. Boyd, Solicitor, State Aboriginal Land Council, affirmed.
Mr S.J. Wright, Advisor, State Aboriginal Land Council, affirmed.

Witnesses examined concurrently.

Examination concluded, the witnesses withdrew.

NEXT MEETING

The Committee adjourned at 10.00 p.m. sine die.

Chairman

Clerk to the Committee

MINUTES
OF THE MEETING OF THE
COMMITTEE ON NATURAL RESOURCES MANAGEMENT COUNCIL BILL

No. 5

Thursday, 29 October 1992, at 12.45 p.m.
Waratah Room, Parliament House, Sydney

MEMBERS PRESENT

Mr Smith (Chairman)
Ms Allan
Mr Fraser
Mr Martin
Dr Macdonald

Ms Olsson, Committee Support officer, was also in attendance.

APOLOGIES

Mr Humpherson

HEARING

The Committee proceeded to take evidence.

The press and public were admitted.

By direction of the Chairman the clerk read Legislative Assembly Standing Order No. 362 relating to the examination of witnesses.

Mr D. Leadbitter, Executive Officer, Oceanwatch, affirmed.
Mr V. McDonall, Executive Officer, Commercial Fishing Advisory Council, affirmed.

Witnesses examined concurrently.

Examination concluded the witnesses withdrew.

Ms B. Richardson, NSW Fisheries, affirmed and examined.

Evidence concluded the witnesses withdrew.

Hearing concluded, committee room closed to public and press.

GENERAL BUSINESS

Discussion ensued on evidence taken by committee and witnesses called.

Ms Allan moved, seconded by Mr Martin: That the Committee invite and calla the representatives of the Department of Planning, the Forestry Commission, the Department of Conservation and Land Management, the National Parks and Wildlife Service, the Environment Protection Authority, the Department of Water Resources and the Department of Minerals to give evidence before this Committee.

The Committee deliberated.

Question put: That the Committee invite and calla the representatives of the Department of Planning, the Forestry Commission, the Department of Conservation and Land Management, the National Parks and Wildlife Service, the Environment Protection Authority, the Department of Water Resources and the Department of Minerals to give evidence before this Committee.

Motion passed.

NEXT MEETING

The Committee adjourned at 2.15 p.m. sine die.

Chairman

Clerk to the Committee

MINUTES
OF THE MEETING OF THE
COMMITTEE ON NATURAL RESOURCES MANAGEMENT COUNCIL BILL

No. 6

Thursday, 5 November 1992, at 10.00 a.m.
Committee Room 1043, Parliament House, Sydney

MEMBERS PRESENT

Mr Smith (Chairman)
Ms Allan
Mr Fraser
Mr Humpherson

Ms Olsson, Committee Support officer, was also in attendance.

APOLOGIES

Dr Dacdonald
Mr Martin

CONFIRMATION OF MINUTES

Minutes Nos 2, 3 and 4:

Resolved on motion of Mr Fraser, seconded Mr Smith, that the minutes of meetings numbers 2, 3 and 4 as circulated be accepted as record.

Minutes No. 5:

Resolved on motion of Ms Allan, seconded Mr Smith, that the minutes as circulated be accepted as record.

BUSINESS ARISING FROM THE MINUTES

Mr Fraser moved that the motion of Ms Allen carried last meeting, vis.:

> "That the Committee invite and call the representatives of the Department of Planning, the Forestry Commission, the Department of Conservation and Land Mansagement, the National Parks and Wildlife Service, the Environment Protection Authority, the Department of Water Resources and the Department of Minerals to give evidence before this Committee"

be rescinded on the basis that input from the departments mentioned in the motion of Ms Allen was the basis for developing the "Natural Resources Package". Motion seconded by Mr Humpherson.

The Committee deliberated.

Motion put

Ayes 2	Noes 1
Mr Fraser	Ms Allen
Mr Humpherson	

And so it was resolved in the affirmative.

DRAFT REPORT

Discussion then ensued on the formulation of the Draft Report for presentation at the next meeting, the cross section of witnesses, assessment of the bills by witness and and the evidence taken, and the view as outlined in the Natural Resources Package as prepared by Cabinet Office.

Report to be tabled by Chairman on or by 17 November 1992.

NEXT MEETING

The Committee adjourned at 10.50 a.m. sine die.

Chairman

Clerk to the Committee

MINUTES
OF THE MEETING OF THE
COMMITTEE ON NATURAL RESOURCES MANAGEMENT COUNCIL BILL

No. 7

Friday 13 November 1992, at 12.45 p.m.
Committee Room 1043, Parliament House, Sydney

MEMBERS PRESENT

Mr Smith (Chairman)
Ms Allan
Mr Fraser
Mr Humpherson
Dr Macdonald
Mr Martin.

Ms Olsson, Project Officer, was also in attendance.

CONFIRMATION OF MINUTES

Minutes No. 6:

Resolved on motion of Mr Fraser, seconded Mr Humpherson, that the minutes as circulated be accepted as record.

CORRESPONDENCE

The Chairman reported and read a letter received from Mr R. Martin, Shadow Minister for Agriculture, Rural Affairs, Lands and Forests dated 2 November 1992 conveying his apologies for non attendance at the last meeting and his concerns regarding the bills before the Committee.

COMMITTEE STAFF

The Chairman, on behalf of the Committee commended Ms Olsson, Ms McLean and Mr Kelly on the presentation of the draft report and the work undertaken to date.

DRAFT REPORT

The Chairman tabled a copy of the Draft Report for consideration by the Committee. The Chairman then outlined the overall objectives of the bills before the Committee and the consensus of issues raised by the witnesses during the hearings conducted by the Committee.

Mr Fraser moved: That the Natural Resources Package in its present form be withdrawn and referred to the Government for further consideration.

The Committee deliberated.

Motion of Mr Fraser, as amended: That the Natural Resources Package in its present form be withdrawn and referred to the Government for further consideration and attention be given to the evidence received by the Legislation Committee—put and passed.

The Committee then proceeded to consider the contents of Chapter 1—Executive Summary of the draft report.

At 2.05 p.m. the Chairman left the chair until 4.00 p.m.

The Committee resumed discussion, considering the redraft of Chapter 1.

Mr Fraser raised the matter of a breach of confidentially by the member of Blacktown in releasing privileged information, concerning this Committee, to the press during a conference held this day.

Mr Fraser then moved: That this Committee notes within the Report the breach of confidentially of the member for Blacktown. Seconded Mr Humpherson.

The Committee deliberated.

Question put:

Ayes 3	Noes 3
Mr Fraser	Ms Allan
Mr Humpherson	Dr MacDonald
Mr Smith	Mr Martin

And the numbers being equal, the Chairman gave his casting vote with the "Ayes" and declared the Question to have been resolved in the affirmative.

The Committee resumed its discussion of Chapter 1, progressing through to Chapter 7 of the Report.

Discussion concluded.

Mr Fraser moved, Seconded Mr Humpherson: That Chapters 1 to 7 stand in their present content as Chapters of the Report—put and passed.

Mr Fraser then moved, seconded Mr Humpherson: That the Report as agreed to this day by the Committee be submitted to the Chairman for signature when bound and be presented by the Chairman Tuesday next, the 17th November 1992 to the House as the Report of this Committee on the Bills referred—put and passed.

The Committee adjourned at 4.17 p.m.

Chairman

Clerk to the Committee

CHAPTER 3
THE CURRENT LEGISLATIVE POSITION

NATURAL RESOURCES MANAGEMENT COUNCIL BILL 1992

Currently, decisions on the use of publicly owned land and natural resources are usually the responsibility of one agency. Mostly, the responsible agency initiates processes of consultation with other affected agencies in a process called "referencing" and with the public.

Consultation is sometimes a statutory requirement. For example, the mining legislation provides the mineral resources cannot be allocated by way of a mining lease unless it has been referenced to each Government agency that is materially affected, the Director of Planning, relevant local councils and the public. These bodies can lodge objections to the proposed lease.

Even where not provided for in legislation, agencies usually consult with other affected agencies and with the public on their land or natural resource use proposals. For example, there is an administrative arrangement that when land is proposed to be dedicated as a National Park, the National Parks and Wildlife Service consults with all affected Government agencies.

The current arrangements are ad hoc and fragmented. There have been occasions where the interests of some agencies or interest groups have been overlooked. They also encourage an atmosphere of disputation between agencies motivated by inter-agency tensions, which obviously does not facilitate rational decision-making. In some cases, opportunities for public consultation and input have not been properly structured into the decision-making process.

The current fragmentation of responsibility between a number of Government agencies means that the allocation of public land and resources currently occurs on a site-by-site basis. Individual issues are dealt with as they arise. Also, public attention tends to focus on disputes concerning specific sites or issues. For example, the question of the logging or preservation of many of the State's old growth forests has centred in conflicts over particular forests with high media profiles, such as the South East Forest. This means that, too often, the allocation of publicly-owned land and resources cannot benefit from a strategic, integrated "whole of resource" perspective.

This situation is worsened by the fact that the information base about the State's land and natural resources is dispersed between different agencies and is in many cases seriously inadequate. The Government is required to balance competing claims by

agencies and groups, without having appropriate access to the facts to make a decision on rational and justifiable grounds.

ENDANGERED AND OTHER SPECIES CONSERVATION BILL 1992

The National parks and Wildlife Act (NPW Act) currently provides the principal statutory framework for protecting native species.

The Director of National Parks and Wildlife is responsible for the protection and care of "fauna". This term "fauna" is limited in scope to mammals, birds, reptiles and amphibians. Fish and invertebrate animals, therefore, fall outside the ambit of the provisions in the National parks and Wildlife Act dealing directly with fauna and creating offences of taking or killing "protected" fauna.

Schedule 11 of the NEW Act lists "unprotected fauna". All other fauna is "protected". In addition, Schedule 12, lists protected fauna which is also "endangered". The amendments made by the Endangered Fauna (Interim Protection) Act 1991 (1991 Act) to the NEW Act established a 3 member Scientific committee, and Schedules 11 and 12 may now be amended only on the recommendation of the Committee. Schedule 12 is divided into 3 Parts: Part 1 (Threatened); Part 2 (Vulnerable and Rare); Part 3 (Marine Mammals). The Committee is to have regard to a number of factors in making recommendations for listing a species of fauna as "Threatened" or "Vulnerable and Rare", but ultimately the Committee has a broad discretion in this respect.

Sections 99 and 98 of the National Parks and Wildlife Act contain offences of "taking or Killing" endangered and other protected fauna respectively. These offences are broad in their operation, firstly, because they are strict liability offences (and thus the prosecution is not required to prove intent) and, secondly, because of the definition of "take" which now extends to "significant modification of the habitat of the fauna which is likely to adversely affect its essential behavioural patterns" (see Endangered Fauna (Interim Protection) Act).

There are, however, a number of defences available to a charge of taking or killing endangered or other protected fauna. Most importantly, a person may not be found guilty of taking or killing endangered or other protected fauna if he or she shows that the act was done in accordance with a general licence issued under section 120 of the Act. The broad scope of the offence provisions means that a proposed development or activity, such as forestry, may not be able to proceed without a licence authorising the taking or killing of endangered and/or protected fauna in the course of carrying out the development or an activity. The necessity to obtain a licence is additional to the requirements under the Environmental Planning and Assessment Act to obtain development consent or carry out an environmental assessment before proceeding with the development or activity.

The Endangered Fauna (Interim Protection) Act introduced additional requirements

in relation to the issue of licences to "take or Kill" endangered fauna. A fauna impact statement which must address specified matters (such as the statewide distribution of the species) is required to accompany an application for a licence, except in special circumstances. Notice of the application must be published and any submissions received in response must be considered before applications for development consent to have regard to the effect of the proposed development on any protected fauna and the fauna's habitat and the means to be employed to protect the fauna or habitat from harm or to mitigate the harm likely to be caused by the development. Similarly, determining authorities within the meaning of Part 5 of the Act (public authorities or Ministers) must when assessing the likely impact of an activity on the environment take into account the environmental impact on the ecosystems of the locality, any endangering of an species of fauna or flora and any impact on the habitat of any protected fauna.

As a result of amendments made to the Environmental Planning and Assessment Act by the Endangered Fauna (Interim Protection) Act, a fauna impact statement (prepared in accordance with the provisions in the NEW Act) is required to accompany an application for consent to carry out "designated" development that is likely to significantly affect the environment of endangered fauna. Similarly, a determining authority under Part 5 is to prepare a fauna impact statement where an activity is likely to significantly affect the environment of endangered fauna. However, apart from a duty to forward a copy of the statement to the Director of National Parks and Wildlife, there is no other obligation imposed with respect to the statement. (It may be noted that the amendments made by the Interim Protection Act will be automatically repealed on 1 December 1992.)

ENVIRONMENTAL PLANNING AND ASSESSMENT (AMENDMENT) BILL 1992

The Environmental Planning and Assessment (Amendment) Bill 1992 amends Part 5 of the Environmental Planning dna Assessment Act. The Part sets out environmental assessment obligations of government agencies which propose to carry out, or propose to approve of others carrying out, activities which do not require development consent under Part 4 of the Act (and thus are not subject to environmental assessment under Part 4 of the Act by a consent authority such as a local council).

Firstly, government agencies - "determining authorities" - are under a duty to consider the environmental impact of activities of which they are the proponent or in relation to which their approval is required. The Environmental Planning and Assessment Regulation 1980 sets out a wide range of factors that are to be taken into account when consideration is being given to the likely impact of an activity on the environment. An agency must assess, for example, whether an activity may cause a diminution of the aesthetic, recreational, scientific or other environmental quality of a locality and any pollution of the environment.

Secondly, where the proposed activity is likely to significantly affect the environment, the government agency is not to carry out the activity or grant an approval to carry out the activity (eg. by granting some form of licence) unless it has complied wit further requirements. Most importantly, the agency must obtain and consider an environmental impact statement in respect of the activity. The environmental impact statement must be available for inspection by the public and the agency must consider any representations concerning the proposed activity received in response to the public exhibition of the statement. A Commission of Inquiry may also be appointed by the Minister to inquire into the environmental aspects of the activity, and if a Commission is established, the agency must also consider the findings and recommendations of the Commission and any subsequent advice of the Minister in relation to findings. If the agency is satisfied that the activity will detrimentally affect the environment it may, despite any other Act, refrain from undertaking the activity or refuse to grant its approval.

The Environmental Planning and Assessment (Amendment) Bill does not in any way derogate from an agency's current environmental assessment obligations under Part 5.

An agency will continue to be required to obtain and evaluate an environmental impact statement where an activity is likely to significantly affect the environment.

However, under the existing regime the agency itself - even where it is the proponent of the activity - makes the final decision as to whether or not it should proceed with the activity after considering the environmental impact statement and other matters. If the Bill is enacted, the Minister for Planning will be responsible for reviewing the

decision of the agency to carry out the activity, and unless the Minister's approval is obtained, the agency will be prohibited from doing so.

FOREST (RESOURCE SECURITY) BILL 1992

The Forestry Commission is responsible for the management of State forest, including the sale or allocation or rights to timer. Once the Forestry Commission has decided that a certain area of State-owned forested land should be used for timber production, it confers rights to take timber in the form of a quota allocation to a sawmill, a Wood Supply Agreement, or other means.

Wood Supply Agreements account for about a quarter of the Forestry Commission's hardwood and cypress quota sawlogs and most of their products from exotic pine plantations. The Forestry Commission is currently introducing a Native Forest Sawlog Marketing Strategy which will increase the proportion of sawlogs committed to Wood Supply Agreements.

Wood Supply Agreements are usually of 20 years duration. They nominate a volume of sawlogs to be made available annually be the commission, but also contain provision for reviewing the level of available resource during the term of the Agreement. They are legally binding contracts.

These Agreements provide a degree of resource security for a timber company - that is , a measure of certainty that it will be able to use a specified timber resource for a set period of time. However, this certainty is mitigated by a range of contingencies. One example is a commonwealth decision to withdraw or modify its approval of the export of a company's timber product, which would mean that its operation becomes economically enviable.

Most importantly, land may be withdrawn from timber production because of events outside the control of the Forestry Commission. A decision of the Commonwealth or State government or instrumentality may result in resource loss by the timber industry. For example, the State Government may take action to revoke the dedication of a State forest and include the land instead within a national park.

Resource security is also lessened by uncertainties associated with increasing legislative controls which affect timber-related activities. For example, as a result of the Endangered Fauna (Interim Protection) Act, the Forestry Commission may now need to prepare a fauna impact statement for the purpose of obtaining a licence under the Act to authorise logging operations affecting endangered fauna. The need to prepare a fauna impact statement for the purposes of obtaining a licence under the Act to authorise logging operations affecting endangered fauna. The need to prepare an environmental impact statement under the Environmental Planning and Assessment Act may significantly delay access to timber resources; such delay may be critical for timber company which relies on continuing access to those timber resources to remain viable. Licences and approvals under other legislation may also

be required before logging can proceed.

The Timber Industry (Interim Protection) Act currently confers a measure of resource security on certain of the State's forested land by removing some of these uncertainties. The Act suspends the operation of Part 5 of the Environmental Planning and Assessment Act, thus providing that logging operations may proceed in certain areas pending the completion of environmental assessments.

HERITAGE ACT (AMENDMENT) BILL 1992

Currently, the Heritage Act covers "environmental heritage" which it defines as: "those buildings, works, relics or places of historic, scientific, cultural, social, archaeological, architectural, nature or aesthetic significance for the State". The definition if a "relic" excludes Aboriginal relics from its scope.

The Act provides for the making of interim conservation orders and permanent conservation orders to protect items of the environmental heritage. it can be an offence to damage or despoil a place protected by a conservation order.

The Heritage Act has rarely been used for protecting items of the natural environment.

The National Parks and Wildlife Act is the State's main legislative mechanism for the conservation of items of the natural environment. it does this through providing the National parks and Wildlife Service with a comprehensive and flexible range of mechanisms, such as:

- reservation, dedication or declaration of land as national parks, historic sites, nature reserves, karst conservation reserves, wilderness areas, wildlife districts, wildlife refuges and wildlife management areas;
- entering into conservation agreements with private landholders;
- interim protection orders for areas which have natural, scientific or cultural significance.

These protections are supplemented by other Acts. Most notable of these is the Wilderness Act, which provides for the identification and declaration of wilderness areas, wilderness protection agreements, and conservation agreements.

In terms of protecting items of Aboriginal heritage, the National parks and Wildlife Act provides for the dedication of unoccupied Crown land as Aboriginal area the declaration of protected archaeological areas and the declaration of Aboriginal places. The Director of National Parks and Wildlife has responsibility for the care, control and management of Aboriginal area, and certain powers to regulate entry on to protected archaeological areas. In addition, the Director of National Parks and Wildlife is responsible for the protection of Aboriginal places in NSW and also relics relating to Aboriginal habitations of NSW. In particular, the Director is responsible for the proper case, reservation and protection of any relic or Aboriginal place on any land reserved or dedicated under the Act. Further the National Parks and Wildlife Act contains offence provisions relating to relics and Aboriginal places. For example, it is an offence to damage or deface an Aboriginal place or relic.

Therefore, the provisions of the Heritage Act dealing with items forming part of the natural heritage and Aboriginal heritage duplicate provisions for the protection of such items in other legislation, specifically, the National Parks and Wildlife Act.

The Heritage (Amendment) Bill excludes from the ambit of the Heritage Act items which are significant only because they are part of the natural environment, and relics and Aboriginal places within the meaning of the National parks and Wildlife Act.

It should be noted that if a place of cultural significance to the Aboriginal community has not been declared an Aboriginal place for the purposes of the National Parks and Wildlife Act, then it will not be excluded from the scope of the Heritage act as amended by the Bill. That is, the Heritage Act may still apply to those places.

CHAPTER 4
THE PROPOSED AMENDMENTS

Natural Resources Management Council Bill 1992

The following Bills are cognate with this Bill:

* Endangered and Other Threatened Species Conservation Bill 1992
* Environmental Planning and Assessment (Amendment) Bill 1992
* Forest (Resource Security) Bill 1992
* Heritage (Amendment) Bill 1992

The object of this Bill is to establish an independent authority to improve the decision-making process with respect to the use of public land so that:

(a) the Government may make sound decisions about the balance between conservation and other natural resource use; and

(b) the allocation of the use of natural resources to industry is secure.

In particular, the object of the Bill is to ensure that:

(c) comprehensive and reliable information about the natural resources of the public land is compiled and available for the purposes of that decision-making process; and

(d) all values of the public land (including conservation and economic values) are assessed; and

(e) those assessments are made on a systematic regional basis instead of by different government agencies on a site by site basis; and

(f) principles of environmental policy (as agreed between the Commonwealth and the States) are applied in the decision-making process as the basis of ecologically sustainable development.

Endangered and Other Threatened Species Conservation Bill 1992

This Bill is cognate with the Natural Resources Management Council Bill 1992.

The objects of this Bill are:

(a) to maintain the genetic diversity of animals and plants and their potential for evolutionary development in the wild; and

(b) to prevent the extinction and promote the recovery of endangered and other threatened species of animals and plants; and

(c) to protect the critical habitat of endangered species through the public process of environmental planning and assessment; and

(d) to ensure that the impact of any development on endangered and other threatened species of animals and plants is properly assessed.

The Bill repeals the Endangered Fauna (Interim Protection) Act 1991 and also amends the National Parks and Wildlife Act 1974, the Environmental Planning and Assessment Act 1979 and certain other Acts.

The principal features of the Bill are as follows:

(a) the listing by an independent Scientific Committee of endangered species and plants and of other threatened species (such as vulnerable and rare species);

(b) the specification of criteria to determine eligibility for listing;

(c) the preparation of recovery plans by the Director of National Parks and Wildlife to prevent the extinction and promote the recovery of endangered and vulnerable species of animals and plants;

(d) the implementation of recovery plans, once they are approved by the Minister, by all Ministers and Government agencies concerned;

(e) the designation of critical habitat of endangered species in environmental panning instruments and the creation of an offence of damaging that designated habitat (maximum penalty $100,000 or 2 years imprisonment, or both);

(f) the making by the Minister, on the recommendation of the Director of National Parks and Wildlife, of interim protection orders to protect habitat from damage pending action under the proposed Act;

(g) amendments to the National Parks and Wildlife Act 1974 to make it clear that offences relating to the taking or killing of native fauna apply only where there is an intention to take or kill the fauna (and to increase penalties for those offences);

(h) amendments to the Environmental Planning and Assessment Act 1979 to require environmental assessments during the planning process of the effects of developments on native animals and plants and, in particular, on endangered or other threatened species and their habitat.

Environmental Planning and Assessment (Amendment) Bill 1992

This Bill is cognate with the Natural Resources Management Council Bill 1992.

Part 5 of the Environmental Planning and Assessment Act 1979 sets out the environmental assessment obligations of government agencies which propose to carry out, or propose to approve of others carrying out, activities which do not require development consent (and which therefore are not subject to environmental assessment under Part 4 of that Act by the council or other authority granting consent). If the activity is likely to significantly affect the environment, the agency is required to obtain an environmental impact statement, place it on public exhibition and take account of responses to the statement. Typical examples of such activities are the construction of freeways, logging operations, and other major public works.

The object of this Bill is to amend the Environmental Planning and Assessment Act 1979 to provide that, where a Government agency is both the proponent and the determining authority for any activity for which an environmental impact statement has been obtained under Part 5 of that Act, the Minister for Planning and not the agency will finally provide whether the activity may proceed and any conditions to which it will be subject following the examination of the statement and public responses to it.

The principles features of the Bill are as follows:

(a) The obligation to refer the proposed activity to the Minister for Planning will arise only where the agency has decided to obtain an environmental impact statement because the activity is likely to significantly affect the environment.

(b) That obligation will arise only if the agency is the proponent of the activity. The Forestry Commission is declared to be the proponent of all forestry activities authorised by it on land under its management. Similar declarations in respect of other agencies may be made by the regulations or by the Minister for Planning.

(c) The obligation to refer a proposed activity to the Minister for Planning will not apply if the agency is a council, county council or other specially excluded body.

(d) After an agency obtains an environmental impact statement and consider the public responses to it before deciding whether to proceed

with the activity and referring it to the Minister for Planning.

(e) Before the Minister for Planning makes a decision on whether the activity should proceed, the Director of Planning is to prepare a public report on the matter. The Minister for Planning is to have regard to that report, any report of a public inquiry and any submission from the Minister with the relevant portfolio responsibility for the activity.

(f) The Minister for Planning may approve of the activity (with or without conditions) or disapprove of the activity. For that purpose, the Minister is to review the decision of the agency having regard to the environmental assessment of the activity and the rights and obligations of the agency.

(g) The Director of Planning will be required to prepare a report within 3 months and the Minister for Planning will be required to make a decision on the matter within 21 days.

(h) The Director of Planning to instigate a public inquiry by a Commissioner under the Act is not affected - before the Minister for Planning determines the matter the relevant agency will be required to reconsider the proposed activity having regard to the findings of the Inquiry.

(i) The new procedures will not apply to environmental impact statements that have already been prepared or that are currently being prepared in accordance with the requirements of the Director of Planning, unless the Minister for Planning directs that the new procedures are to apply.

The Bill makes consequential amendments to the Timber Industry (Interim Protection) Act 1992 which includes interim measures for the Minister for Planning to approve of logging operations to which that Act applies (the approval of the Minister for Planning for those logging operations will continue to be required under the Bill).

The Bill also makes consequential amendments to the State Owned Corporations Act 1989 (which provides that Part 5 of the EPA Act applies instead of Part 4 for significant State or regional development certified by the Minister for Planning and provides for the portfolio Minister of the State owned corporation to determine the development). The Bill will enable the Minister for Planning to decide in those cases whether an environmental impact statement is required and to determine the development under the new arrangements in the place of the portfolio Minister.

Forest (Resource Security) Bill 1992

This Bill is cognate with the Natural Resources Management Council Bill 1992.

The objects of this Bill are:

(a) to provide for resource security with respect to forested public land by its allocation for timber production in accordance with Government decisions based on reports of the proposed Natural Resources Management Council; and

(b) to provide for resource security with respect to forested public land by contractual arrangement for compensation for withdrawal of that land from timber production.

Heritage (Amendment) Bill 1992

This Bill is cognate with the Natural Resources Management Council Bill 1992.

The object of this Bill is to amend the Heritage Act 1977 so as to exclude from the operation of that Act:

(a) places that are part of the natural environment and are significant only because they are part of that environment; and

(b) Aboriginal relics or places within the meaning of the National Parks and Wildlife Act 1974.

CHAPTER 5

5.1 WRITTEN SUBMISSIONS RECEIVED

No.	From whom received	Date received
1	Manul Ritchie Chairperson NSW Aboriginal Land Council	15.7.92 19.10.92 (supplementary submission)
2	Dr Alan Jones Australian Museum	7.9.92
3	Australian Chamber of Manufactures	11.9.92
4	Sue Arnold Co-ordinator Australian for Animals	12.8.92
5	Mr A.Atkin	18.9.92
6	Helen Alexander	8.9.92
7	David Evans Executive Officer Banana Industry Committee	1.9.92
8	Alain Purnell Director Environmental Affairs BHP	3.9.92
9	John Merkel President Bathurst Conservation Group	17.8.92
10	J. Blair	1.9.92
11	Jocelyn Bishop	2.9.92
12	Sean Brand	14.9.92
13	W I Taylor Town Clerk Ku-ring-gai Municipal Council	25.8.92

14	Len Bell	2.9.92
15	NSW Coal Association	Sept 92
16	Mr Maxwell Wrench Executive Director Chamber of Mines, Metals & Extractive Industries (NSW)	7.9.92
17	Dr Paul Adam President Coast and Wetland Society Inc	31.8.92
18	Mr Mark Davies Vice-President Coffs Harbour Chamber of Commerce & Industry	11.9.92
19	Mr James Cochran	2.9.92
20	Barry, Nolda & Natasha Craze	26.8.92
21	Ms Vanessa Cusiter	27.8.92
22	Ms Lynda Moore	24.9.92
23	Mrs A.M. Cameron	22.9.92
24	AB annd JB Douglas	4.8.92
25	Daryl Dinger	2.9.92
26	Mrs A Dillon	15.9.92
27	Mrs J Douglas	25.8.92
28	Mr T. Miller Director Local Government Electricity Association of NSW	1.9.92
29	Mr Richard Barchum Coordinator The Environment Network	3.9.92
30	Mr Victor I.P. Eddy	31.8.92
31	Ms Lorna Salmond	3.9.92
32	Dr Eric Cother	2.9.92

33	Dr Bill Hurditch Executive Director Forest Industries Crisis Coalition	Aug 92
34	Ms Jill Want Upper Clarence Branch Forest Protection Society	31.8.92
35	Mr H.P. Winkel President Dorrigo Branch Forest Protection Society	Sept 92
36	Mr M.C. Blanchard President Grafton Branch Forest Protection Society	31.8.92
37	Ms Rhondda O'Neill NSW Co-ordinator Forest Protection Society	2.9.92
38	Robyn Farrell Forest Rescue	3.7.92
39	Mrs Magaret Feeney	21.8.92
40	Ms Kathleen Smith President Great Lakes Environment Association Inc	30.8.92
41	Mr Alan Grant	7.8.92
42	Dr David Goldney	
43	Ms Jodie Goldney	
44	Mrs Joan Goldney	
45	L.Grant	
46	Mr R. J. Salt President Hornsby Conservation Society	1.9.92
47	Mr David Cromarty Secretary Institute of Foresters of Australia	

48	Ms Theresa Huxtable	28.8.92
49	Ms Margaret Heidemann	4.9.92
50	Dr John Turner & Dr Helen Turner	
51	Ms Jeanette Hughes	
52	Dr Graeme L. Horten	9.9.92
53	Ms Mabel Higgins	18.8.92
54	Mr Rodd Hicks	17.8.92
55	Ms Ellizabeth Hartnell Chairman Ku-ring-gai Bat Colony Committee	2.9.92
56	Mr Alex Jay	7.9.92
57	Ms Christin Kearney	20.8.92
58	A.W. Woodward Town Clerk Leichardt Municipal Council	
59	Mr Murray Kidnie Secretary Local Government Association of NSW Shires Association of NSW	
60	Mr Ronald I. Gornall Secretary Lane Cove Bushland and Conservation Society INc	17.7.92
61	S.Levi	3.9.92
62	Mr Mark Levy and Ms Jane Levy	7.9.92
63	Mr John R Marsden President The Law Society	21.8.92
64	Dr A. Robert Langley	

65	Mr V.H.R. May Town Clerk Municipality of Mosman	30.9.92, 16.9.92,
66	Mrs D. Chesters Hon. Secretary Merewether Residents Group	19.8.92
67	Mr David Milledge	8.7.92
68	Mr David Mathers	23.6.92
69	Kelvyn McCarroll	31.8.92
70	Ms Marion Louise Manson	
71	P.McKeon	9.6.92
72	Ms Carol Margolis	4.9.92
73	Mr Jim Farlie President Mt Colah Environmental Group	2.9.92
74	Mr J.J. Sedwell Hon Secretary Clarence Valley Naturalists Club	
75	Mr M. Mortensen	
76	A.F. Martin	
77	Ms Joyce Moffitt	
78	Dr R.Johnson Hon Secretary Mosman Parklands & Ashton Park Association	25.9.92
79	J. Moffitt State Councillor Central West Branch National Parks Association of NSW	
80	Mr Brian Everingham Branch Secretary National Parks Association of NSW	16.9.92, 23.9.92

81	Mr Peter Wright Environment Liason Officer Nature Conservation Council of NSW	7.4.92
82	Mr Ian McClintock Chairman Conservation Committee NSW Farmers' Association	10.9.92
83	W.J. Gilgooly Director NSW National Parks & Wildlife Service	16.6.92
84	B.S.J. O'Keefe AM QC President National Trust of Australia	
85	Mr Stephen Davies Director Conservation National Trust of Australia	
86	Ms Elisabeth Karplus Conservation Officer NSW Field Ornithologists Club	
87	Mr Bob Jackson Hon Secretary National Parks Association of NSW	19.8.92
88	Mr Michael Rothery Administrative Officer National Parks Association of NSW	
89	Mr Brian Everingham Branch Secretary Southern Sydney National Parks Association of NSW	15.9.92
90	Mr V. Fowler President Macarthur Branch National Park Association of NSW	

91	Mr Jason Novak	28.8.92
92	Secretary National Parks Association of NSW Central Western Branch	
93	Mr John Connor Environment Liason Officer Nature Conservation Council	
94	Ms Alison Pope Secretary Nambuca Valley Conservation Association	21.8.92
95	Mr Duncan Leadbitter Executive Officer Ocean Watch	8.9.92
96	The Orange Environment Group	17.9.92
97	Ms Lorna O'Donnell	22.9.92
98	Mr Greg Oastler	7.9.92
99	Mrs M. Pontifex Secretaary Mangrove Mountain Districts Community Group	9.9.92
100	Mr Peter Jones Interim President Rational Action Against Green Extremism Inc	10.9.92
101	Mr C.W. Richardson	15.9.92
102	Dr Byrant Richards	
103	Sandy Prell Secretary Rural Lands Protection Boards' Association of NSW	3.8.92
104	Ms Gillian Snell	17.9.92

105	Mrs Aileen Phipps Secretary The Society for Growing Plants - NSW Ltd	22.9.92
106	Alderman Barbara Armitage Chairperson Sydney Coastal Council	
107	Ms Sally Crossing Executive Officer State Minerals Advisory Council	
108	Mr Allen Strom	
109	Ms Helen Slade	22.9.92
110	Ms Quilla Schoenfelder	2.9.92
111	Ms Mariam Simpson	31.8.92
112	Ms Helena Simpson	31.8.92
113	Mrs R.M. Simms	
114	Mrs Connie McPherson Conservation Convenor NSW Society for Growing Australian Plants NSW Ltd	23.8.92
115	Mr Brian Stonker	
116	Mr Kim Taysom Tantawangalo Catchment Protection Association	
117	Mr Milo Dunphy Director Total Environment Centre	
118	Kim Brebach National Threatened Species NEtwork Co-ordinator Threatened Species Network NSW	19.8.92
119	Mr Garry McDougall Chairman North-West Catchment Management Committee	11.6.92

120	Ms Ruth M. Tremont	4.9.92
121	Ms Glynne Tosh	29.8.92
122	Mr Nick Talbot	
123	Mr J.B. Towney	
124	Professor James Weirick Head School of Landscape Architecture University of NSW	9.9.92
125	Mr James Whelan Assistant Secretary United Residents Group for the Environment	4.9.92
126	Mr James Whelan and Ms Danielle Whelan The Wilderness Society	
127	Mr Geoffrey Winning	
128	Mr Vincent Serventy President Wild Life Preservation Society of Australia	7.8.92
129	Mr Robert Woolrich and Ms Deborah Woolrich	11.9.92
130	Ms Esme Wood	10.9.92
131	B. White	14.8.92
132	Dr Graham Wrightson	24.6.92
133	Ms Deidre Wells	
134	I. Wilson	17.8.92
135	Ms Helena Young	24.9.92
136	North East Forest Alliance Hunter Region Green Alliance Network	16.9.92
137	Mr S. Woodhall	16.9.92

138	Ms Birgit Seidlich Leichardt Municipal Council	16.9.92
139	Mr Michael Chanell Sydney Coastal Councils	28.9.92
140	Mr Dick Wells Australian Petroleum Exploration Association Ltd	30.9.92
141	Mr W. Biggs LL.B. Solicitor	6.10.92
142	Mr M. Walsh	6.10.92
143	Mr S. Mehcur	6.10.92
144	Mr W. Hitchins Coffs Harbour Fishermens Co-operative	9.10.02
145	Mr J. Gee	9.10.92
146	Mr Duncan Leadbitter Executive Officer Ocean Watch Mr Vince McDonnall Executive Officer NSW Commercial Fishing Advisory Council	12.10.92
147	Mr M. Frohlich Assistant Secretary Clarence River Committee	12.10.92
148	Drs' L.T. Carron & R.G. Florence School of Resource & Environmental Management Department of Forestry Australian National University	12.10.92
149	Mr D. Nichol	12.10.92
150	Ms L. McCormack	12.10.92
151	Mr M.J. Hall National Policy Director Australian Forest Growers	12.10.92

152	Mr K.P. Sheridan Director General NSW Agriculture	12.10.92
153	Ms S. Prell Secretary Rural Lands Protection Boards' Association of NSW	12.10.92
154	Mr R. Lollbach Australian Conservation Foundation	15.10.92
155	Mrs D. Chesters Hon Secretary Merewether Residents Group	15.10.92
156	W. Hitchens General Manager Fishermens Co-operative	15.10.92
157	Nr Neil Ingham Planning Workshop	16.10.92
158	NSW Aboriginal Land Council (supplementary submission)	19.10.92
159	Mr K. Jacques	19.10.92
160	Mrs K.A. Smith President Great Lakes Environment Association Inc	26.10.92
161	Environmental Defender's Office	27.10.92

CHAPTER 5
5.2 PUBLIC HEARINGS

The Committee resolved to hold two Public Hearings. These were held on 13 October 1992 and one on 14 October 1992.

The following witnesses were called in to testify:

Peak Environment Groups
Mr Milo Dunphy
Mr Jeff Angel
Ms Sue Salmon
Mr Tim McGloughlin
Mr Grahame Douglas
Mr Peter Wright
Mr Syd Walker
Mr John Connor

Conservation Council of the South East Region and Canberra
Mr Rod Falconer

Forest Industries Crisis Coalition
Dr Bill Hurditch

Rural Lands Protection Board's Association of NSW
Mr Jeff Prell
Mr Owen Croft
Mr Alan Russell
Mr Clyde Alchin

NSW Coal Association
Mr Frank Topham
Mr John Hannan

Local Government and Shires Association
Mr Richard Bonner
Mr Murray Kidnie
Mr John Musgrave
Mr Peter Woods

NSW Chamber of Mines, Metals and Extracted Industries
Mr Maxwell Wrench

Coalition for Economic Advancement
Mr Ian Wisken

NSW Farmers Association
Mr Fred Gulson
Mr Ian McClintock

Australian Museum
Dr Alan Jones
Dr Winston Ponder

NSW Aboriginal Land Council
Ms Cindy Johnson
Ms Delia Lowe
Ms Patricia Boyd
Mr Stephen Wright
Mr Merv Penrith
Mr Neville Kim

The Committee then resolved to hold an additional Public Hearing on 29 October 1992 and called in the following witnesses:

Oceanwatch
Mr Duncan Leadbitter
Executive Officer

Commercial Fishing Advisory Council
Mr Vince McDonall
Executive Officer

NSW Fisheries
Deputy Director
Ms Barbara Richardson

CHAPTER 6.1

THE NATURAL RESOURCES MANAGEMENT COUNCIL BILL 1992

CHAIRMAN: Could you please outline your concerns about this legislation...

PEAK ENVIRONMENT GROUPS

Mr WALKER: ... Our concerns on the legislation have been, as you indicated, spelt out in the submission that we jointly put in... - but the central Bill is the Natural Resource Management Council Bill and... if this Bill falls then the rest of the Bills also fall and we see that as the centrepiece of this legislation. We feel that it is establishing a new decision-making mechanism for some land use decisions in New South Wales and that the decision-making mechanism which it is establishing is inherently deficient and puts us back into the past.

It doesn't put us in a better position than we are in. It puts us in a much worse one in terms of resolving conflict and in terms of making sensible and beneficial decisions in the public interest.

The composition of the Council as proposed,... we regard as a stack. The membership we think would be distorted heavily towards resource exploitation interests. It would not give appropriate weighting to nature conservation and heritage interests.

The definition of natural resources on which the legislation is based... is quite appalling in 1992 where natural resources are defined as soil resources, coal mineral or petroleum resources, timber, water or fishery resources. No clear mention there of ecosystems or species or biota in general. It really does seem to convey the feeling that what constitutes natural resources is dead rather than alive.

I will deal with some of the other points, and these should not be taken necessarily as having equal weighting. In section 13 and, again, in section 21 the Bill suggests that the principal function is to examine public land use and private land can also be assessed, but very much as an ancillary process.

We think this is inappropriate... If there is to be a comprehensive assessment of land in New South Wales it should be on a total ecosystem basis...

We feel that the duty in section 14(2) where the Council is not obliged to carry out research when information is available is not good enough. We feel that where information really is not available on these matters that it really ought to carry out the appropriate research, if such a Council is to be set up...

The public consultation allowed for under this Bill... is grossly inadequate... There is no explicit opportunity for community groups or for local councils to be consulted and to make submissions to the Premier.

... We feel that the Premier will be given unprecedented powers to determine the areas considered by the Council, Sections 18 and 19 will limit the Council's attention to specific lands and regions, and section 20; and then to selectively disregard any of the Council's recommendations without appeal or public notification through section 25.

Now these powers directly contradict the aim of carrying out systematic regional reviews as section 3(2)(c) purported and so we think that the Bill chops and changes in terms of what it really is trying to achieve and basically allows the Premier unfettered powers to determine what a reference should be and to what extent when a report is completed it is taken into consideration.

Section 24(2), which I don't believe we did refer to in our written submission, seems, at least on my reading, to give the Council itself very broad powers just to sit on the report and effectively to obstruct its tabling in Parliament, which obviously we don't think is appropriate.

Mr CONNOR: ... The operation of section 26 is to provide an ambiguity in the way in which other authorities and local governments, possibly even the Land and Environment Court in some classes of its jurisdiction, consider what are the values of the land under certain regional reviews.

There are concerns with that because... the Premier has such a high degree of power over both the priority and the time in which that report is to be prepared and also as to the focus of that report and that is explicitly geared towards a more sector specific approach than the whole ecosystem approach in the legislation where it refers to, for example, a fishery and timber resource.

It is certainly very unclear as to what is to be the operation of clause 3...

We are also concerned as to the enforceability of this in clause 4 as to what is actually meant by, "a contravention of that section does not invalidate the exercise of any function by a Minister or agency", so that it seems to set up a fairly weak standard for decision-making.

MR WALKER: ... There is no open standing provision in the Bill such as, for example, there is in the EP & A Act and so persons other than the Attorney General who wish to take proceedings to remedy or restrain breaches may need to establish common law standing and we think that is very unsatisfactory...

Finally, section 33 allows the National Resource Management Council to rely on EISs et cetera prepared by other agencies. We have had quite a lot of experience of EISs by bodies such as the Forestry Commission which on many occasions we regarded as very unsatisfactory...

... In terms of the effects on our organisation, (the organisation that I specifically represent is an umbrella group for many of the conservation groups in New South Wales large and small. At the last count, I think we had 88 financial member groups and we will be discussing this at our annual conference which occurs in a couple of weeks) ... the feedback that we have had so far from the member organisations is that they regard this as a very major threat to their various interests...

Ms ALLAN: ... I am sure that this particular body, this Natural Resources Management Council has been promoted by the Government, or whomever has thought of it, as something that will actually resolve conflict between environment and land use such as mining companies, the forestry industry and whatever. Why don't you think that is going to achieve that?

Mr ANGEL: The essential reason it won't achieve that is that it institutionalises the very decision making processes, the collection of government agencies that are causing the problems right now.

If you want to resolve conflict, we have to advance the debate. But what this Council does, through its membership of course, is solidify the dominance of the very government agencies that are causing conflict in this society over natural resources and of course the development interests behind them.

In our package, we have proposed various ways of resolving conflict over natural resources and as far as we can see, that loosens up the whole process and allows much greater community involvement because without community involvement, without community acceptance of natural resource decisions, there will always be conflict. It doesn't matter how much security of resources you have, how much contractual arrangements, how many bits of legislation through Parliament, if the community is not happy, in a democracy there will be conflict.

Now the whole package not only attempts to put in concrete... the very unsatisfactory arrangements that are causing conflict now, both in terms of what are natural resources, the way government agencies approach that, and in terms of the inferiority of the conservation agencies.

But the package also attempts to wind back the very laws that the community have demanded in order to put some balances in land use decision making, endangered species laws, EISs on Forestry legislation, heritage powers where you have an independent body able to decide on whether there should be an interim or permanent

conservation order.

Unless all of us here are pretty stupid and we have missed the quantum leap in society where we have suddenly gone back to the 1950's, the sum result of this package is conflict.

CHAIRMAN: Can I understand from that that you aren't happy with the Committee that is nominated in the legislation but you don't think a Committee of that sort is going to work no matter who is on it?

Mr ANGEL: That is correct. There are two things in the Natural Resources Management Council. One is the collection of information, and that is obviously always a good process.

The second aspect of it is the making of recommendations under an apparently authoritative veneer of it being a Council and having all these objectives. The Environment Planning and Assessment Act can right now collect information and make an inventory of natural resources and have been doing it successfully for years, particularly under the regional environmental planning process. So we have no objection to that process.

The objection we have to the process of this Council making recommendations is that it is out in the open that the dominance we all understand in the bureaucracy of the development departments on decisions about development, and that of course is reflected in the structure of Cabinet, (there are more development Ministers than conservation Ministers) ... and is now going to come out in the open and is going to be given some authoritative veneer and some sort of credibility and respectability through legislation...

That is the wrong way to go in socie You can no longer, in an advocacy sense, place environment against economics and that is what this does. It may say in its objectives we want rational land use decision making and we want to look at natural resources and have a look at all the values.

Mr DOUGLAS: ... S. 13 of the Natural Resources Management Council sets out what the functions of the Council are. They are to review, on a regional basis, the existing and proposed use of public land.

Secondly, that it is to provide advice on the resolution of disputes about or advise on issues concerning the use of that particular land.

Now public land is defined on page 3 in a very specific way. It means Crown land within the meaning of the Crown Lands Act, land granted, dedicated or reserved, not only under the Crown Lands Act but also under the National Parks and Wildlife Act.

What this is saying is that all National Parks, where the disputes in the past may have been ostensibly resolved, are now going to be opened up again. That any of these land uses can be assessed and some decisions made.

Finally, there is going to be additional conflict that arises because in assessing public land in the absence of private interests on adjoining private land, you are going to get the continued pressures for private versus public land assessment.

This Bill won't resolve those issues at all. They will heighten those issues.

Mr DOUGLAS: ... Under the legislation we have a process now of regional reviews which is looking at that public land.

Under the Environment Planning and Assessment Act we have a process of regional and environmental planning. There is no clear mechanism of the resolution between those two processes established through the legislation as well.

So in addition to that those issues I indicated about what public land is and how it affects and the conflict between public land and private interests, you also have the same issue arising out of the regional environmental planning processes versus these regional reviews. So I think you are not going to get resolution of conflict through that process.

Mr ANGEL: ... What this Bill seems to be saying is that ideologically that is not the right thing. Therefore the Natural Resources Management Council should not continue this longstanding practice of imposing restrictions on private land use because of certain public interest values of that land are being affected.

So let's say the Natural Resources Management Council is assessing the north-east forest for example. It just so happens that a large proportion of timber from the north-east comes from private lands. That means that this Council won't have any rational understanding of the timber resource flow on the north-east, because it will be ignoring the private land property resource.

It means they won't assess the private property for any of its environmental values and whether it should be cleared to the intensity that it is being cleared now, for timber production, and you will come up with these basically incompetent resource decisions that are conflict driven.

Mr FRASER: Surely the EIS process that the Forestry use at the moment would continue and that would be taken into account by the NRMC.

Mr ANGEL: No, under the Forestry Resource Security Bill, the EIS process is suspended for timber production forest completely and under this Natural Resources

Management Council, the Council itself can accept a Forestry EIS as sufficient for regional review and I am sorry, the EIS's the Forestry produce are not acceptable credible documents.

We have just had two out on wing in the Mt Royal and there is an example of the new EIS conscientiousness in the Forestry Commission because it doesn't independently evaluate the objectives of those Forestry operations. It comes out with the conclusion that Forestry wants.

So one of the reasons to get people together and assess information is to remove the distortions in information and there is nothing in this Resource Management Council that provides for an independent Scientific Committee that says okay, Forestry is misusing a definition of old growth or rainforest in order to produce results that it wants.

It is that auditing of information that has always been a severe problem with the Forestry Commission.

Mr MARTIN: You referred to the Mount Royal EIS's. Do you, as a group, see there being a better way to undertake EIS's?... How do you see that these EIS's should be polished up?

Mr ANGEL: We should actually stress right at the beginning... that we don't resile from the ultimate political decision making process and that is democracy.

So land use is ultimately decided in the Cabinet room or in the public arena and EIS processes are simply a system of gathering information and exposing it to the public... Those public views don't have to be and never are confined only to the Forestry Commission's filing cabinets. They are obviously ventilated publicly and sent to the various Members of Parliament.

One of the reasons the EIS's are inadequate is that the Department of Planning has lost a significant amount of resources in not being able to force the production of adequate documents.

Ms SALMON: I would like to make a comment from a national perspective... ACF was able to support the Resource Assessment Commission at the Commonwealth level and because it extracted the decision-making process from the competing agencies because it brought expertise from the two major interests, economic and ecological, to that decision-making process and because it had an extremely broad community consultation mechanism built into the legislation.

So all of those factors, the removal of the same old rats from the cheese in the decision-making process, removing it from the competing interests, giving a

tremendous capacity for community input and giving that Commission the capacity to determine on the basis of information which it could gather on ecological and economic facts and then provide recommendations for the ultimate decision-making process of government, was a mechanism that we could support because it did take it away from the competing interests that had been causing the conflict in the first place.

CONSERVATION COUNCIL OF THE SOUTH-EAST REGION AND CANBERRA

Mr FALCONER: The Council, the Natural Resources Management Council, is unlikely to represent the community, we feel. We feel it is very unlikely to be politically impartisan. We also feel it is unlikely to contain the breadth of expertise necessary to fully evaluate very complex and often very subtle issues. All these points have been made before.

FOREST INDUSTRIES CRISIS COALITION

Dr HURDITCH: ... One of our concerns with that membership is that it is largely a bureaucratic body and even given that there are positions for experts in various disciplines, we are concerned on the one hand that there is no representative of a corporation or a company which has what we call, bottom line concerns. That is dollar concerns, concerns about the real life outcome of decisions as opposed to perhaps the bureaucratic outcome of decisions.

So one of our recommendations is that the constitution of the Committee be amended to include the words,

> "At least one of the non government appointed members must be a person who at the time of his appointment is a person then engaged as a Director of a corporation engaged principally in natural resource extraction of processing."

So it is a person that is actually actively involved.

Ms O'NEILL: The point that the Forest Protection Society would like to bring to your notice is that we would like to see a person who is specifically placed on this Committee to look at socio-economic issues. The reason that we would request this is that all other issues are addressed, fauna, flora, water, but the human element has been missed.

Dr HURDITCH: The next point relates to the timing of reporting. As some of you may know, the forest industries have had as a target this calendar year to achieve some measure of resource security for their industry. Resource security is a word that has been bandied around but has not never really been defined properly in the public arena at least.

By resource security, we actually mean that there is a predictable set of assessment

procedures that once they are completed, lead then to contractual agreements being entered into for the forest industries to obtain supplies. And we have, as an objective, as I said this calendar year, or closely thereafter, to achieve resource security for our industry.

One of the problems with the package that we see is that while we acknowledge it is an attempt to achieve part of that goal, the timing of reporting of the Natural Resources Management Council may involve up to 20 years before the industry in New South Wales achieves resource security.

That is because assessment is done on a regional basis and for example, say that the Premier, say the package is passed at the end of this year and then the Council gets staffed up and the Premier gives a reference for say the north coast of New South Wales. We have done a likely timing scenario and it may well be that the earliest time around August 1995 before that area receives some resource security...

Information used by the Council. We are concerned that while the package does indicate that existing EIS's, existing studies will be incorporated in the Council's considerations, it is not explicit enough. We would like to see, for example, the existing Forestry Commissions EIS programme, roped in explicitly to the Natural Resources Management Council programme. So we need an explicit incorporation of existing studies rather than just a possible.

The other issue relates to information adduced by the National Parks and Wildlife Service. We have concerns that other Government departments and agencies take advice from the National Parks and Wildlife Service, particularly on wildlife, at face value, and we believe there needs to be a mechanism for testing and validating data that is provided by the National Parks and Wildlife Service, and other agencies for that matter, so that the best decision making is made. We have evidence that Government departments such as the Department of Planning, take National Parks and Wildlife Act data at face value and don't even attempt to question it, which we believe is not the best approach.

One of the problems with data that is gathered by Government departments, they tend to rely on ABS data and data that is about the primary processing or the primary activity, rather than searching down through the economy into say the spending patterns of reliant communities, and the indirect benefits or effects of resource decisions. So data needs to be extended in that sense.

Ms O'NEILL: ... The FPS recommends additionally that a person be appointed to the Council solely for the purpose of looking at socio-economic factors and that where a land use decision is contemplated a commitment should be made to investigate the potential impacts on the well being of the community and individuals through the process of a socio-economic study.

The RAT Inquiry did deal with socio-economic aspects of timber communities and some of their findings and we should be looking at the outcomes prior to when we are going to do something. We don't look at it after the event. We need to have these people on these committees and basically look at the effects on families, the effects on communities, dislocation of families and communities and make society responsible for their actions. Don't put the onus on the worker who is being turfed out of his job, but make society realise that what they are doing has an impact on someone else and they should be responsible for that impact.

CHAIRMAN: I certainly agree that in my personal opinion the whole picture should be there. There should be the balance. If you can get the environment study being done here then you should have the social impact on the other side and the economic impact so you can weigh the whole lot up together and come up with a balanced result.

NSW COAL ASSOCIATION

Mr TOPHAM: One of the elements to this approach is going to be a land use assessment mechanism and here the Natural Resources Management Council is obviously going to be a useful tool. We see however a number of problems with the Natural Resources Management Council proposal as it stands as detailed in our submission.

... Mainly in the areas, in the issue of private and public land, in the sense that the Council does not extend to private land generally. The issue of representation on the Council is one of concern.

... The Council's principles don't include any recognition of the principle of multiple use. We would obviously like to see that.

An alternative means of land use assessment might be to use the EP & A Act and certain parties have suggested that could have been used. For example, through the State environmental planning policies and we are quite happy to see the mechanism of Natural Resources Management Council.

It is essentially, we believe, a political decision which way you go and the important thing is to have a land use assessment mechanism.

The second element in the new approach has to be a means of conflict resolution. You can make an assessment of the values of land and have indicative plans. Inevitably you will have case by case conflicts. Unless we resolve that, once again the Council will be a welcome and useful addition to the tool kit.

The third element you need is some sort of statement of Government policy on

mineral development which recognises things likes multiple use, recognises the need for prior assessment of mineral resources before conservation areas are declared, or indeed other kinds of land use are established.

We would advocate a state environmental planning policy for minerals as being the most appropriate mechanism for expressing Government policy and that would mesh in with the land use assessment and conflict resolution functions of the NRMC.

CHAIRMAN: I appreciate the point of view you put. I would have thought the Natural Resources Council and the assessment of land and the allocation of land to certain land uses was basically really the way you were heading in the summary you gave there of your submission.

I also note in your submission that you were probably a little bit dubious about the make up of the Council. I can see that that was of concern to you and you might like to probably give some indication as to what you thought the make up of the Council should be.

I notice you said you were represented by the fishing and water resources departments, but there are other allocations there for positions.

Mr TOPHAM: Yes. The problem there is that mineral resources effectively gets a third of seats on the Council so that has obvious practical difficulties. Many matters may be on the agenda of a meeting, so you may have in practice the farcical situation where three representatives of Natural Resources are there, one from Water Resources, one from Fisheries and one from Mineral Resources, and they each become the nominee of the Minister as you tackle different items on the agenda at the meeting and each keeps popping in and out of the meeting. So that would be a rather farcical situation.

Alternatively, to expect one head of agency out of these three to represent the others, I don't think would be reasonable. Mineral Resources by itself is an enormously complex area and I suspect the head of Mineral Resources has enough difficulty understanding his own area, let alone trying to take on board concerns of other the other agencies for Natural Resources.

... So I mean I think there is a practical difficulty there. We would argue that if you are looking at Natural Resources then there are certain categories of Natural Resources and I think these are listed in the definitions in the Act and they include soil resources, coal, mineral, petroleum, timber, water, fishery. We would argue that each one of those natural resources plus biological resources, which is not listed, should have a full representative. I mean, mineral resources underlie virtually all land in New South Wales.

So virtually all decision-making by this Council will involve mineral resources to a greater or lesser extent and some of those minerals will be coal. So to have only a part time or part of a person on the Council would seem a bit crazy.

Mr MARTIN: Would you feel that if all those areas were represented though that the Council would get rather unwieldy size-wise?

Mr TOPHAM: Not particularly. You only need to increase the size of the Council by one to give Mineral Resources a full seat or if you gave each of Water Resources and Fisheries a full seat you would increase it by two seats. That is not very big. There is an argument that is put up that, oh well, it has been carefully designed to maintain balance between green and brown interests. That is a very subjective judgment. Some people see it as being too green so to speak and some describe it as too brown, but in the end the decisions of the Council are going to be entirely at the discretion of the government of the day so the constitution of the Council is really not going to matter a hell of a lot providing there is adequate representation from all interests.

I don't think the notion of balance is terribly important given the control of the Executive over the Council's decisions.

Mr WOODS: We would want to assert that in any area of administration, decision making and the like, that there be adopted a partnership role between the two spheres of government. That each has a particular and fundamental responsibility to make and it is certainly not the least in the area of natural resource management. There is a hands on responsibility by local governments and a desire not to walk away from problems and issues, but in fact a desire by local government to be involved with state in working together for the benefit of our communities and to the benefit of our natural fauna and flora.

This... is quite apparent with the proposed Natural Resources Management Council and we note that... the powers and membership excludes local government. We would respectfully put to the Committee that the exclusion of local government in any such proposal will not be to the advantage of the state and, in fact, in any mechanism we would urge that there is that representation that brings the local identified component into any dynamic interaction that is to take place as appears to be the proposal under this Management Council.

With only government agencies, as I understand it sitting upon that Management Council, and with what we would say is an undue responsibility by the Premier, we would be most fearful of political interference in this matter that can only be properly and effectively addressed on a bipartisan basis and recognising the diverse views within the community, politically and otherwise.

We would also indicate in terms of the public participation role in the

decision-making process the concern that local councils along with the rest of the community will have minimal input into the reports prepared by the Council. We would, of course, suggest that there be an involvement formally of local government, but certainly the public participation in the decision-making process is now not a luxury. It is a legitimate expectation on the part of the people in any political process and we, as the government of the people, that is most directly related to the people in terms of our area of operation as politicians in state and federal spheres would well recognise, would be most insistent that the citizens whom we represent and whom we work so closely with do in fact have a right in this participatory role.

CHAIRMAN: Could I just change the tack a little bit. You desire a position on the National Resources Council... Are you prepared to supply an expert such as Mr Bonner in the environmental field or are we going to have an elected political member on it?

Mr WOODS: We believe that there should be an elected member with of course appropriate support. We see that as most important in terms of acting as an effective representative of the spheres of Government. When we are talking about that, we are just using that hypothetically, an elected. We are really talking about a few, depending on how large this Council might be. So that is without prejudice in terms of how many might go on.

But the principle, we would submit, should be from an elected base and with appropriate technical support. Not designed to frustrate but designed in fact to facilitate, if in fact this becomes the practice, to facilitate an effective working and interrelationship between the two spheres of Government.

It would be most inappropriate if it wasn't an elected member, for that to be done by a bureaucrat for example. Exactly the same way that it would be frustrating in say the State sphere to have a bureaucrat then acting as the go-between between political representatives. We know the realities of that; we know also the importance of support.

Mr HUMPHERSON: ... Just on the public participation in the decision making process, are there any specifics you have in mind that you want to expand on there?

Mr WOODS: Well only that if you are going to bureaucratize the Management Council situation, where you are going to have representatives from the statutory authorities and various departments on that, as against a broader political process, there is, in our reading, a denial of the participation of people in that process either through their elected representatives in local Government, which we say should occur anyway and wherever Government is setting up appropriate processes, that is requiring a partnership between the two spheres, that they should automatically do that and we are talking with a whole range of Ministers in that regard at the present

time because there is no need for confrontation if we can work on the partnership aspects.

Mr WOODS: ... I am saying it is not appropriate for bureaucrats or politicians in whatever frame is established such as the Natural Resources Management Council to expect to be able to make decisions like that and lock people out of the process. I think we are all recognising that there is a considerable demand on the part of people to be involved in that participation process.

Mr KIDNIE: Could I just say what I think part of the problem with this is that it implies there is a technical solution to these issues which is probably an oversimplification and there needs to be a process of public acceptance and public involvement, involving the community directly and involving local Government as major players in this area, to ensure that there is some sort of consensus reached and the right decisions and there is some acceptance of those decisions by local community. That you can't simply assign all this to some technical Committee and then say well, yes, for that one and no for that one. It is not as clear cut as that.

NSW CHAMBER OF MINERALS, METALS AND EXTRACTIVE INDUSTRIES

Mr WRENCH: ... We certainly endorse the need to assess the resources of the State prior to decisions being made on what the land should be used for, should it be set aside for single use, for example the National Parks and Wilderness, should it be developed for forest industries and so forth. So we see there is a need to assess the resources.

We don't know what the mineral resources of the State are. New South Wales is really the unexplored State. The technology we have available today just probes the surface... So we are becoming increasingly concerned when large areas of the State are declared National Parks and Wilderness areas without us knowing, without the State knowing, without the Government knowing, without anybody knowing what is contained under that land because it is there for future generations. It is the wealth of the future generations that we are deciding on and, by not being able to assess those areas, we believe we are prejudicing our future economic position here and the ability to maintain a standard of living.

So we looked at the NRMC through those eyes and we said is there a mechanism that perhaps doesn't have some of the flaws that we could see looming with the NRMC, and they are very briefly that it could be become another layer in the system, another link in a long chain, to get something done.

It could be something that could in fact delay progress so we had a very close look at existing legislative framework here in New South Wales and we felt that the Environment Planning and Assessment Act as it has been set up is capable of

answering a lot of problems that the NRMC has set out to address.

We believe that the EP & A Act has been considered to be a holy grail and is perfect and it can't be changed and shouldn't be changed and so we think that a lot of that thinking perhaps over the years, this is over a long period, over succeeding governments, successive governments, has been trying to find a way around the EP & A Act.

We say it is time to address the EP & A Act. The objectives of that Act say it is the proper management, development and conservation of natural and man-made resources and the protection of the environment and that the objectives of that EP & A Act are broad enough to cover the total activities involved in determining whether land should be locked up as national parks and wilderness areas and if the definition of activity under that Act included the reservation and dedication of national parks and wilderness areas then we think a lot of the problems and lot of the heat would go out of these environmental arguments because it would mean that the proponents would be required to prepare an impact statement.

It could be a socio-economic impact statement or an economic impact or an environmental impact statement, I will come to that later, which would require the proponent to go through the disciplines and the mental rigors that a developer goes through when he prepares an EIS.

At the moment we don't believe that is done and we believe that the declaration of parks as national parks and wilderness areas is done outside the context of the normal planning process. We think it should be brought within it...

... So we think that if that happened we would abide by umpire's decision because that process eventually can end up in a court situation or a commission of inquiry where the whole matter is discussed... We are not opposed to conservation as a principle or national parks, but we are opposed to them being declared without proper assessment.

Now the NRMC as part of its role, and it is not quite clear, and in the paper we do say that in the event the NRMC is set up to clearly show that its role is to, amongst other things, assess areas for proposed parks and wilderness areas and we cover that in the body of this, but the key thing we say is when you really look at it, do we really need it or is it just another layer of government, another bureaucratic potential impediment to progress, and we would ask the Committee to seriously look at that.

NSW FARMER ASSOCIATION CONSERVATION COMMITTEE

Mr McCLINTOCK: The National Resource Management Council itself is seen to be the peak management body in this state. It is designed primarily though to look after

the interests of crown land. However, contained in the Act, as we will see, there is a clause in there which we believe in fact extends that control to virtually all private land.

One of the problems we see in the current structure of the agency system in this state is the conflicting role of the National Parks and Wildlife Service in the sense that they are asked, for example, under the Wilderness Act to assess the wilderness nominations and at the same time they administer those parks of course and we believe that is a conflict of interest there.

We would like to develop the concept that the National Parks and Wildlife Service should be depoliticised, should have that assessment function removed from them and perhaps the Natural Resource Council could be the body with its scientific expertise to carry out that assessment procedure and allow then the National Parks and Wildlife Service to carry out their management functions and the other relevant functions that they should employ.

We believe that would be an improvement because of the fact that in the non-government representation there are no farmers represented and certainly not an organisation representing farmers such as ourselves. We believe that that is an omission, a serious omission, and we suggest that that should be changed by inserting the addition of an additional non-government representative and we have a suggested format for that there.

It is important that in any consideration the whole of the views of the community are considered and not just a small section...

We have in the Association many examples of individuals who are suffering as a result of community benefit and this can occur in many arenas, but the principle we would like to pursue in this regard is that if the community in its wisdom decides it wishes to do something in its benefit and a few people are disadvantaged by that process that those people should be compensated. There is quite a range of examples we have where that is simply not being applied at the moment...

... The next point we make is that it is most important as a fundamental principle that the Crown be bound by any of these sorts of decisions... The National Parks and Wildlife Service are not bound by the Weeds Act and many other Acts...

Just going through some of the key things here, one of the areas that we are concerned about is clause 21 of the Natural Resource Management Council Bill, which states that privately owned land if it is in the vicinity of or has some connection with the public land or is land proposed and so on can be incorporated into the arena of this Act.

Now we are very concerned about that for two reasons. One is that we don't have any representation on this thing and, secondly, that it expands the thrust and area of the Act incredibly...

NSW FARMER ASSOCIATION LTD

Mr GULSON: Not only that, but we see it as an independent arm of the scientific assessment abilities. In other words, that it does not need to rely on any other department to perform scientific assessments...

So the Natural Resources Management Council needs to have a fairly well resourced, in terms of separate scientific research, and that does not mean that you seek to take away some of the scientific research which is quite valid and we see quite appropriate to National Parks and Wildlife, such as to continue to do research within the parks system, research about species that inhabit the park systems. But as far as assessment goes, in policy matters, we see that as being a distinct function which ought not to be with National Parks and Wildlife.

Mr FRASER: You are basically saying National Parks and Wildlife Service should manage their own properties within the management plans which, in a lot of cases, have been put in and never acted upon, and the assessment of critical habitat and endangered species should then be handed over to the NRMC?

Mr GULSON: Yes, let's just draw perhaps some sharper distinctions. We see that scientific material which goes to policy matters, for example, the identification of critical habitat in globo, not specifically, but in globo, animals, the breeding species and whatever, as being independent from matters of relevance to National Parks and Wildlife.

It doesn't mean that they can't perform their own functions in relation to scientific research, in relation to particular aspects of their parks or their management. But just the assessment process which allows policy decisions to be made which may mean that National Parks gets more land or less land, or that some other facility is provided, ought to reside with the Natural Resource Council, not National Parks and Wildlife, and that makes good sense.

It depoliticises a lot of National Parks problems because there it is at present making policy decisions of which it is going to be the principal benefactor. How can you say it is going to be scientifically assessed if in fact it is their own Department making the assessment? Very much like going to your mother-in-law to complain about your wife.

AUSTRALIAN MUSEUM

DR PONDER: ... The issue of maintaining biodiversity was raised on page 20 of the

Natural Resources Management Council Bill 1992... Most people think of animals and plants, be they endangered species or not, they mostly think in terms of mammals, birds and trees... Particularly in large conspicuous organisms represent less than one percent of all biota. The other 99 percent is small or microscopic and very poorly known but without it all life on earth would cease to exist. I think this is a point that most people are unaware of.

Essentially all living processes on earth are dependent on microscopic organisms and very tiny organisms that just don't rate in things like endangered species Legislation generally.

So such tiny organisms carry out essential processes such as the formation and well-being of soil for instance. Without these organisms, soil would not exist. Also the essential recycling of nutrients. Clearly without such processes all plants would die and ultimately all animals would die. So it is imperative that we consider the majority of life if we are going to be serious about considering biodiversity.

However as we point out in the third comment of our submission, there is a great deal that we don't know even about the basic composition of biota in most natural habitats...

The question can then be asked how can informed management decisions concerning endangered species be made when so little is known that we can't even put names on the majority of species. Because of this problem... that the most effective strategy in maintaining biodiversity is the maintenance of as wide a variety of habitats as possible, rather than conservation on an ad hoc species by species basis.

Clearly it is not only National Parks that are important in maintaining biodiversity. In the areas of natural habitat, whether they be State or private land, are potentially important, although we are not trying to argue that all of these are crucial. However, such areas can be particularly important for habitats which are seriously underrepresented in National Parks. For example, lowland rainforest. In this particular example, most of the lowland rainforest habitat was destroyed in the last 200 years and much of that remains is on private property, as small remnants. Each such remnant can be looked upon as a dwindling resource, an island maintaining some of its original flora and fauna.

If species are to be protected, it is important to remember that many species have their total distributions outside National Parks boundaries. In fact many species have extremely small ranges, some confined to a single gorge or a single spring or tiny rainforest remnant.

Crucial habitats containing such species, even ones identified and listed under the proposed provisions of the Endangered and Threatened Species Bill, maybe difficult

to maintain in the long term, even from pests and weeds, for example, if they are treated in isolation.

... It is important that both public and private lands be included in the planning process so that the integrated management of crucial habitats is possible and we see this as a lack in the present way the Bill is framed.

NSW ABORIGINAL LAND COUNCIL

Ms LOWE: We were led to believe that some time in the life of this Government, we would have our own Heritage and Culture Act or Bill. And yet, what is presented with your community is this package to set up a Natural Resource Management Council, which bears no reference to Aboriginal people, even in the make-up of the Council. Just completely ignores our existence... That is just outrageous and it is not acceptable.

It wouldn't make sense for us to be accepting something that is going to further erode any rights that we already have and that is what this package represents. Establishing a thirteen member Council... with no Aboriginal representation there. And looking at doing thirteen regional and the possibility of that Council, after it is up and running, doing thirteen regional audits on what type of land, public lands that are available.

... Under the Land Rights Act, under S. 36 we are able to claim Crown Land. So what position does that place our local Land Councils in? We don't have very much land as it is, at the moment. Currently right now we've got something like 1200 land claims that haven't been processed yet. Some of them go back as far as 1986 and even further back to 1984.

... We are coming from way back on the back foot. This doesn't embrace us with any joy at all. It is just further eroding any rights that we have been able to gain.

Mr WRIGHT: The difficulty would be that if the Natural Resources Management Council was in place, and the way that their power is structured and they're essentially reporting to the Premier and the Parliament...

The question has to be asked where would that Commission fit in if there was in place this Natural Resources Management Council which essentially has a lot of power in regard to the assessment of public lands? Now public lands, as are defined in this Act, are basically those lands where Aboriginal, where areas of Aboriginal culture still remain that can be adequately protected. If they are on private land that is a different question altogether.

When you read the Natural Resources Management Council Bill, the first problem that I perceive with it from the Land Council's perspective is a lot of power is vested in the Premier to control the Council. Relevant ministers who are subject to the findings of the Council are not bound by the Council's decisions, but they are certainly given a fairly swift kick to say you better follow this unless you have got a damn good reason not to.

So in effect what this Bill does is take the power of the Minister for land management to determine land claims and make him subject to the findings of the Council, so the Minister for conservation and land management, instead of the decision maker, now becomes the decision maker but at a less powerful level, so we have had a fundamental change in the land power structures of the land without any discussion.

Mr MARTIN: And as Shadow Minister I find that unacceptable from my side.

Mr WRIGHT: That is a serious problem. A minister of the crown is having his power diminished and even he hasn't bothered to suggest to the Land Council that... is an issue. That is a very important point under the statutory land rights.

Secondly, the focus of that Council on creating these regional audits, and there is reference in the Bill for those to be specific to certain areas of land, I would like to hand up a short statistical analysis to the Committee, statistics on land claims at the moment.

At the moment we have 1209 outstanding land claims over crown lands in New South Wales. We have 579 of those lodged more than two years ago, which in legal terms meant we could probably ask for a writ of mandamus in the Supreme Court to have the Minister determine them and I think we would be fairly successful. There has been a real dragging of the chain and statistics on refusals and other facts are for the committee reference later.

The point is, you have a substantial area of crown land in New South Wales subject to Aboriginal land claim. You have a substantial remaining area that may be subject to Aboriginal land claim... There doesn't seem to be any reference to those considerations in any of the amending legislation.

So the first point is for land claims already under investigation, that is, land claims that are already lodged, the Court of Appeal in New South Wales in the case referred to as Windbar Number 3 has said that those land claims will be determined from the date of lodging so if you have an Aboriginal land claim over crown land lodged in 1986 and the Premier makes a reference to the Council to do a regional audit of the claim where that land lies what is the Council going to do. They can't act until the land claim is made.

That would be our position if they do present a regional audit of that area looking at specific parcels of crown land and the crown lands minister gets that in his hand, what does he do? In his left hand he has to determine the Aboriginal land claim at the date it was lodged and in the right hand he has a regional report on the resource needs of that area presented now which he is supposed to follow without good reason. Clearly he has to go back to the Premier say, I have got a good reason.

Now I would see that that causes problems for the government let alone the Aboriginal Land Council. It seems to blur the administration between the two Acts in a way which there doesn't seem to be any resolution for in their current form.

Mr FRASER: Pretty well in direct conflict.

Mr WRIGHT: I would agree with that. Now that position with existing land claims is a recipe for disaster in terms of conflict between the government and land councils because any attempt to deal with that claim will strike the same acrimony as Dr Metherell struck with his Garrigal National Park extension law, which would have extinguished 53 undetermined land claims, and the reason that was stopped in the Parliament by the Land Councils lobbying the Opposition and the Independents was because that would have had the same effect as this Bill possibly could do to existing land claims.

... Just as a final concept... the references in clause 28 of the major bill with regard to dispute resolution where interested parties, as they are called, can go to the Premier I assume and say, look, we have an interest in this parcel of land, we are not happy with what is being said about its resource needs, we wanted to discuss it. I imagine that there will be some sort of procedure put in place for those discussions.

I could foreshadow the New South Wales Aboriginal Land Council by section 23(1) of its own Act is the principal adviser to the Minister on land rights in New South Wales, which is the Premier, so I could foreshadow a general reference to the Premier any crown land the subject of audits by this Council shall be the subject of disputation. I can't see that there was any thought given to that occurring and yet that would be logical for the Land Council to if you like put a caveat over the land it has under claim to ensure that these packages of legislation don't overcome Land Council rights because if you read this piece of legislation after having read the Land Rights Act you can't form any opinion other than the people who drafted this don't know about this Act or they don't want to know about that Act. That is the only conclusion that I could draw from reading this package and that is from a straight white legal perspective.

Delia has told you how deeply the community feels from about this, but from a legislative perspective there are glaring difficulties with these two Acts and they would cause enormous conflict if this became law without amendment.

Mr LEADBITTER: We also have some concerns regarding the scope of the subjects that will be covered by the management council. As far as our industry is concerned, public resources such as clean water and protected fish habitats such as wetlands, estuaries and things like that, are valuable inputs to our industry. These public resources should be considered by the Committee as well. Certainly when it comes to fresh water, on the inland rivers where over-use of water has created considerable problems causing a decline of the inland fishery, the exclusion of considerations of water use is a major problem to us.

The nature of the council itself is very heavily government-oriented, and it is of particular concern that our own interests covered by only one person on the council. We find time and time again that when you start putting fisheries interests — which are both commercial and recreational aquatic interests — in with terrestrial interests, there is not the understanding of those issues, and we would be very unhappy if our interests were represented by a person who is basically terrestrial.

We made various comments also about the nature of the types of investigations that could be undertaken, and particularly their definition. To me the councils seem to be oriented towards regional issues, but the definition of 'regional' is very flexible. We could find the use of one beach investigated by the council, or we could find a whole fishery investigated by the council.

Mr McDONALL: The Natural Resources Management Council Bill 1992 under clause 20 provides for the investigation of certain fisheries, but there is no provision in regard to habitats or water quality to be evaluated. That is a shortcoming that needs to be addressed.

CHAIRMAN: I understand that you would like an individual seat on the council, and you do not see it as advantageous to you to be sharing the seat with the other departments. I understand also that you think there is duplication with red tape, and you do not understand why we need to have another organisation, which you mentioned in your brief a moment ago.

One of the main purposes of it is that it is a dispute-resolution organisation, which if you like is at arm's length from the individual departments which may or may not have an interest in a particular issue. Do you see it as being a body that can allocate resource and reduce the possibility of disputes in different resource allocations? Do you see it as having a benefit in that way?

Mr LEADBITTER: I could see that there is an opportunity there for dispute resolution. Our view is based on our interpretation of the material that we read. I understood it to be more a 'go out and evaluate' process, and then the making of

recommendations regarding the use of it. It covers only commercial fishing activities. It does not cover recreational fishing, so the opportunities for dispute resolution are fairly minimal as far as that area is concerned; and that is a quite common area in fisheries.

Disputes over alternative uses of habitats are also very common, which is why Oceanwatch exists. Water quality and fish habitats are covered by it, so the opportunity is there but the existing bill is very limited.

NSW COMMERCIAL FISHING ADVISORY COUNCIL

MR McDONALL: Fisheries is a body different from many others. It being a relatively small organisation and having most of the research and management focus in a small area, the collection of the data and where it is stored makes it more easily accessible from that body. I do not see any benefit in bringing it back into a central body. I could see it as having some benefit for other agencies.

One of my concerns is the point we made about Fisheries having a seat on there is that we are seeing, not only in New South Wales but also in every other State and the Commonwealth, the view that fishing is a small industry and one that is fairly easily managed, and therefore it tends to get incorporated into other organisations and departments, where it is seen as an aside and emphasis is not put on fisheries and management and research.

The management side is very complex — much more complex than management of some of the terrestrial animals.. For that reason, to my mind and to the industry's mind, fisheries management, which includes research, is unique and should be looked at by people with expertise in those areas. Therefore we should have a seat on a body like that if the body were to go forward. Certainly I think there is a very strong argument for Fisheries to have their own position on such a body.

Mr MARTIN: We categorise fisheries into freshwater fishery or river fisher, and estuarine and ocean fisheries. The way you have interpreted this package of five bills, could you break that down fairly quickly about where you see the damages and problems occurring to fisheries through the lack of consultation, and the problems that you would envisage as likely to arise from this legislation should it be passed?

Mr LEADBITTER: I will address the habitat side of it. In terms of freshwater, the major problem is modification of river flows, over-allocation of water from rivers, putting in dams and weirs, modifying flood flows, and things of that sort. There have been fairly major collapses of some species of fish out in the western area.

Mr MARTIN: Because floodplain triggers breeding?

Mr LEADBITTER: Yes, for two reasons. The first is impediments to migration. The golden perch has the longest migration of any freshwater fish in the world — something like 2,000 kilometres. There can also be changes to the breeding cues, as you say. The floods are at the wrong time of the year: they do not coincide with rises in water temperature, and things like that. So in terms of the way the Natural Resources Management Council Bill would lead to problems and my reading of it, issues of that sort are not addressed, so we could find that we continue to over-allocate water, and fish continue to lose out, and we are not much further ahead. Yet an assessment could be made of the fishery out there, and it could be said that it is declining and we have to get rid of fishing effort. That does not really help the fish. That has been happening out there since the number of fishermen declined from about 280, ten years ago, down to 53, and that is not doing much good.

For the coastal rivers and their estuaries, for some non-commercial species like the Australian bass, habitat modification, mainly by dams and weirs, has had quite a dramatic effect on populations. Where we see problems is in estuarine flood plains. Agricultural land drainage, flood mitigation activities leading to blockages to streams and tributaries, production of poor quality water from acid soils, and continuing but slow wetland destruction, are the main issues. I do not see issues of that sort being discussed or addressed by the bill.

Mr MARTIN: And the second part of that was by tampering with these natural resources at a forestry level or whatever? Could you tell the Committee how that can affect your offshore fishery?

Mr LEADBITTER: Certainly it does in a number of ways. Land use, clearing and the management of river banks and so on lead to saltation changes to the distribution of nursery grounds in the lower end of the rivers, and that can have impacts on fish which are nursed in the lower ends of the rivers and then move into the offshore fishery.

The other area where there can be quite major effects is dam construction. Fresh water has quite a major role in the marine environment, and there has not been much research done in Australia on that. Certainly overseas there has been more. There are quite strong relationships between the production of some species and river flows.

On the Clarence and Hunter rivers there is a strong positive correlation between prawn production and river flows. We suspect that similar things happen offshore. This may be one possible reason for there being masses of snapper around this year. We had some wet years three or four years ago, and the snapper are probably three or four years old now. There have been huge numbers of them because of nutrient inputs. They are probably the two main ways that you can find (which will impact) on offshore fisheries — land use practices which are not subject to the Bill.

At the moment I think the Natural Resources Management Council Bill should be rejected, because it needs a lot of work.

NSW FISHERIES

Ms RICHARDSON: To be fully effective in operation, the Natural Resources Management Council outlined in the proposed bill will need an adequate data base on natural resources. One of the key issues facing fisheries management is the decline in some fish stocks and the ever increasing catch effort by commercial and recreational fishermen. Unfortunately, on many important fish species as yet we have inadequate information on which to base decisions. There has been considerable progress in developing data bases on these resources in the past four to five years, but there remain outstanding gaps in essential species and area information, as well as gaps in the essential validation of catch statistics from our fishermen.

There remains an urgent need to undertake resource audits State-wide for fish resources to provide the required information for the Natural Resources Management Council to operate effectively and to perform its principal function — that being the review on a regional basis of the public land and the provision of advice on disputes or issues relating to the use of particular public land. Bear in mind that the definition of public land includes the coastal waters of the State and any lake or other body of water of which the bed is public land.

The membership of the council is broad-ranging in its coverage of government agencies. However, it is proposed that the nominee of the Minister for Natural Resources could be rotated between the three main natural resource agencies in this portfolio, depending on the agenda.

It would have been preferable to have full-time membership for Fisheries, in our view, for continuity and therefore for an ability to provide a more effective contribution to the council in its decision-making processes.

CHAPTER 6.2

THE ENDANGERED AND OTHER THREATENED SPECIES CONSERVATION BILL 1992

CHAIRMAN: ... Could you please outline your concerns about this legislation. In particular, how do you see the package affecting your organisation.

PEAK ENVIRONMENT GROUPS

Mr ANGEL: Certainly in the last decade there has been an increasing awareness of the rate of extinction globally.

The preservation of biodiversity is an important issue because these animals have a right to life on this planet and for the last 200, 300 years humanity has certainly caused drastic changes to their habitat.

Secondly, the reason we have been able to survive on this planet is that we have been able to dip into that gene pool, that incredibly large biodiversity the planet provides us...

So that information held in that gene pool in the biodiversity of the forests and marine areas and the desert and the woodlands is crucial to our survival and if a species disappears no one can say that it did not hold genetic material which could save us or our future generations from some severe threat to our survival, whether to our food sources or whether some new disease.

Now that has become more apparent in the last decade as the level of extinction has been assessed by scientists. Australia has the worst history of extinction in recent time of any continent. We have lost twenty mammal species. I haven't got the figures here today I am sorry, but a whole variety of bird species have gone and, of course, there is an enormous reservoir of invertebrate species which we still don't know about which could have disappeared.

Throughout Australia there have been quite major legislative advances. In Victoria we had the Flora and Fauna Guarantee Act. In the last few weeks we have seen the Federal Government grappling with the problem of bringing in endangered species legislation as a consequence of its signing the Rio Declaration on Global Biodiversity, and late last year in New South Wales we had the passage of the Endangered Fauna Act.

The National Resources Package and its Bill on the Endangered and Other Threatened Species Conservation Area repeals the Endangered Fauna Act. We have

just completed a survey of the operations of the Act.

... We in summary find three things. One, that the claims that were made about impracticality and the ineffectiveness of the endangered fauna provisions that were made when it was being debated in Parliament have been shown to be inaccurate.

Secondly, that government agencies, despite an initial period of resistance, are now implementing endangered fauna provisions in their daily decision-making, particularly soil conservation services...

Thirdly, what is shown in particular is the validity of licensing processes. As you know, the package is removing completely the licensing process that the Parks Service has and the rationale for licensing is exactly the same rationale as we have for pollution licences or as we have for clearing licences under the Soil Conservation Service, that is protected land scheme.

It just so happens that this is an area of extreme sensitivity, of extreme importance, that the body that is exploiting the resource should not make the decision about whether to destroy the endangered species or make the decision about whether it is going to pollute a stream or make the decision about whether it is going to clear lands which are designated protected land and that division between exploiter and arbiter or adjudicator is crucial to the Endangered Fauna Act and it is crucial to a full Threatened Species Conservation Act...

The only way to improve the fate of endangered species across all land tenures is through a licensing process and one of the crucial things that this Bill does is focus very narrowly down on so called critical habitat, a few little pockets of vegetation, and ignores the vast expansion of other economic activities that can affect the fate of endangered species...

We obviously have problems with the definition of what "endangered" is, that is likely to become extinct within Australia within twenty years.

That is fundamentally contrary to scientific opinion that if you want to prevent national endangerment or national extinction you have to look after a species across its whole range and if New South Wales under this Act fails to look after the koala then it is highly likely that at the national level the koala will become endangered because we happen to have taken action or have allowed action to be taken that would have reduced significantly the population of koalas in New South Wales.

We have severe problems with recovery plans. Recovery plans are obviously very important concepts and are the pro-active approach to prevent species moving into extinction, but the recovery plans under this Bill say that they must have a minimal social or economic impact.

Now that is a very broad undefined term and it would only take one speculator saying, I am going to make a hundred thousand dollars out of this job next year if you let me carry on this with development, when in fact there may have been no independent audit to that claim. It must have minimal social or economic impact and under that sort of definition we wouldn't have got involved into protecting the Lord Howe Island woodhen which cost $3 or $4 million and everybody thought was a great idea. It was obviously important to the tourism industry on Lord Howe.

Not only are recovery plans constrained by those two factors, the implementation of recovery plans is not required on any government agency. We could go all through this effort of drafting a recovery plan and no government agency, including Local Government has to do anything with them. So what is the point of recovery plans in this Bill?

The other thing that occurs most seriously is the abolishing of the scientific committee set up by the Endangered Fauna Act and while obviously a threatened species bill would have other plants and animals involved, the virtue of the process in the Endangered Species Act was that it nominated particular scientific associations to put up the person who should be on that scientific committee. That... removes it from the distortion process that can occur during politics. That is, that the government would appoint people who would be most likely to give it the result it wants.

... A government appointed committee is wrong, because the one thing you want when you are faced with the endangered species problem is information that is not distorted by the political process...

Ms ALLAN: Could I ask a question? One of suggestions that has been made is that if this package doesn't go through before the end of the year then this will have an impact on the Interim Endangered Fauna Act. What is the current status of that if this doesn't proceed? What will happen?

Mr ANGEL: The Endangered Fauna Act did an important thing after the Chaelundi judgment. It reduced the impact of the Chaelundi judgment... That is, you only needed a licence if there was going to be a significant effect on the environment of a threatened species. There was some interpretation that the Chaelundi judgment applied to everything regardless...

The other part was that under the National Parks Act if you did not have a licence then you were subject to prosecution in the courts because the Endangered Fauna Act (as an interim act)... safeguards against prosecution... and is lifted by I think the end of December... We go back to the pre-Endangered Fauna Act situation therefore and that was put in there to provide an incentive for the Parliament to pass a full Threatened Species Act and that is what is mentioned in the Endangered Fauna Act.

CHAIRMAN: Many of the submissions we have received have basically said, yes, the

Act is reasonable. They would prefer to see it on a state wide basis rather than the nation-wide basis threatened species as specified. If there are abundant amounts of the species within Australia, isn't it a waste of resources to then start chasing it within the boundaries of New South Wales?

Mr ANGEL: The answer to that question is influenced by two things; one, how many resources are available and I don't think we accept the minimal amount of resources that are now available as being the determinant of what is actually taken on endangered species.

Obviously the government, both national and state, should provide more funds for that and the fact that there are not those funds is no excuse.

Mr ANGEL: ... Recovery plans are quite cheap. Nationally there have been several recovery plan reports provided for mammals and birds and you are looking at $50 million and once you recover the species that is the end of the job.

However, in answer to your question, it seems to me that we have to continue with the state based process of listing species, not in ignorance of the fact that state boundaries are ecologically irrelevant, but in recognition of the fact that states have the power to control land use. So if you are into the job of protecting an endangered species then states have to do it and can't abrogate the power because it happens to be in a national process.

In the legislation that we have produced, we allow the National Parks Service to sustain priorities so they can decide if a particular species requires more resources than another and the fact is that recovery plans don't necessarily cost money. They may require different legislative response or different zonings which cost nothing and for the Park Service to cooperate with the Department of Planning and whoever else is the landholder, and they agree to a management plan. It doesn't cost a cent and the Parks Service will obviously, as it has all the time in response to limited resources, set priorities.

You can't set priorities by the fact that this animal is not on the national list. What you have to set priorities by is that this animal might get on the national lists if we don't do anything in the state.

MS SALMON: I want to put the moral argument. It is the same argument that we would use when we talk to Malaysia or Indonesia or any other state, that unless we are doing the right thing here, it is very, very difficult to persuade others to do the right thing.

I just bring that back as the kind of basis upon which we should be looking at our protection of endangered species and putting in place not only endangerment and trying to prevent that, but just total management of the species.

So apart from the scientific arguments which I think you really need to look into, I think there are the moral arguments that we have to take on board as well.

Mr FRASER: What is your definition of biodiversity? By the way I understand it, biodiversity is preserved in this Bill.

Mr ANGEL: I must say we don't actually have much argument with the definition of biodiversity in the package's Bill. The problem we have is the way the Bill then narrows down the application of protection powers to only a very, very small proportion of biodiversity.

Ms ALLAN: ... What impact, if any, on this Legislation, does the national Legislation have?

Mr ANGEL: It depends if you understand the national Legislation. As far as I can understand, the national Legislation only applies to Commonwealth land and Commonwealth approval processes. So I suppose if there was an export woodchip project receiving Commonwealth assessment, then they would bring in the Federal Act.

Ms ALLAN: But isn't it the case that they are looking to get some consensus of the State Environment Minister and National Environment Minister level towards endangered species and their protection? Does this fit with whatever they are seeking to do?

Mr WALKER: I would be very, very surprised if this Bill was accredited by the IGA... It doesn't seem to us to fit the bill of our basic requirements for national standards.

The Federal Bill, as it is being drafted and particularly now after the amendments that were apparently agreed to last week, is terribly weak and is almost wholly reliant on states doing the right thing. That is why adequate state Legislation is so important.

Mr ANGEL: ... Australia is facing a second wave of extinction. The first wave was with agriculture, massive clearing of vegetation.

The second wave is fuelled partly by feral animals and partly by intensive logging where we are removing vast areas of old growth which contain nesting and breeding sites for a number of mammals and bird species.

Mr FRASER: But there has been no species recognised or claimed to be lost by Forestry?

Mr ANGEL: None yet. I agree that appears to be the information, although we didn't know what was there before.

But if you look at the RAC report on Forestry, they expect the clearance of old growth and the removal of that specialised habitat with the hollows in the trees, to threaten endangerment of those species that live in that habitat. That is the second wave.

Mr FRASER: But surely your hollow logs aren't going to be taken by Forestry, are they?

Mr ANGEL: Everything I have seen in the south-east means they are. The other fact is that you need a large range of old growth forest. You can't have little islands of old growth because these animals range over quite large areas. It depends whether it is a owl or a sooty owl or a glider that needs five hectares or a koala that needs 20 hectares. That is the problem.

Endangerment is at its climax when there is a tiny population in a small area of habitat. That is where you basically have gone beyond the point of retrieval.

Mr FRASER: But surely your management and harvesting plans that are being done by Forestry at the moment in conjunction with the conservation groups are addressing those problems and leaving the corridors and the old growth in the logging areas.

Mr ANGEL: Sorry, the scientific view is that they are not sufficient because they are skinny, linear arrangements and that is equivalent to a small island of habitat. An area of forest, a reserved area of old growth forest which might be three, four kilometres or 500 metres wide is useless.

In the long run, fires will get into it. In the long run, the feral animals will get it into via all the logging tracks and in the long run, a lot of it blows over, the seed trees especially. We have been down to Eden recently and gone to look at some of the seed trees they left there ten or fifteen years ago. They blew down because the forest around them had been removed.

Mr MARTIN: ... When it comes to matters of Fisheries, who do you see as the licence giver? National Parks and Wildlife or Fisheries?

Mr ANGEL: Yes, we specifically addressed that in our Threatened Species Bill and it is in our alternative package. What we say is that a licence is only required where a recovery or an action plan specifies that it is needed. That is, the National Parks service have gone and assessed a particular area like an upper catchment.

... I am afraid that Fisheries have the same problem we think Forestry has, which is that they are an exploiter and a regulator. There might be a special Fisheries unit somewhere else but if you are an exploiter and a regulator, that confusion of objectives doesn't lead to the best environment results.

Mr FRASER: Why not a Scientific Committee as stated in the Legislation.

Mr ANGEL: They are determining which fish are endangered. But in terms of the licensing process, that follows from that listing we have put it with the National Parks Service.

Mr MARTIN: ... Where would that Scientific Committee draw that expertise for that what is endangered?

Mr ANGEL: Well, two ways: One is the membership of the Committee which specifies certain skills, including population dynamics, marine ecology, liminology. So hopefully the appropriately qualified people would be put on it.

The second process is that each listing is advertised for public comment. So you will elucidate extra information from other scientists in the community about whether this is the right thing to do for the species.

MS SALMON: We have to say that the experience on the current Scientific Committee with the interim Endangered Species legislation is that they don't just rely even on the scientists within the Committee, that they reference out and they talk to a lot of other scientists. It is like their own process for ensuring the decisions they make meet with the rest of the Scientific Committee.

So while you might have a number of specialties on that Scientific Committee, it is not just limited and those scientists often check with other scientists and expertise to make sure they are getting it right. Because they don't want to make a decision that is unpopular or inappropriate or just plain wrong with their colleagues.

Mr FRASER: ... You mentioned that a Government appointed Scientific Committee was wrong. Surely in any Legislation a Committee must be defined and appointed by the government. So I mean, in what areas do you see it as being wrong?

Mr ANGEL: Sorry, I should have made a distinction between the action of appointment and the ability of a Minister to have the choice of who is appointed. Now in some legislation the Minister asks for three nominees from a particular association or just nominates who they like. In the Bill that we have drafted, the Minister has to accept the single nominee that the professional association puts up.

CONSERVATION COUNCIL OF SOUTH-EAST REGION AND CANBERRA

Mr FALCONER: On the Endangered Species Bill, we are concerned that New South Wales stands to lose a lot. One of the points that wasn't mentioned earlier on tonight was in the discussion between: "Do we need a national biodiversity protection?" or "Do we need a state section?."

One of the points we would like to make is the definition of 'endangered species'... In the present legislation, species is defined very narrowly. It will be "a species", in fact the term "species", I believe, is not fully defined at all...

There is a great deal of conflict over the term "species" in the scientific community. The narrow definition is that the species is the unit, the largest unit in which a population or a group of organisms can interbreed to produce fertile viable offspring. ... It is also an ecological unit and it is in fact a very vague term because you can't define a species. Very few species are just cut off. I will give you an example of that.

One of perhaps the most significant species in the Southern Tablelands is a small grass hopper called Keyacris scurra, very insignificant to look at and but it has very significant potential. The reason it does is that because this species (because it doesn't fly and is so small and relies on tussock grasslands) is a key indicator of pristine native ungrazed native grass land and native woodlands. If a place has been grazed even once or even mown, it is locally extinct and never recovers. Even if the grass grows back, the grass hopper can't recolonise the area readily. A great deal of work has been done on this species incidentally.

... This particular species contains very diverse populations. No two populations are genetically identical. Now it is an unusual species in that way. There are some species that are very similar...

To define this as a species and to protect one population only, could indeed endanger a lot of work and a lot of its economic potential because it's unusual genetic make up has allowed it to be suggested for many opportunities, including research opportunities. Any one population lost, because it is so rare now, represents a loss... You can't recolonise this place with this other population over here, they are just not the same thing. So technically, in this present Act, they would be the same species.

... Our own natural biodiversity is grossly underutilised in terms of using our resources. We have allowed the Hawaiians to develop the macedamia; the Germans developed the paper daisy; the biggest ti-tree plantations are in Kenya and the biggest Eucalypt plantations are in Brazil and China...

By narrowly defining natural resources in terms of say for example timber, in the case of forests, or minerals, or soil, we completely neglect the role of biodiversity in natural resources...

Another problem is the notion that seems to be inherent in this Legislation is that one can operate on the principle of tiny reserves. You find a critical habitat and you protect that and therefore the species is safe. Well of course the species is not safe. One fire that goes through that critical habitat can with wipe out the entire species...

So again the Endangered and Other Threatened Species Conservation Act appears to

ignore the realities of ecological viability or other ecological considerations.

CHAIRMAN: One of the conflict areas that we saw on the endangered species was whether should be assessed on a New South Wales or a nation-wide basis. The long footed Potaroo, as you brought up, is probably a reasonable example... It is endangered in the south-east forest but I believe it is reasonably prominent within the Gippsland area.

Mr FALCONER: That is the big problem of course with state boundaries... They have nothing to do with biological boundaries. The notion of looking on a catchment basis or on a distribution basis for a particular species or group of organisms is a much more sensible way of doing it...

It is important to have national legislation... But each state and probably each region has to have its own list. When I talk about each region, it would be well advised for some local Governments to be aware of some of their vulnerable species so that they could protect their local heritage.

Mr FALCONER: ... The legislation should not be restricted in its definition of endangered to endangered nationally. It should be, in terms of endangered on a state wide basis or in fact, and it needs to be redefine its terms species...

Now in this particular case a "species" is an ecological definition which you could get a very narrow definition. You could get the old text book definition which I quoted to you before of just that unit which interbreeds and produces fertile offspring. That completely neglects local variance and it only looks at the species itself. In the case of that grasshopper I mentioned before it wouldn't cover that...

... One of the fundamental principles of ecology is what is called biogeography and the whole notion is that in order to make a reserve sustainable, it has got to be as large as you can make and as roughly circular as you can make it.

The reason for the circular shape is to reduce the perimeter as much as possible, so it has the smallest perimeter of any shape, whereas the wildlife corridors that are provided within the south-east forests, for example, just can't do that, and the reason is that they are so thin that anything can cut through that boundary and leave it broken for a very long period of time.

Likewise wildlife is very vulnerable as it travels through it. An animal that requires dense cover, for example marsupial mice, just don't find enough width to completely carry them from one area to another so that normal evolutionary processes can't occur.

Mr FRASER: How wide are those corridors you are referring to?

Mr FALCONER: In some instances in the south east forests I have seen wildlife corridors that are no more than about ten metres wide. In some cases, I have seen corridors less than that and I have seen, directly against the Forestry Commission's own management plans, them log those corridors when it suited them...

Now there is nothing in the Forestry Act to prevent them from doing that. The Forestry Commission is not bound to obey its own guidelines, nor does this legislation impose any requirement on the Forestry Commission to do that. I am afraid because of the past history we can't have faith in the Forestry Commission or any other resource exploiter whose prime interest is in the exploitation of that resource... Any arbitration must involve a little bit of public consultation - not just a little bit, but meaningful consultation and must have an independent arbiter, somebody who is completely at arms length.

Mr MARTIN: You mentioned Fisheries becoming extinct. Who should look after the Fisheries component?

Mr FALCONER: Fisheries has the expertise at the moment just as Forestry originally had the expertise over natural land. That is simply because of the history of those bodies. In theory, it should be the National Parks and Wildlife Service and the reason for that is that while they may not have the expertise with the aquatic ecosystems right now, they don't have the exploitative interest either.

They are not in a situation where they have got to try and provide more fish for somebody and perhaps build up the inland fisheries catches.

At the same time, they are trying to preserve the vital forests. You can see what has happened over the years where you had the Henry Kendall situation where Forestry was the great preservator of the forests to where Forestry is now regarded by many as being the great destroyer of the Forest.

RURAL LAND PROTECTION BOARD'S ASSOCIATION OF NSW

Mr RUSSELL: ... We are offering the services of the field staff in educating private land holders and advising private land holders in their role in implementing their duties under the Legislation.

On the last page of the Association's submission, there is a ten point summary of how the Boards could assist the National Parks and Wildlife Service in the implementation of that function. We are suggesting... National Parks will maintain their list of species. They will, as it were, map the various areas of where the endangered species and the critical habitats are.

If there was a system of licensing... then the Association would suggest that the normal management practices of the rural farming community not be required to have

a licensing system except in those specific areas where it has been identified that there are endangered species or the critical habitats.

Secondly, that if there is a need for those, then the Boards would offer their offices, their Headquarters throughout the state, for the private land holder to go to get the information supplied by National Parks and advice by the Rural Boards field staff, as to how to go about protecting and preserving endangered species or natural habitat, and channelling inquiries off to the National Parks.

Now it could be said what is in it for Rural Boards? The answer that the Boards are concerned about is that if they can assist the ratepayers in their district in avoiding any licensing of all normal farming practices, if they can assist them in not having to do fauna impact statements as a general rule, and just targeting down to areas where it is absolutely necessary, and assisting those farmers to carry out that function, they think that they will be giving a service to the ratepayers.

Of course it evolves from the present Interim Protection Act whereby there are a lot of farmers who are uncertain as to whether or not they have to have a licence for the general management practice practices that they presently do. Back burning and small scale clearing and preparation of unploughed fields, soil conservation techniques, controlling Eucalyptus growth and normal general farming practices. There is concern do we have to have a licence now and that question really hasn't been resolved. We are hoping really not to resolve it until a new Act comes in.

But in the resolution of that problem, the Boards are saying for ratepayers we will offer the service to Parliament through the National Parks and Wildlife Service, to use the facilities of their field officers in educating the occupiers of land.

On an average once every five years, every private land holder is visited and inspected by a field officer for Rural Boards. That is the benefit of the organisation for conservation protection. We are really in the same game. The Rural Boards are controlling and eradicating the noxious animals, the feral pigs and the rabbits and the foxes, and now the feral cats.

There is a Board that has taken up that of their own volition to assist land holders in eradicating feral cats although it is not in their charter. They see that as an environmental necessity. So they are assisting land holders in that function and that goes land in hand, we say, to protecting endangered fauna. So the officers that are doing the one job can very readily contribute to protecting the environment.

The first question Mr Fraser is that the Boards would support in the same way either this legislation or any legislation along the same type of lines, whether it is these Bills, whether it is the alternative Bill. If the present Interim Protection Act was extended we would seek the same sort of conditions if the private landholder could be excluded from the generalising provisions and the fauna impact statements and let the Boards

virtually control it and advise the farmers when they need to do it. We would support any legislation along those lines.

Secondly, the last point in relation to training, the Boards would expect that they would be trained free of charge. They would expect that, say, a government authority like National Parks would train them free of charge because if they had to train themselves it would cost money. They would have to impose additional rates. That is one area where they can't see themselves being able to handle that within their present financial structures, that is, being trained themselves.

I think your second question in relation to any costs for doing it, the answer is no cost for doing it. They would do it as part of their normal functions because, and this has been very closely thought about, they see it as a service to their ratepayers. If they can relieve their ratepayers of having to do fauna impact statements, applying for licences, complying with functions that a government department can handle, but a private landholder is just not in the event.

Mr FRASER: I know in the Dorrigo Bellingen Shire with clearing of regrowth on rural properties if it is over three metres there is a problem. Now there are a lot of farmers out there that don't know about that. They get in and clear regrowth. Next thing they have National Parks and Wildlife Council Officers on their back and they also have an obligation to do a fauna impact statement and all of a sudden they are really at sixes and sevens and they are not getting advice from the areas and it is causing quite a problem up there.

So regardless of the outcome of these Bills, you would still be quite happy to talk to Government on the basis of implementing something along the lines?

Mr PRELL: We would do something that, as Mr Russell has been saying, precluded the requirement of extra licences or costly impact statements.

FOREST INDUSTRIES CRISIS COALITION

Dr HURDITCH: The sixth point relates to the Threatened and Other Species Conservation Bill. We believe that there needs to be a compensation provision for persons affected by critical habitat determinations and stop work orders or interim conservation orders.

We believe it is simply unjust for a land holder or a person involved in a licenced timber harvesting operation, for example, to have a third party, i.e., the Director of National Parks, impose a stop on activity which that person who has been otherwise licenced has no control over.

The only way to make sure that that imposition of a stop work or a critical habitat

designation is well thought out and considered is to have an appropriate compensation provision. We have drafted a formula for compensation which identifies affected persons and defines them and we have included that as an annexure to our submission.

Given that the current government has embraced just terms compensation as a principle and indeed passed Legislation to that effect, we believe that should be extended to situations where people who have otherwise been given rights, either purchased rights or deemed rights through licensing, shouldn't have those rights abrogated by what could well prove to be a frivolous action by the head of a department such as a Director of the National Parks.

Ms O'NEILL: ... The compensation should be extended to such people as logging contractors. I don't know whether that has been included in the clause but it could be suggested that the compensation did extend to these people, not just stop at the mill owner the person who has the licence.

CHAIRMAN: Going on to the endangered species part of it, a lot of the submissions came in and said they would support it if it were assessed on a state wide basis rather than an Australia-wide basis. What are your feelings on it being an assessed as either as a whole or only the state?

Dr HURDITCH: I would like to make the comment taking that point on board, but talking more generally about the Endangered Species Conservation Bill. What the package has done is enshrine the false concept that endangered species must somehow be a separate consideration to all of the other considerations that take place in the environmental planning and assessment process.

Why are endangered species considerations, as vital as they are, any different to considerations about soil erosion, about nutrient loss, about air pollution, about effects on communities? All of those groups of things are considered under the EP & A Act, in the EIS process in all those determinations whereas the endangered and threatened species conservation issue is still out there as a separate issue. I believe that is a result of the public misunderstanding endangered species generally.

To get to your specific question as to whether the listing ought to be a state based or national based listing... It ought to be regional listing in terms of the biophysical region that you are considering because, as we all know, species don't recognise state boundaries, but nevertheless a koala in Western Australia may well be of a completely different genetic make up from a koala in Northern New South Wales... So I actually think a national approach is best... you have still got to consider the differences between the biophysical regions.

I think to say that a Long Footed Potoroo which may be abundant in East Gippsland, but you can't find in the south east of New South Wales, therefore, to say you don't

touch the environment in the south east is absurd because it is clearly abundant, but if it was found in Western Australia and it was completely different and it had been separated for thousands of years, that is a different matter.

But the principal concern I have about the endangered species things is that it has been held out as a special case, a special set of considerations rather than incorporated into the over all environmental planning procedure.

I believe Schedule 12 to the National Parks and Wildlife Act ought to be a schedule to the EP & A Act and when someone is anticipating activity they have to refer to Schedule 12 of at the EP & A Act. Why is the National Parks and Wildlife Act so structured? Why is the Director of National Parks also responsible for state wildlife on all land tenures?

The Director of National Parks has two hats. He has one hat as an administrator of land that is gazetted as national parks and nature reserves. The other hat is as an administrative protector of wildlife on all tenures.

I think there is a conflict of interest in those roles and I think there is a really cogent case for the separation of those roles and for wildlife considerations to be taken into the over all planning function.

NSW COAL ASSOCIATION

Mr TOPHAM: ... At present, the notion of critical habitat is undefined in detail. There is nothing to say that that critical habitat should be a single use category or multiple use category. Obviously we would strongly advocate that the principle of multiple use be employed wherever possible when implementing the critical habitats...

We welcome the Endangered and Threatened Species Act because we believe in the protection of threatened species. But we point out it is only part of the picture. It establishes things like lists and recovery plans.

Then we have the National Parks and Wildlife Act and Wilderness Act which both have an important role to play in the protection of threatened species. We have recovery programmes which already exist for recovery of species. We have planning controls under the EP & A Act which also provide for species protection and two examples are here are SEPP 14 on coastal wetlands and SEPP 26 on rainforests. They are maybe models of how critical habitats might be implemented in practice under this Legislation.

So all these things are components of threatened species protection and the kind of reaction which conservation groups for example have had to the Legislation seems unreasonable, in view of the fact that it is only one element in that picture.

The final comments I would just like to address to this notion of critical habitat and our concerns of what that might contain... We believe there are certain considerations which should be taken into account in the establishment of critical habitats or certain principles.

These would be to avoid single use wherever possible and to employ multiple use principles, to avoid arbitrary boundaries, but rather to take into account other land uses in the area in establishing the critical habitat. To avoid every development becoming a de facto inquiry into the need for the critical habitat by carrying out regional assessment in advance and therefore effectively the ground rules and optimise your land use planning before heading into particular establishments of critical habitats.

We feel that core areas for protection should be kept as small as possible with multiple use in any buffer areas. Flexibility use of the boundaries to accommodate current and future land uses. Periodic review of the national and other values of the critical habitats and some improvement in the compensation provisions in the legislation.

CHAIRMAN: Would you far prefer what is proposed here to the existing endangered species legislation? Have you run into fauna impact statements or getting licences from National Parks?

Mr HANNAN: ... No. I guess it is just coincidence there hasn't been a great deal of development going on and primarily the reason the issue has not arisen up to date.

Mr MARTIN: But your mine sites would also be covered when you do the EIS's... because they are such big developments. They have very thorough EIS's and so it would have to all be taken care of in that whole process. It is not as though it is a local town quarry or going to the bush to grab ten truckloads of dirt for a local tennis court or anything.

Mr HANNAN: There has been an element certainly of EIS's for twenty years I guess, but certainly there is going to be greater emphasis on them as a result of this Bill.

Mr TOPHAM: Clearly in the future there may be occasions where mines will require licensing and fauna impact statements. I don't think anyone would object to assessment of impacts on fauna and adequate FIS's, good EIS's would obviously take that into account... We would see the procedure of licensing as being cumbersome and inappropriate.

Our support for the Bill is based not on extremely adverse experiences with it, but really a view that it is a far better framework for endangered species or threatened species protection.

It has a number of good characteristics. One of those is that it does integrate threatened species protection into the planning framework... The only way you can avoid conflict is within a planning context.

The licensing system is purely ad hoc. It means that every time you have a project it focuses entirely on endangered species in those areas. It doesn't really enable you to say would another area perhaps be better set aside for their protection. It doesn't allow you to judge what is the relative importance of this area versus another one. So the legislation has that big problem.

It also has a number of other benefits from our point of view. One is that it does enable economic and social considerations to be brought into the equation. At the moment the Interim Protection Bill only looks at nature conservation perspectives. Our belief would be that the community at large is prepared to weigh up nature conservation and development to some extent...

I don't think the Government should really say, okay, nature conservation is paramount and regardless of the benefits of the development it cannot go ahead. I think that should be open to more debate... It simply means that the decision-making is more out in the open and gives people the choice and if that decision-making process is integrated with or brought under the EP & A Act then we have mechanisms there for a proper weighing of conservation or economic considerations.

The Bill will require amendment. The Bill is probably well designed. It avoids some of the major pitfalls. For example, it avoids public listing which I understand has proven a nightmare in the United States. It also, as I say, avoids licensing problems, but it does have some deficiencies. It doesn't explicitly have any regard to sustainable development. If our environmental policy in the future is going to be shaped by the nature of sustainable development then presumably the Bill in its goals or in its objects should have some reference to sustainable development.

There is also a lack of recognition of the principle of multiple use in the creation of critical habitats which I alluded to earlier and additionally there is the problem of inadequate compensation provisions and I have read the Forest Products Association submission, I know they deal with it there, this question of compensation, and I think we would probably support in some way the sentiments in that report about the lack of adequate compensation provisions.

CHAIRMAN: Multiple use would appear to be a great conflict I would imagine with the environmental groups. They see it as interfering... with the ecology of the area or the species if it happens to be an endangered species...

I think what the Bills are trying to do is allocate the land as probably with the best land use possible and give some security, whether it to be national parks, mines, forestry or whatever. It would appear to me that there would be a great conflict or

the conflict would continue if you had multipurpose uses because you would then be fighting not over the whole of the land, but over the particular area and both trying to get a grab at it, whether it be minerals or conservation.

Mr FRASER: ... Do you feel that coal mining in national parks could be compatible on the basis of shaft and tunnel operations with minimal disturbance to the area?

Mr HANNAN: It is something we have been pushing for a decade...

Mr MARTIN: I think you will find politically it is unacceptable on one side.

Mr HANNAN: Yes. We are not unaware of the political reality of the situation, but I guess we believe it is already going on. We would have a number of underground mines in the area west of Wollongong located in the city of Wollongong catchment. Obviously for water quality purposes alone that land has got very high value. It is basically undisturbed natural bush.

Mr FRASER: And the effects are being monitored, are they?

Mr HANNAN: Yes. Very closely, because of the Water Board's interest in the area, but those mines are designed I suppose in the ways that we would advocate mining underneath areas or national parks. All the pit top infrastructure is outside the area and the tunnel is going in underneath is how we would envisage mining underneath a national park or underneath these multiple land use areas generally.

Mr FRASER: So you would advocate a move away generally from open cut type conditions?

Mr HANNAN: Yes... I guess we would have to qualify that a little bit and say, you know, it ought to be a case by case situation. Also my own personal feeling is that in the majority of cases open cut mining would not be acceptable, but there may be cases where it is. I don't think it ought to be cut out altogether.

LOCAL GOVERNMENT AND SHIRES ASSOCIATION OF NSW

Mr WOODS: The package also fails, we believe, because it does not provide an effective means for protecting endangered or threatened species in New South Wales or their habitats and we do take cognisance of the aspect in the definitions whereby a change in definition could say that there is no threat if a species exists elsewhere other than in New South Wales.

We would say that the mere existence of a species in another part of Australia does not necessarily mean that that is the same species, the same type or, indeed, that there is not a responsibility on the part of those of us within New South Wales to take the maximum steps to afford protection and survival of the species.

That is taking very little account, we would submit, of the responsibilities of persons in other states. We know there are tremendous variations. We know that matters can change politically from one government to another with a whole set of different agendas and we would certainly believe that just assuming that at a particular point of time a species exists in another part of Australia doesn't necessarily mean that there is going to be a protection or an ongoing protection because of the political dimension that comes into the entire legislative process that can vary dramatically because of the political whims of the people or the accident of who happens to be governing in a particular state or territory at a particular time.

CHAIRMAN: ... It rather surprises me that the Shire Association in this joint submission is basically against the new Endangered Species Bill whereas your local landlords yesterday put comment that they were totally in favour of there being a change. They were not happy with the existing endangered species legislation. Would you like to make some comment?

Mr MUSGRAVE: Yes, certainly.... We, the Shire Association, cover about two thirds of the state and are very thinly resourced and that is why we are expressly concerned that the unreasonable resource implications it places on local council...

You have got a small council who is placed in a situation where all of a sudden they might find themselves in a fairly serious situation. We are not suggesting for one minute that because of that that we don't do our homework. What we are saying is that there should be some leniency there to allow for that type of situation. It is very difficult for everybody to know where to follow the whole thing.

CHAIRMAN: And the farmers generally in the Shires Association would be happy if they had to do minor clearing, that type of thing under the present endangered species legislation, they may have to do form back statements.

Mr MUSGRAVE: I don't think they would be happy about that at all, but I can't speak for farmers. I can only speak for the Shires Association...

I am concerned about our councils and the imposition of rates on our ratepayers who are having a very difficult time... What I am suggesting is that all ratepayers out in the bush are having real serious problems, from pensioners up.

Mr KIDNIE: Mr Chairman, if I just add a comment here. I think with the existing legislation there was a very strong reaction from a number of councils.. particularly in the north coast area. I think part of that arose because people weren't clear as to how the legislation was going to be put into operation and it was some months until guidelines were provided about how that would happen.

I think to some extent the concerns of those councils have been lessened now that guidelines are available... I think there is still a concern amongst councils that where

a development was to occur and there is a process gone through that the Council can be later castigated for not having called in sufficient expert advice.

Mr FRASER: With regard to the existing legislation and the cost of fauna impact statements which has been estimated the costs so far in excess of $5 million and a cost within the first twenty months of these final impact statements being required of eleven and a half million dollars, surely that is a great detriment to industry and development within growing areas.

Mr MARTIN: ... You indicated that things have settled down on the Endangered Species legislation through local Government. Have things now become quite workable on that Legislation as far as local Government is concerned?

Mr KIDNIE: I think a number of Councils still have concerns, although their initial concerns have been allayed to some extent by the issuing of guidelines. I think the concerns... vary between Councils, depending on the Council's attitude to protection of the environment type issues. The balance varies from one Council to another how in favour they are of development as opposed to the environmental protection. I think that is natural and it reflects the views of those communities.

NSW CHAMBER OF MINES, METALS AND EXTRACTED INDUSTRIES

Mr WRENCH: ... We believe that this Bill is not just an attempt to untangle the disaster that we have in the Fauna Protection Act and we think that is not operating successfully. It is costing the state an enormous amount. Estimates have been made that the bureaucratic costs are in excess of $5 million and the industry costs are estimated to be at least that much, possibly more. Its effect is slowing down development and I don't know whether it is very effective in terms of protecting fauna.

What we have in its place is an Endangered and Other Threatened Species Conservation Bill. Now we have gone from fauna to species, so that suddenly we have opened the whole thing up to cover all sorts of flora and a whole range of other things which remain still subject to some doubt. Does it go as far as bacteria, for example? I don't know. It certainly includes insects. So we have got a situation where the whole scope of the replacement bill is being increased enormously.

We feel that the concept of critical habitat is a very difficult concept for us to accept because it puts the power in somebody's hands almost like a laser gun with a very small area. There could be some suggestion that somewhere some animal or some plant could possibly be endangered if that area was cleared... One can imagine that aerial photographs of an area of land with a cleared area and tree belts, suddenly those tree belts become potential critical habitats because there are trees on them and things live in trees.

The concept of an FIS is like a double hit. It is a duplication. That doesn't mean that within an EIS you couldn't emphasise flora and fauna. Perhaps, and this is within the power of the Department of Planning now, they could say when the requirements for the EIS, put out we want special attention paid to this aspect or that aspect, and perhaps there may be a need for a bit more guidance to proponents in that regard, but it could still be built into those studies, those botanical studies would still be built in an EIS and go through the same procedure.

So here again we see that by looking at this in a different way we really question some of the fundamental requirements here. In the event that critical habitat is a concept - in our view it is just another name... So you have nature reserves, national parks, wilderness areas, critical habitats, wetlands and I could go on and on. It is just another invention to lock up lands.

Now we believe in conserving flora and fauna, no question about that, but let it be done in a sensible scientific way, not an emotional way. If in the event critical habitat becomes a reality through the force of law then if an area of land is declared critical habitat there should be full compensation paid to any person who may have in a legal way spent money in trying to develop that land. For example, explored over the land, developed some mining on it, or whatever. There should be compensation paid for that.

COALITION FOR ECONOMIC ADVANCEMENT

Mr WISKEN: ... I don't think you can just single out endangered species and then let all the other species fall between the cracks because ultimately those other species will become vulnerable or endangered... What I would suggest is that we try and get away from the concept of endangered species legislation per se and that we integrate within the planning laws habitat management programmes or habitat management strategies within the planning laws so everybody, including developers and people who want national parks and the like, have to conform or have to do the necessary studies and prepare habitat management programmes so all species are protected.

My difficulty with the critical habitat proposal is "what is critical habitat for an endangered species?" One of the reasons we have endangered species is the fact that we know very little about them and many of species on Schedule 12 are there because of the lack of scientific data that exists and not only data on the species, but data on what is critical habitat.

So you run the risk of having an environmental planning instrument like an SEPP 14 type situation where you have wetlands declared without proper assessment. You have the danger of having the same thing happen here that whole vegetation communities across private and public land could be declared critical habitat on the flimsiest information and that once declared would become virtually no-go areas...

We constantly come across the problem that the National Parks Service is both the proponent and the assessment authority and the determining authority for new areas of National Parks and nature reserves, wilderness areas, whatever you like, and there is something fundamentally flawed about that process. It is not seen to be independent.

What I suggest to you if you really want to make it work in a scientific and independent manner is that take away that assessment process of National Parks and give it to an agency within the Premier's Department. Or, if you want to have a National Resource Management body, not a Council, then you give it that responsibility. And all government agencies and private companies and the like could rely on the advice of that agency and call in the CSIRO and the Australian Museum and the experts that work for industry, to give advice. So keep the legislation you've got and let's make it work. That is the message.

NSW FARMERS ASSOCIATION

Mr GULSON: We do know of instances, and there is one in Court at the present time, where certain people, including officers of various Government Departments, have been sighted on sites with precious animals, finding animals which come off the back of trucks. That is in Court at the present time.

Mr MARTIN: So you are saying that some Government employees are putting animals in places where they don't naturally exist for the sake of being able to come out with a certain environmental impact?

Mr GULSON: We believe they are Government employees. We believe there are other people involved and we know there is photographic evidence and we know it is in Court.

Mr MARTIN: Is this North-east?

Mr GULSON: Yes.

Mr FRASER: Just, relating to the package, we have the Rural Lands Protection Board in last night and they have made an offer which I think is quite incredible and I wonder how the New South Wales farmers would view it. That with any environmental Legislation, be it the package we are considering tonight, be it the existing package that was put forward last December, they are prepared, if the Government will train their employees, and they have some 200 field staff officers, to assist farmers in actually trying to stay within the guidelines in environmental law and other laws within the State of New South Wales concerning their activities on their farms.

How would the New South Wales farmer review that offer, or view that offer?

Mr GULSON: First of all, if we come to some agreement about what is a reasonable law in that regard, I think we would take that on board and be quite supportive of it. One of the features of legislation in this Parliament, and in fact anywhere in the western world is the reformers just keep on adding to legislation. It is called the dung heap theory of law reform. You just add more laws on the top. There are some highly skilled people in that Board, trained, and if they can be trained up to perform other functions, I can't see that we would have a problem... We would like to be involved in that process and we would be supportive of that.

AUSTRALIAN MUSEUM

Mr MARTIN: That comes to that area of very eminent scientists when it comes to Fisheries. In that Legislation, there are matters relating to fish species. That is handed to National Parks and Wildlife. Is that the appropriate place to take it or should State Fisheries handle the Fisheries components?

Dr PONDER: I would just like to make the point that as far as I am aware there are not any endangered marine fish so the chances of a marine fish actually appearing on the endangered species list are negligible so what we are talking about are freshwater fish and, as freshwater habitats are quite often intimately associated with National Parks and other areas that National Parks people have jurisdiction over, it always seemed to me personally to be a bit of an anomaly that in fact National Parks weren't responsible for the organisms in fresh waters. However, I do take the point that fisheries do have a lot of expertise in managing freshwater fish, but they have a lot of expertise in managing commercial type fisheries operations looking after endangered species.

Mr FRASER: I think Fisheries' attitude is changing a little bit to how the fishery is sustainable. I know the gemfish has been fairly in the news of late what the sustainable levels of gemfish are and they do have these days fisheries some expertise in looking at those matters and they claim at this stage National Parks say, for example, gemfish was handed across to them as an endangered species, they have no expertise and no research and no knowledge.

Dr PONDER: There is absolutely no doubt that Fisheries should continue carrying on handling marine fish. I suggest there is some debate as to whether they should handle the endangered freshwater fish. The other freshwater fish that are commercially affected, that is another matter entirely.

Dr JONES: There are two points and one is that ecosystems are interrelated so that the terrestrial system is related to an adjacent waterway. It would make some sense to have a single authority to manage both of those. However, on the other side, different authorities have different degrees of expertise.

I think there is little doubt that Fisheries have more expertise and knowledge about

freshwater aquatic systems and their management unit. They have a habitat management. So that they in terms of management actions for that freshwater system simply have more expertise... I guess it gets into territoriality and power between departments, but it seems like it could be a case where if there was effective collaboration between the two that would be a resolution. Might be a bit naive.

OCEAN WATCH

Mr LEADBITTER: ...As to the Endangered and Other Threatened Species Conservation Bill 1992, we have only one major problem with that, which is giving control over listed aquatic organisms to the Parks Service. The primary reason for that is that they have no skills or resources in that area, and we believe that the record of the New South Wales Fisheries in its various forms in the past in protecting endangered species has been extremely good, either by restricting catches or in some cases totally banning catches, and by captive breeding programs, the eastern freshwater cod being a classic case of a species which was heavily affected by a mix of habitat damage and over-fishing, decades ago. Recently they stocked out 20,000 of those. Some of the marine species are now non-commercial, blue groper for example. Fisheries can and does take actions, and I do not see any reason why that should be duplicated within the Service.

CHAIRMAN: ... Have you any comments to make as far as fishing goes within that critical habitat area?

Mr LEADBITTER: I can see that being more of a problem in inland fisheries where certain species which have narrow ranges —

Mr MARTIN: Like the trout cod?

Mr LEADBITTER: Yes. It would be relatively easy to describe a critical habitat for them. For most of the estuarine and oceanic species the critical habitats can be described in category terms, like mangroves and sea grasses for example. You cannot narrow them down to particular areas. We cannot say that this seagrass bed in the Brunswick River is the most important area for king prawns. We cannot say things like that. Due to the nature of marine species versus terrestrial species, we are looking at it in terms of overall production of species, not production in terms of catch, but the number of animals out there. We cannot say 'We are going to have a representative area of a hundred hectares of seagrass' and then let the rest go, because that is not really much use to us in terms of the full production of certain species of fish throughout the whole coast.

They are different concepts for different ecologies. That is why we have problems with terrestrial people making decisions about marine things.

Mr MARTIN: ... Can you expand on the variety of species? How many species are

under threat?

NSW COMMERCIAL FISHING ADVISORY COUNCIL

MR McDONALL: From my seat in CFAC I am concerned at the present approach from the New South Wales Fisheries in general. I think the research institute in particular could say 'These stocks are in trouble'. Realistically I am aware of only perhaps half a dozen species that you could point to and say that we have to monitor these species. They would include gemfish, perhaps redfish — though with the catches over the past two or three weeks the fishermen are seriously doubting that. We are looking seriously at snapper, though there have been good catches this year. We agree that there needs to be some firm management in regard to lobsters.

Mr MARTIN: What about inland species, such as trout cod?

MR McDONALL: Trout cod definitely. Murray cod have declined over a number of years, which in the past was attributed to commercial fishermen. It is now fairly generally recognised that it was basically modifications to habitat that caused the problems. In the past two years Murray cod have been increasing. This has probably had to do with stopping things like de-snagging of waterways. Some fairly strong moves initiated by New South Wales Fisheries and the industry, to get things like fish ladders on the waterways, on dams and weirs, will help the passage of those species. Yellowbelly numbers have never been greater. Yabby numbers are greater now in the inland.

Mr MARTIN: What about the nine major species of crustaceans in New South Wales? You have the large in the Murrumbidgee, and the North Coast cod?

Mr LEADBITTER: I think there is a difference between the ones that are endangered, in the generally accepted definition as something that is vulnerable to totally disappearing, as distinct from species which are overfished. There is no recorded case anywhere in the world of a fish, either inshore or offshore species, which has been fished to total extinction, just because of the way these animals live. You do get overfishing problems, such as gemfish. When we say the species is under threat, it is not in danger of extinction, but it means there will not be enough of them around to sustain a fishery.

Those two definitional categories have to be recognised as well. In terms of ones which are endangered in the generally accepted sense of the word, they are all basically freshwater fish.

Mr MARTIN: You include the cod and the trout in the two greatest danger?

Mr LEADBITTER: Probably in New South Wales, the grayling, but no-one knows too much about its status.

MR McDONALL: Another factor is the growth rate of those species. They are very slow-growing, and therefore are more susceptible to fishing. It probably requires more work on them to protect them, and Fisheries has taken a fair lead in propagating those fish for re-stocking.

NSW FISHERIES

Ms RICHARDSON: We hope that the Endangered and Other Threatened Species Conservation Bill 1992 will help in the protection of endangered fish species. However, it is certainly not intended that the bill will take responsibility for overall fisheries management away from New South Wales Fisheries, as some have suggested.

The definitions for endangered species, that is, extinct within twenty years, vulnerable and rare and so on, could cause problems given the difficulties of assessing fish stocks and the nature of Australian fish populations, which are often highly variable in abundance, and distributions are often quite specialised. Many species could be perceived to be rare, when in fact that is characteristic of the species — for example spangled perch in the western rivers of New South Wales.

Given this and other attributes affecting the status of fish and other aquatic flora and fauna, expertise in this area is considered to be extremely important to any assessment of the status of these species. The Australian Society for Fish Biology has already developed a classification system for fish, which has been recognised by IUCN. New South Wales Fisheries actively participated in developing this classification system.

New South Wales Fisheries has already developed and implemented a recovery program for the two endangered species of fish in New South Wales — that is, the trout cod and the eastern freshwater cod. Artificial breeding techniques have been developed and there has been successful re-stocking into waters where they were historically recorded. It remains to be seen if breeding populations will establish successfully.

As New South Wales Fisheries does not have an official role on the scientific committee, any recovery plan affecting any species of fish must be referred to the Director of Fisheries for consultation before it is finalised. However, many recovery programs for fish species are likely to be developed within the context of fisheries management plans for commercial species as well as for particularly valued recreational species. Given that the Fisheries and Oyster Farms Act 1935 is being rewritten, and New South Wales Fisheries has a demonstrated commitment to recovery programs for endangered species, it would be quite feasible to include reciprocal provisions for endangered and threatened fish in the new Fisheries Management Bill. This would enhance the management on fish species on an eco-system basis, and would ensure that there was no duplication between agencies in function.

CHAIRMAN: What about the Endangered and Other Threatened Species Conservation Bill? Do you see that as being advantageous or disadvantageous to your industry, particularly in relation to critical habitats and issues of that type?

Miss RICHARDSON: Having further legislative capacity to protect endangered or threatened species is in its concept good. However, I see difficulties, in the fact that you may have two government agencies trying to undertake recovery programs, identifying and assessing species, with perhaps insufficient information before them, or only part information. Again that can create an artificial situation or we could end up directing our resources to endangered species in the wrong categories. I believe we have already made a good start in this country with a system of fish classification. That is quite developed and I have a copy of it here if people are interested in looking at the last amendments. The most important thing there is that Fisheries has the appropriate expertise to make those assessment. They are not easy to make in some cases, particularly less on the marine side rather than on the freshwater side. We have a handle on their populations and their fluctuations, and they are very wide. The abundance of species will vary over ten-year time spans for example, and you might have a couple of good years of recruitment when you have had some good floods at the right time of the year. That will often drive much of the abundance and the success of these species. It is quite complex.

I believe that Fisheries has the expertise and we definitely have a commitment, which we have demonstrated, and rather than fragment that across another agency, we are quite happy to work with National Parks, but to duplicate that function in an agency that has not had a historical background in it, or the other aspects of it, would be less efficient. We have a population of recreational fishermen which is growing every day. We have 1.75 million in NSW, and they are catching more and more fish as technology improves and recreational time increases. We have commercial industry that in some areas is going through very hard times because of declines in species and the various recessionary characteristics affecting everyone.

Mr MARTIN: They tell me it is because of Fisheries.

Miss RICHARDSON: We are trying to help. It is very complex and we believe that if Fisheries management has jurisdiction across a number of departments it would not be effective. Possibly by mirroring the same sort of legislative capability in the Fisheries Act, at least it will be developed under one agency's banner, makes us more accountable.

CHAPTER 6.3

THE ENVIRONMENTAL PLANNING AND ASSESSMENT (AMENDMENT) BILL 1992

PEAK ENVIRONMENT GROUPS

Mr WRIGHT: One of the themes of this package has been... that there are evasion mechanisms and contradictions within it and he gave a very good example of the fact that the National Resources Management Council is supposed to be taking the whole of resource approach looking at the whole environment, yet the Premier can direct the Council to look at a very specific area of land within a region and consider that without referring to the broader region.

The Environmental Planning and Assessment Amendment Bill has in it some principles that we have been promoting for many years. The separation of the proponent and the determining authority is the fundamental basis of it. But it contains evasion mechanisms to really negate its effect. It means that the proponent, while it says it will separate the proponent and the determining authority, that won't necessarily happen.

The major mechanism whereby that can happen is the fact that if the Minister doesn't make the decision within a set period, then we revert to the previous situation where the proponent makes its own decision.

Similarly, if the Director of Planning doesn't prepare a report within time, then the whole process lapses yet again. The other evasion or perhaps a serious omission from this Bill is that local Councils are exempted from its ambit. So local Councils will continue to make their own decisions and that holds grave dangers for the environment in some areas.

Another failure that we have identified in the Bill is that the Minister is allowed to modify or revoke any conditions that have been imposed on an approval, without consultation...

The community has no way of knowing whether the Minister has made the right decision or not and whether the environment is likely to be affected significantly, until it has happened and until the damage has been done. Then there is perhaps an opportunity to challenge it.

Also there a section in here... which we have been alerted to recently and I would like to bring your attention to that. Under miscellaneous provisions, S. 115 E, ss. 3). We also see in this section that the proponents themselves can modify the activity, as long

as it is consistent with the terms of the approval or a further EIS is done.

Once again, there is no way for the community to know whether that is happening in an appropriate way, whether it is consistent with the approval, until the change has been made and the damage has been done. Then the community may become aware of what is going on.

... In our alternative Bill, we have suggested that the Minister should... be required to consider independent advice from perhaps the CSIRO or a recognised expert from a tertiary institution, and that that advice is made public.

... We have added provisions that require that more of the advice that the Director and the Minister receive is made public...

Under the EP & A Act, there is the third party rights provisions allowing the community to challenge the adequacy of an EIS and that is, I guess, a minor advantage.

The other additions that we have made in our alternative EP & A Amendment Bill is to include a monitoring procedure so that once a decision has been made and approval has been given, a monitoring process is set up so that the Minister and the Director of Planning are continually made aware of the proponent, whether they are following the terms of the conditions and keeping within them.

We have also required that there be a concurrence by the Minister for the Environment. The reason that we have introduced that process is because the EP & A Act was originally set up for a Ministry of Planning and Environment. Both aspects are important and we believe that this concurrence role would help in some way to improve that process.

CHAIRMAN: ... When the decision reverts back because the time constraint has run out, my assumption with that is to try to get a decision within a reasonable timeframe. I don't read anything sinister into it. I see it as a process of trying to quicken up the bureaucrats, if I can put it that way.

Mr DOUGLAS: Another mechanism is to simply write into the Bill what that time frame is and the expectation for the Director or the Minister, without allowing that extra provision to override.

Mr ANGEL: The Bill assumes that every decision will take no more than three months. It is not true. Some decisions take ten days, some take six months because the information is so hopeless. That is what is essentially happening in this Bill... But in other cases, the more complex environmental issues, will be far too little time and will get a distortion of the information that is being considered to the benefit of the developers.

Mr DOUGLAS: Could I indicate I have worked in the Department of Planning for seven years and I have dealt with what are normally referred to as s.101 materials which is where the Minister makes the determination and takes it essentially out of the hands of the Council.

I have never known of the Department of Planning to be able, in the time I have worked in their Assessment Branch and elsewhere, to be able to adequately meet those deadlines because of the competing interests that all the parties bring, all the submissions that need to be done and the processing that needs to be done.

That arises from lack of resources certainly but I think it needs to be understood that there is a due process from an administrative point of view.

The public servants are expected to observe due administrative process and if they fail to do that, they leave themselves open.

Mr FRASER: On the S. 115 E 3 that you are concerned about, surely your EIS process that is mentioned in there would give sufficient community consultation? If it isn't consistent, you must go to a further environmental impact statement. Surely your consultation process within EIS would allow for that community participation within that.

Mr WRIGHT: An EIS will only happen if the proponents decides there is likely to be a significant effect on the environment. If the proponent decides there isn't likely to be a significant effect on the environment and goes ahead with whatever the activity is, then the community isn't going to know that the environment will be affected until the thing has happened. That is the way that the EIS process is triggered under part 5.

Mr FRASER: But it is not consistent with the terms of the original approval, there would have to be an EIS.

Mr WRIGHT: Again, the community won't know whether it is consistent or not. The proponent might decide that it is consistent, goes ahead with the activity. Later the community realizes that there is some environmental harm being caused and that the proponent was wrong and there is no way of knowing.

Mr ANGEL: A challenge to a decision under the current Act, that there is no significant effect on the environment and therefore you don't need an EIS, is only triggered by the bulldozers arriving, unless there has been some publicity about the decision and some public assessment. People suddenly find themselves in court. That is the problem with the current Act.

One of the amendments to the existing EP & A Act that we have been looking at for a long time is that the decision to say that there is not a significant impact on the

environment, and therefore an EIS is not needed, should be publicised, or even the process of making that decision should be publicised so that the Council or the Department can say: I have checked all the contingencies and I know I am making the right decision. I know I am not going to end up in Court.

I think the Court would make a lot of notice of that process. This just perpetuates the same internalising of that decision, that there is no significant impact, and that is why the Forestry Commission end up in Court so many times.

Mr MARTIN: I think it is very good point, the last point that was made. It is something we have to be very aware of... (regarding) the problems that are currently there in the Act and how problems only start when the bulldozers start to roll. If what is trying to be achieved by this package is a lot less conflict and a lot less problem in the state, then whatever happens to this package, that point that was just made should be taken on board by us all.

FOREST INDUSTRIES CRISIS COALITION

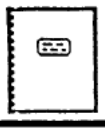
Dr HURDITCH: ... The 7th point relates to assessment of National Parks and wilderness areas as land uses. This is one of our major contentions, that if nothing else happened in this whole debate, we believe that the playing field must be levelled with respect to approvals for land use changes.

In the past, if anyone wants to be involved in a rural land use, they must apply for some development approval, go through a lot of environmental assessment hoops, a fair bit of bureaucracy and then maybe not even get approval.

On the other hand if someone wants to propose a new National Parks or wilderness area, there is no socio economic or environmental impact, using environment in the broad sense, requirement. We have had QC's advice on this matter and we believe that the Environmental Planning and Assessment Act was specifically drafted to exclude the requirement or the need for National Parks to have EIS procedures put in place before they are declared. That to us is a major problem because changing a land use, i.e. from a state forest to a national park, does have environmental consequences. It has social environment, economic environment, heritage and possibly biological environment consequences as different fire regimes and other things are put in place.

We believe that any change in public land use must be accompanied by an environmental impact assessment process and the word activity in the Environmental Planning and Impact Assessment Act must be broadened to include activity which may downstream affect populations of people, social groupings, the economy of a region or an area.

Mr MARTIN: Does that go for logging private lands as well?



Dr HURDITCH: Yes. We believe that and we are being pro-active in the matter of private property timber harvesting, for example. We are not saying that development people should be left off from doing assessments. We are saying that everyone should be involved. Non-uses or apparent non-uses such as wilderness areas must be assessed on their merits for socio-economic reasons.

Mr FRASER: So you would see that as being included as an activity under the Environment Planning Assessment Act?

Dr HURDITCH: Exactly, and where it was a public authority involved it would come under part 5. There would be a requirement to prepare an EIS if that activity was deemed to have a significant effect on the environment... (as defined by EP & A Act) ... the surroundings of people, whether affecting them in their natural environment or social groupings.

NSW CHAMBER OF MINES, METALS AND EXTRACTED INDUSTRIES

Mr WRENCH: ... We strongly support the object of this Bill which attempts to ensure that a government agency that is proposing to do a certain thing and prepares the justification for that is not the judge as well as the proponent. So in other words, the Department of Planning once again becomes the deciding authority and, you see, we think that that is consistent with what... the Department of Planning is set up, to do...

So we support that Bill and we think that that Bill with a simple amendment - particularly in terms of the definition of activity, an additional amendment... that simply says that if a government body requires to dedicate an area or reserve an area that the process it goes through has more rigour in it and it comes in under the EP & A Act... It is subject to the checks and balances that that Act provides. That would enable an industry such as our industry to assess the mineral potential or prospectivity of an area and then perhaps have some ability to put that into the process and have it assessed.

At the moment, there is a desk reference process where if an area of land is to be declared a national park other departments are referenced internally. Now they are given some weeks to do this and it is a kind of historical thing. If there has been no interest before, well, obviously perhaps there is not much interest in it. Now that doesn't enable in any way a sensible assessment of minerals to be undertaken. So we think that if that was an activity and defined as such that that would give the opportunity for proper assessment to be carried out and there would be the opportunity to object and to substantiate objections and have them heard.

At the moment that doesn't exist and we believe it is really long overdue.

CHAIRMAN: If you put it into the planning section and you go through the procedure which normal developers would go through now... First of all they put in their EIS, and may have a fauna impact statement attached to it as well, it then goes along with an application and maybe even has to go through local Government. It then proceeds up to the Planning Department, assuming it goes straight to the Planning Department... I would imagine the Planning Department would, call for public submissions to it. You would have 3000 against the development and probably ten for it.

The Planning Department is obliged to take those objections into consideration and ultimately it comes down probably, to a large extent, to be a decision that is not necessarily based on fact or scientifically proven evidence as to which land use it should have. It becomes basically the feeling of the particular planner that gets it as to how the community in general feels about it. I just wonder whether it would work.

Mr FRASER: If you went back to say section 119 in the Commission of Inquiry on that, that wouldn't happen. Even the environmental groups were alluding to this yesterday, having more teeth in those areas, so that they are capable of actually coming and applying that process, the Commission of Inquiry, to these things, you get a better result. Is that what you would want?

COALITION FOR ECONOMIC ADVANCEMENT

Mr WISKEN: I totally agree with that. Let me clarify one thing. We are not proposing that local Councils become the determining authorities here. The Government has to maintain control of the process. I mean, we can't have a situation where the Government hands away the authority over Crown Land. I mean, you will end up imprisoned in a public participation process that will bring Government to a virtual standstill...

The public have to be involved. They have to participate. One of the ways is if you have a major dispute over an area, let's take an example, a National Parks extension. Then it is sent to a Commission of Inquiry. Everybody has the opportunity to put the facts on the table and the Commissioners make a recommendation to the Government. It is as simple as that.

My argument would be if you are suggesting that the planning laws are too cumbersome to encompass this activity, then perhaps there is something wrong with the planning laws. But if you believe in the premise that the planning laws should be adhered to, then they should apply equally across all activities, including Government. There is nothing wrong with the Government having to do an EIS.

OCEAN WATCH

Mr LEADBITTER: We are very supportive of the Environmental Planning and

Assessment (Amendment) Bill 1992. We thought it was about time that the ability of departments to approve developments went by the board. We would also very much like to see local government addressed by that. We have a large number of problems up and down the coast with local government developments going on which are approved by themselves, and they cause problems with waterways such as subdivisions.

CHAIRMAN: As to the Environmental Planning and Assessment (Amendment) Bill, you basically agree with it and have no problem with assessments?

Mr LEADBITTER: We would like to see local government covered by it as well.

CHAIRMAN: That is, people not assessing their own applications?

Mr LEADBITTER: We would like to see local government covered by it.

NSW FISHERIES

Ms RICHARDSON: The Environmental Planning and Assessment (Amendment) Bill 1992 could have benefits for the protection of the environment in general, including fish habitats, and objective assessment of government projects or decisions.

These are the items of most relevance in managing fish resources and fisheries in New South Wales in any complex of proposals such as the Natural Resources package.

CHAPTER 6.4

THE FOREST (RESOURCE SECURITY) BILL 1992

PEAK ENVIRONMENT GROUPS

Mr ANGEL: ... Our essential problem with this Bill is the same as the Council, that it entrenches the existing unsatisfactory arrangement, both environmentally and economically, and in fact it removes some environmental arrangement such as the resource security for forests no longer having EISs and the resource security for forests not being to subject to the endangered species provisions under the other Bill in the package about endangered species.

We basically see the concerns that the industry have about resource security as being a very simplified view of what is really going on in the native forest timber industry. The industry claims that it has lost resources over the last decade or so because of resource withdrawals for national parks.

The Resource Assessment Commission assessed that and said they hadn't lost resources. They had actually had a small net gain because other crown lands have been gazetted as state forests to replace the lost forests and that any of the yield productions that are occurring are because the industry was overcutting... In the case of the 1982 Rainforest Decision, for example, all that Rainforest Decision did was bring forward the yield cuts that were going to occur within the next decade...

The other aspect they claim is that they need resource security in order to invest into higher value plant and machinery so they can protect jobs. The fact is that the higher value end of the native timber industry market is not very big. It is certainly nowhere near as large as the current building frame market... (which) is being destroyed by cheap softwood logs from New Zealand and the oncoming flood of softwood logs in Australia... Most predictions, particularly if you read the Resources Assessment Commission Report, are that up to 90 percent of the current building timber market, (some of which is occupied by hardwood timber), will be completely occupied by softwood timber.

So these people have really serious problems with their markets and that is one of the reasons they are shutting. Some businesses just can't switch or there is not the niche for them to enter and that, of course, is causing job losses.

... The Resource Security Bill does nothing to remove the subsidies that the industry receives, whether it is through roading or load royalty rates bringing timber a long way from the mill... The way they try to put in resource security through certain contractual arrangements which are completely secret, no one knows what the

Treasury or the Forestry Commission is going to agree to. Are they going to hand over $10 million or $20 miillion or $50 million or $100 million if the forest is withdrawn?

Now the other very disturbing aspect of the legislation is that it provides resource security for areas of forest. The more rational approach, which was the federal approach, that is in a very narrow sense, was to provide resource security for volume of timber and that volume of timber could be made up of regrowth or old growth or pine softwood logs or anything. It allowed a certain amount of flexibility...

The reason I say old growth is going to be put into resource security arrangements is that the Bill makes special provision for the South East Forests and the introduction to the package says that the government is quite happy with the 1990 decision and it will provide resource security for the rest of the South East Forests which, of course, at a minimum count involves about 100,000 hectares of old growth forests which other people want as national parks.

So, in summary, our basic concern with this Bill is that it does nothing to protect jobs. It does nothing to help the industry make a transition to something sustainable, whether it is plantation timber or higher value activities and certainly does nothing to stop conflict.

CHAIRMAN: ... Unless there is resource security there is not going to be the investment in forestry industries... Is there not a risk that if there is a downturn in the production of hardwood timbers in New South Wales and Australia that we will then run into the problems, we will then build up our imports of timber and be doing far more damage ecologically I suppose to the broad spectrum of the work.

Mr ANGEL: No, I am sorry. That is incorrect. That assumes that the bulk of our imports are rain forest timbers from South-East Asia. They are not. The bulk of our imports are pulp and paper and softwood timbers.

CHAIRMAN: But I am not talking about imports now. I am talking about if there is not security for the industry to invest in and keep the industry on a reasonably viable footing at the moment then it will have a downturn because there won't be that investment in the machinery... and then they will be producing more and more wood and be forced to import.

Mr ANGEL: That assumes they will be producing a product that the market will want and if they are not producing it, therefore the market will demand it from overseas.

The fact is that the contributions the hardwood timber industry is making to the Australian timber market is becoming less and less. Not because they have less and less timber or they have less and less security. It is because softwood plantation

timber is taking up more and more of the market and there is no problem with the supply of softwood timber.

The other part of the market is the pulp and paper industry. We do import significant amounts of newsprint. It just so happens that we have now got enough hardwood plantations in the ground as well as softwood plantations to establish appropriate pulp mills in Australia.

Mr MARTIN: Not in New South Wales. We haven't got enough plantations.

Mr ANGEL: We can get to that argument if you like, but one of the problems with Australia has been the obsession with world export scale pulp mills. We don't need world export scale pulp mills. We need domestic self sufficiency pulp mills. We have enough timber in the ground now to be do that, particularly if you include recycled fibres...

In the case of New South Wales, I mean I just think it is an economically irrational position to take that New South Wales has to be self sufficient in all timber products. What is the point of interstate trade? We send timber to Queensland and the people of Eden send it down to Melbourne sometimes. I mean, what's wrong with that? The economic health of New South Wales is not crucially dependent on whether we import some timber from wherever.

Mr WALKER: Firstly, just in support of what Jeff said, the degree to which hardwoods can be substituted for by softwoods in the South Australian timber market is something like 90 to 95 percent of the potential uses for sawn timber. It is fairly clear... if you look at the Australia-wide pattern. In South Australia where there are no native hardwood forests to log, upwards of 90 percent of all sawn timber is plantation softwood timber in use. One doesn't hear protests coming from the population that they are not having their needs fulfilled...

Within that softwoods for hardwoods, we are going to see a reverse. We are going to see something in the order of double the quantity of softwood offtake in ten to fifteen years time that we have now from softwood plantations in Australia. We are really going to have to use it and it would be ludicrous to force down environmental standards in our hardwood forests in order to make hardwoods cost competitive for softwoods which we are going to have to find markets for in this country over the next ten to fifteen years.

The second point I wanted to make relates to a section of this Act, section 10, which effectively gives away the South East Forests without any review by the National Resource Management Council to resource security.

Now as I understand it, the areas referred to in section 10(2) of this Bill would mean that virtually all the native forests in the area known as the South East Forests of

New South Wales, (outside of the tiny reserves which were proposed by the State and Commonwealth Governments in October 1990), would be given to the timber industry as timber production forests without any further assessment whatsoever and once they are timber production forests would thenceforth never be subject to EISs.

CHAIRMAN: Why do you call them tiny reserves? 50,000 hectares.

Mr WALKER: I would like to quote if I may and then perhaps seek leave to enter into the record an article that was published shortly after those reserves were announced by a conservation group in Canberra.

The paper is called "The Penultimate Times". The article I would like to enter is on page 8 and it is headlined, "Top Ecologist Slams Reserves", and it quotes extensively from an interview with Dr Hugh Possingham, who is one of Australia's foremost theoretical ecologists, a Queen Elizabeth Scholar currently with the University in Adelaide. It quotes extensively from an interview that he gave on ABC Radio and I will just quote two paragraphs and I would like the whole article, if I may, entered into the record.

He says,

> "I have never seen a reserve designed like this. From a theoretician's point of view, it would be an interesting test case to see how well these organisms can persist. It is very difficult for me to make prescriptions about which species will or will not become extinct but I can be confident that species will become extinct in the region on the basis of those reserves".

He then says,

> "The so called Coolangubra National Park looks like no other national park I have seen anywhere in the world. It is so fragmented and thin that I can't see it is going to be any great use to conservation at all. It is very difficult to see how anybody who could manage a reserve can suggest that just over 10,000 hectares in size, but in no place seems to be more than a few kilometres wide...".

Now if that is an indication of the sort of determination which the National Resource Management Council is going to make for the whole of the state then heaven help the biodiversity of this state.

Ms SALMON: I just wanted to put from a national perspective again some points about resource security legislation here...

We would absolutely oppose the locking up of areas for resource security if it does not give us the capacity to look at transition strategies for the move from old growth and regrowth forests ultimately into plantations and to do that is to limit ultimately our options and future generations' options.

I think it is extremely important to look at the experience both in Victoria and in Tasmania. You will find that the claims that the industry makes just simply don't stack up against the experience there in that a resource security in the form of licences over fifteen years, as it is in Victoria, and longer in Tasmania, don't give you the kind of investment which the industry claims, (not the increase in jobs), and I think that is very important for the committee to do.

I think the compensation aspect is also very concerning and that you are compensating companies and not workers and you might find on investigation that Boral has already sacked nine workers.

So these are the sorts of things that we have coming from this notion, so from ACF's perspective with respect to a national perspective and the experience there, the legislation will not give the outcomes that the industry claims.

Mr MARTIN: ... Can't there be some arrangement so that a forestry management authority can be able to say to some genuine investor that is going to create jobs and do all sorts of peripheral things, yes, we can guarantee so many cubic metres. Do you see that as a total no-no?

Ms SALMON: All I am saying to you is that supply is not the only factor operating in the market place and that secure access has not given the kind of outcomes that are claimed by industry.

Ms SALMON: One thing that we haven't talked about is the amount of money that goes into resolving conflict which, if it was redirected in a transition strategy, undertake value adding and alternative resources which would really resolve the conflict and provide some security to industry. But now the security is based on old growth forests and really no sensible establishment of hardwood plantations. The Commission has a plan of 50 hectares a year establishment of plantation hardwoods in this state for the next four years. From our perspective, that is a totally inadequate consideration of plantations as an alternative and the reality is that they continue to rely on old growth and regrowth for their sustained yield strategy.

Now while that is the case there is going to be conflict because you just won't get the community agreeing that old growth is part of a transition strategy. A transition strategy must be at the very least completely out of old growth. The Resource Assessment Commission--

Mr MARTIN: You use their definition of old growth?

Ms SALMON: No. We use a very distinct definition. We have our own definition of old growth, which is "minimal disturbance by humans".

Mr MARTIN: So how many hectares of that do you see for New South Wales?

Ms SALMON: I can't give you an exact hectare. I can give you the view from a national perspective of our forest ecologist who wrote a report on the ecological future of Australia's forests which was a submission to the Resource Assessment Commission which said that on the current basis of use of forests we will be finished with old growth in the next ten to twenty years.

Now the Forestry Industry Commission in New South Wales is looking at the continued use of old growth for the next ten years. All I can say is that that doesn't leave very much. From a national perspective, looking at that rate of use it would leave you very little.

Mr FRASER: ... Surely there are areas whereby softwood cannot be placed under production. I think when you look at Northern Queensland and the cyclonic areas they are moving back to it and also the softwood forests, be they plantation or not, the ecology of those is absolutely non-existent from what I can gather... There has to be a balance there somewhere surely. You are promoting plantations and yet at the same time the environmental groups are saying you can't harvest those plantations.

Mr ANGEL: Yes. Briefly, the structural requirements in North Queensland don't have to be met from old growth. Over the next decade there will be the appropriate technologies to basically glue smaller logs together to make structural timbers and that involves a gigantic amount of regrowth available and that what is they will be using.

In regard to softwoods... one of the serious problems with the softwood plantation practice program was that it was established on cleared native forest. After the Coolangubra was cleared for softwoods, and that was disastrous for the environment and the replacement that took place was pathetic. However, that doesn't mean that since we have spent hundreds of millions of dollars on it that we should use the stuff to save what old growth that is left because the transition position is happening in this decade. The softwoods are murdering the hardwoods.

Mr FRASER: What about the attitudes of some the environmental groups with regard to plantation forests now?

Mr ANGEL: ... That is the same sort of problem that when you are creating a national park or a reserve it has to have the appropriate boundaries to be able to survive in the long term, particularly catchment based boundaries and some plantations have been established in parts of the catchments of important areas and basically it is a restoration program.

It is not our fault that the plantations are put in the wrong place. We are not going to change our reserve proposals which are based on long term preservation of the environment because someone happened to put a plantation in the wrong place. We told them years ago you shouldn't put a plantation there or be clearing these areas for softwoods and there are some areas that will need restoration and that is fine.

Mr ANGEL: In New South Wales the minuscule amount of hardwood plantations wouldn't make any difference and most of the plantation resource will be used for pulp mills and the most likely location of pulp mills, whether it is in Tasmania or Victoria, they will be using hardwood thinnings of fifteen to twenty years old and they have those available and they are under company control and ownership.

CONSERVATION COUNCIL OF THE SOUTH EAST REGION AND CANBERRA

Mr FALCONER: There is a very strong emphasis here on short term gain but there seems to be no impression of either long term gain or full cost benefits analysis. While you might be doing a great favour, and that is arguable as has been presented before to the timber industry say, at the same time you might be causing a great deal of strife to other industries that also utilise that same land, including state forests...

A classic case in the South East Forest which is of course where we are very concerned about the Forestry Bill... There is a species (the long footed Potaroo) which is certainly highly endangered. Yet has been targeted, we feel, deliberately, by the Forestry Commission for logging...

... This bureaucracy, instead of trying to resolve conflict by staying away from the conflict areas, has gone straight into the conflict areas. It has logged the long footed Potaroo habitat in places. It has logged the koala habitat in places and the koala in that region is an endangered species.

Mr MARTIN: How many hectares should we be putting aside in the South East Forest?

Mr FALCONER: Well I think what the Government should be doing is getting expert opinion for a start rather than getting the Forestry Commission's opinion, or just one side of the story... I would imagine it would be much less than a third of the forest but less than a fifth. Of those forests, it is only the high quality forests as opposed to the overlog regrowth.

Mr MARTIN: Which model would you use for old growth? Would you use the Resource Assessment Committee definition or would you use some other definition for old growth?

Mr FALCONER: Our Conservation Council's definition has been any area of substantial natural forest that has been relatively unaltered by humans. Now that means that the place could have perhaps a track through it, but the essential forest structure is complete. It has its complete set of eco systems as intact as is possible. It has to be a relative term. It is like wilderness. There is no such thing as a pure wilderness because there is no square centimetre of land in this country that hasn't been impacted in some way by humans, but it is essentially the most intact form of

native forest with its full ecological integrity.

... We also again reiterate in terms of the Forest Bill that the resource security intended in this Act will in fact not provide any security at all. That in fact, there is a lot of other source of insecurity within the timber industry including the change in techniques, mechanisation, large mills swallowing small mills, in some places archaic techniques that are used and inappropriate sets of boundaries.

If the Forestry Commission was really working on a sustainable basis it wouldn't need one square inch of the remaining 5 percent. I think it is of old growth that is defined by the south east forest. Surely if it was sustainable it could by now after how many years of operation, over a hundred years of operation, it should be able to be logging more than regrowth.

Unfortunately, in ecological terms, it is not sustainable. You have a cycle in many places of forty years. It takes at least one hundred years for substantial hollows to grow in a eucalypt and at the very minimum, and this is from the Forestry Commission's own research, it takes seventy years. That is less than the logging cycle.

The wildlife in most Australian arboreal wildlife requires tree hollows and it just can't accommodate those levels.

We have a great deal of pine at the moment. You could say we have a glut that could be better used. We certainly are opposed to any further pine plantations...

As was mentioned before, we need catchment based boundaries...

I might just leave those few points there except to add that there are many, many resources that are not looked at in this Act. One of the little known or little publicised facts is that in Australia more timber is lost to firewood burning than it is to harvesting for, say, wood chipping...

In summary, of what I have to say, my greatest fear of all these things is that not only are the resources not protected in these Bills, Dracula is allowed free access into the blood bank and the community doesn't get much of a look in. Indeed, the community finds nothing more than a greater source for conflict rather than consultation.

FOREST INDUSTRIES CRISIS COALITION

HURDITCH: Point 4, forest resource security is severely limited. We believe that though the Forest Security Bill does give some semblance of resource security, it only relates to a suspension of the Environmental Planning and Assessment Act, or parts of it. It doesn't relate to suspension of other Legislation which may disrupt Forestry operations after approval is given. Such Legislation includes the National Parks and Wildlife Act, the Environmental Penalties and Offences Act, the Wilderness

Act. A whole raft of other Legislation may still come in and disrupt otherwise approved Forestry operations once they have acquired resource security under the Bill. So I think the suspension of Legislation must be extended to more than just the EP & A Act.

Point 5 relates to the need for sequential access to public and. This is a point that I think is one of the most fundamental problems with the package. I should say as a way of an aside here, by highlighting problems, I guess what we are saying is we would like some amendments...

... It is simply not appropriate to have a one pass assessment of natural resources. A one pass assessment either of timber values, of mineral values, of flora and fauna, of recreation. For example, if you have a community need for a particular type of recreation in 1992, but then in ten years time the whole way of thinking about recreation and leisure changes, then you may well want to reassess the recreational potential of an area. So there needs to be a continual assessment process put in place.

... Public participation (needs to be incorporated) in formulating forestry practice codes. Under the Forestry Resource Security Bill we don't believe there is enough time provided for public participation and we have made some suggestions for extension of time limits or comment on draft codes. Since we have made that submission to the Cabinet Office two other areas have come up in our consideration that ought to be brought to the attention of the Committee.

The first one is the excessive cost of government regulation and I have attached to the papers that I have given you tonight a copy of a paper after the green page. The paper is Sustainable Forest Industries In a Regulatory Environment. That really goes through the history of regulation as it has been built up since the 1950s in the forest industries and puts the case for a thorough review of the cost of regulation.

Mr MARTIN: ... Is there any chance that the forest industries and conservation movement can come to some common ground on the definition of old growth or is that not possible?

Dr HURDITCH: It is like a definition of sustainable development. There are as many definitions as there are people constructing them, but I think there has been some ground made.

There was an important workshop held at Iluka some months ago Forestry Commission, National Parks, local environmental people attended and started to talk about what old growth was, but the RAC has been there, done that. It has defined old growth definitively. It has given an assessment of all the various views of what old growth are and come up with a synthesis of what they believe old growth is. That is, forest that is both little disturbed, has aesthetic values and all of that and the definition is there.

Mr MARTIN: ... What I am concerned about is that when you deal with both groups that for my purposes as Shadow Minister for Forests, I have to assume that we are talking on the same wavelength and I sit down with an environmental movement who in their terms is five fold out in what the Resources Assessment Commission is really saying and what I even find is a problem is that we are not even talking the same language at times and I am trying to see for the purposes of the legislation whether we could even come to that sort of middle ground or whether that has got to be done down the line and it seems to me that there is even poles apart on what is perceived as old growth.

Dr HURDITCH: But I think the whole idea of using the word old growth and trying to find some words to describe it is taken the wrong way around. We actually describe what we want to protect and maybe give it a tag. So I think the definition has to be turned around.

... It is the same as rainforests. When the rainforest debate was on in late 70s, early 80s there was a huge debate about the definition because people had particular agendas to save rainforests, but they didn't really know what they were saving, so they had to find a definition in the Macquarie and spent most of their time defining a rainforest but no one agreed because they had their particular agendas to start with. But I would go to the RAC's definition.

LOCAL GOVERNMENT AND SHIRES ASSOCIATION

Mr FRASER: In your submission on the Forestry Resource Security Bill there is a paragraph there that says, "For areas classified as timber production forest it is uncertain whether the infrastructure necessary to carry out the forestry operation will be exempted from planning control. This will be strongly opposed". What do you regard as infrastructure in that context?

Mr BONNER: We are talking there about the need for roads and any other infrastructure that would be necessary to carry out that timber operation. It is not clear in the Bill... whether those parts of the operations would also be exempt from the other planning legislation that would not apply to these areas... It wasn't clear to us and if it is the proposal that those infrastructure provisions also be exempt from planning controls then we would be opposed to that.

Mr FRASER: Surely current local government management where they can apply load limits or as part of outside of the area can still be done under this legislation, that would still be able to be done?

Mr BONNER: These are load limits, but that wouldn't provide any income to those councils for the damage if you like that would - say if we are talking about roads, the damage that would occur to the roads due to the extra use that would be made.

Mr KIDNIE: It is our view that Forestry Commission land should be rated. It is also our view on our submission on the local government submission that the crown should be bound, so planning approval should be required for all state government developments.

NSW CHAMBER OF MINES, METALS AND EXTRACTED INDUSTRIES

Mr WRENCH: ... We support the concept of resource security legislation. At the present time in state forest there is no prohibition of mineral exploration or mining providing both ministers agree. We would support the continuation of that and we would believe it should be made crystal clear in that Bill that the term, "preserved native forest restricted use forest and timber production forest", should have no distinction in respect of mineral exploration and mining and that both these activities should be permitted in the nature of these areas subject to both ministers agreeing. That is the Minister for Forests, of course.

OCEAN WATCH

Mr LEADBITTER: We did not have any specific comments on the Forest (Resource Security) Bill 1992, but we did question why only the forest industries that were covered by it.

CHAIRMAN: Are there any other questions on that one? You do not have an interest in forest resource security?

NSW COMMERCIAL FISHING ADVISORY COUNCIL

MR McDONALL: The resource security side of it we would like to see extended to the fishermen.

CHAPTER 6.5

THE HERITAGE (AMENDMENT) BILL 1992

PEAK ENVIRONMENT GROUPS

Mr DOUGLAS: ... Very quickly I would just refer you to page 11 of the discussion paper and exposure Bill as presented...

The document states on page 11 under item 6 Heritage Amendment Bill 1992.

> "The effect of the Heritage Amendment Bill is to exclude from the ambit of the Heritage Act, items of environmental heritage which are significant only because they form part of the natural environment. The amendment is proposed on the basis that there are comprehensive provisions for the protection of the natural environment in other legislation."

It then goes on to describe how the National Parks and Wildlife Act is available and that in particular that there is the authorisation that authorises the making of interim protection orders to protect the land of natural significance.

The first thing I would like to say is that not all land which is considered of significance in the context of National Parks and Wildlife Act but which is significant because it forms part of the natural environment would be therefore protected...

This Bill really seeks to underide the Land and Environment Court's decision where the Minister for Planning was found to be in breach of the Heritage Act for not applying the provisions onto the natural environment and so we really oppose these provisions overall.

In fact, there are many groups across the country who utilise and rely upon the Heritage Act as the mechanism for giving some protection, both on an interim and permanent basis.

It needs to be said that interim protection orders under the National Parks and Wildlife Act are just that, they are interim. They do not last for an extensive period of time and in fact once they lapse, they can't he renewed under the National Parks and Wildlife Act.

So in the absence of having any general provision provided under the National Parks and Wildlife Act which allows for interim protection orders to become permanent protection orders, and to be renewable and sustainable, there is no other mechanism other than the Heritage Act...

Near Narellan, which is south west of Sydney, there is a very small population of a species called the Pimelia Spicata. It is a small herbaceous plant. It is found currently in only two locations, one at Maryong and one at Narellan. It's status is on the verge of extinction. It is currently Commonwealth land but the Commonwealth are thinking of providing that land for subdivision for housing.

There would be no mechanism under the Heritage Act to provide for interim or permanent protection orders to prevent that housing going ahead and therefore preventing this species from its existence. This is an urban area but the area is important because of its naturalness...

... Even where extinctions aren't the issue, even if there is threatened and other endangered species legislation that is in place, it is still going to cause major problems in terms of local areas and local community's appreciation of their own bushland.

... There is also an assumption under the Heritage Act provisions, that aboriginal places and relics of cultural significance are also protected under the National Parks and Wildlife Act.

I understand the aboriginal community will probably be making submissions in relation to that and I certainly don't want to speak on their behalf. But on a conservation perspective, not all areas where there are aboriginal relics, they are not all contained within aboriginal places and they are not all contained within National Parks.

CHAIRMAN: ... It is used more as a blocking mechanism to stop maybe logging an area that is unpopular to log, without really having the necessary documentation to say that it shouldn't be.

Mr DOUGLAS: I would like to make the observation, even if that were your goal, ... then it hasn't been properly thought out because it is going to have all these other side effects. It is too all embracing... You are using really a sledge hammer to do something...

MS SALMON: I was going to make the very point, from a the national perspective, there is a sense that in many respects, New South Wales has some very progressive legislation in a whole range of areas. If you come from another state, from Queensland or Western Australia, or other states. But this removal of this aspect of the Heritage Act would leave New South Wales as the one state that did not mention the natural environment in its Heritage Legislation.

Mr MARTIN: West Australia is very good on Commonwealth Heritage Legislation for the classification of a lot of their forests. It takes some sections out and preserves them as untouchable, under the Commonwealth Heritage Legislation.

MS SALMON: We would really just be seen to be making a retrograde step here with respect to our heritage Legislation. I think you can't but go back to where this all came from, to Chaelundi, and to the fact that it was used there in order to try and protect an area that did not receive proper protection under the other pieces of Legislation...

Mr ANGEL: ... The barriers to getting an interim or permanent conservation order under the Heritage Act are immense. You go through a Council. We don't go around and slap it on ourselves. We have to go through due process.

The number of times we have used or attempted to use the Heritage Council to protect a natural area per year you can count on one hand.

This is the sort of distortion that the Forestry and the mining industry introduce into this argument. They make these panic attacks because we happen to have once a year tried to protect an area when 90 percent of the rest of the time is not affected at all there and there is no dispute.

Mr WALKER: Internationally the UNESCO World Heritage Convention makes it quite clear that heritage is regarded in that sort of global framework as encompassing the cultural and the natural environment. It certainly doesn't exclude the natural environment.

It seems to me there is irony in the fact that the governments Bills specifically invite a representative from the Australian Heritage Commission to sit on the Natural Resources Council, and yet there is this notion that, and of course in that case the Heritage Commission deals with the full gamut of heritage...

Mr FALCONER: One point on heritage that was brought up before was this cultural versus natural heritage and one thing that you may not be aware of is the Australian Heritage Commission's definition of that and its very strong, in fact, mandatory guidelines in some ways, so they can't bind any state so they have to remain guidelines.

It defines heritage in three categories, as being integral, but in three parts; Natural, cultural and aboriginal. Interestingly, when it comes to funding and when it comes to protecting those areas, only two places stand out from the rest of Australia. They are New South Wales and the ACT. There is an incredible imbalance in both those places where heritage as viewed only historic...

We feel that withdrawing the natural heritage and the aboriginal heritage from that Act defies the Australian Heritage Commission's guidelines and principles and stands out from the rest of Australia and is a negative step...

LOCAL GOVERNMENT AND SHIRES ASSOCIATION OF NSW

Mr WOODS: ... The Associations believe the Heritage Act contains powers that don't exist in other legislation to protect certain elements of the natural environment and we would see that as most fundamental.

Mr BONNER: I was going to say that one of the things that the Heritage Act provides for at the moment is protection of things like urban bushland, the provision of conservation orders of an immediate benefit if you like, the situation where there is an immediate need to protect a certain area which I don't think exists in other legislation. I guess one thing we didn't point out in our submission was the review that is occurring of the heritage system. To bring in a bill that proposes to change the Act before that process has been through the motions seems to be...

NSW CHAMBER OF MINES, METALS AND EXTRACTED INDUSTRIES

Mr WRENCH: The last one, the Heritage Amendment Bill, we support that Bill. We are comfortable with that concept, that heritage is about cultural values. There is an enormous amount of legislation in place to protect the natural environment and we don't see why heritage should also overlay that and so we support the Bill in its current form...

Mr GULSON: ... There was a fund established by the immediate past Premier which I think he described as the Open Space and Heritage Fund in which 10 percent of all the proceeds of the gross receipts of the privitisation of various government instrumentalities sale of lands whatever... would go to this fund and that would fund environmental issues, open space and heritage. We have been reliably informed that the Fund is now exhausted of funds having funded Luna Park for something.

The proposal to establish a fund had a lot of merit when the Premier put it together. To create a fund which would go to serve a lot of the requirements in the environmental area and heritage and open space and we are very concerned to see if that idea or if that fund is no longer in funds then in fact proceeds of the GIO and perhaps the State Bank when it is privitised would otherwise have gone into the Fund.

Such monies would fund a lot of research. It would also go to meet some of the problems that our members have and be able to fund some of the just terms compensation type payments. It would also depoliticise a lot of the debate.

We are finding a lot of our alleged antagonists in the conservation area want to see us compensated. Once we are compensated we don't have a problem...

AUSTRALIAN MUSEUM

Dr PONDER: ... The major point that is the problem there... is that there is no real provision for in fact any interim protection order to be put on private lands, privately owned lands. I mean there are many instances where in fact endangered species, for

example, could have their entire ranges on a piece of private land and it seems to me that some legislation somewhere is needed to cope with that.

NSW ABORIGINAL LAND COUNCIL

MS LOWE: One of the things that really concerns us is that we do not wish to see, in any way, any Legislation that is effectively going to water down any small, and I say this word small, rights that we already have through Legislation, such as the New South Wales National Parks and Wildlife Act and the New South Wales Heritage Act.

The back up protection of Aboriginal sites has been removed out of the New South Wales Heritage Act. That is not acceptable, totally unacceptable to the Land Council and it just unfortunate that the legislators within the corridors of this Parliament continue to ignore the rights of Aboriginal people in this State.

We have had, over the last twelve months, some very good dialogue with the present Government, talking about introducing long overdue Legislation for the protection of our sites under Heritage and Culture Bill or Act. But apparently what has happened is former Ministers, including the Minister for Environment, Mr Tim Moore, and the State Council has had dialogue with other Government Ministers, they have been talking to us with a forked tongue. They have not been speaking the truth.

Mr MARTIN: I would imagine that... that component which says, "Aboriginal relics or places within the meaning of the National Parks and Wildlife Act 1974", is the one that you would find very objectionable where it relates to the object of this Bill is to amend the Heritage Act as so as to exclude from the operation of that Act:

(a) places that are of natural environment and are significant only because of the part of that environment, and

(b) Aboriginal relics or places within the meaning of the National Parks and Wildlife Act.

Mr FRASER: I notice with your Appendix 1 to your submission there are some amendments there in the Environmental Planning and Assessment Act. If those amendments were included as part of the package, would you then find that the Heritage Amendment Bill would be acceptable?

Mr WRIGHT: If I could comment, initially on why there is such a strong reaction to the amendments to the Heritage Act. There is a perception in the Aboriginal community which I have found as a non Aboriginal person working for an Aboriginal organisation, that the existing National Parks and Wildlife Act is inadequate. This is the mild word I will use. I have heard much stronger. In regards to its ability to deal, cope and regulate Aboriginal culture and heritage.

Essentially, in the first instance, it reduces Aboriginal cultural Heritage and issues of significance to a word called "relic" which is totally inappropriate...

MS LOWE: Are you aware that over the last twelve years, there has been two Government consultations taken place. It is part of the Morrie Keene report that was tabled to the Parliament in 1980 and the recommendations contained within that report to set up a commission, Heritage and Cultural Commission, an Act, to allow Aboriginal people to be in a role of management and control of their culture and Heritage. Nothing was done. It was left to gather dust in the libraries here in Parliament House.

In 1989, the ministerial task force was set up. I worked on the Morrie Keene report, Merv Penrith also worked on the ministerial task force. That report was presented here to the Parliament and it recommended the same thing, that there be an Heritage and Culture Commission set up. Nothing happened with that. It is sitting here, the second report, gathering dust.

Our people have been waiting a long time for Heritage and Culture Protection Legislation and you know, it is long overdue. There needs to be a clear commitment, your Committee needs to take this into serious consideration before you endorse this proposed Bill that is before you now.

When we look to other states, in South Australia there is an Heritage and Culture Act for Aboriginal people to have some management and control and say in what happens to their sites, how they are looked after. We go down south to Victoria, there is similar Legislation down there which gives the same effect to the Aboriginal people and Heritage and Culture. This State here is just dragging its feet on this issue.

Mr WRIGHT: I just have some quick comments to make if the Committee has got time on the specific issue of land claims under the Aboriginal Land Rights Act and how it is going to be affected by the proposed package.

If the Committee is not aware, in the Aboriginal Land Rights Act 1983, there are two sections, sections 36 and 37, which deal with claims that can be made by Aboriginal land councils over crown land. The definitions of crown land in the Aboriginal Land Rights Act are the same as the definition of crown lands in the proposed bills. So in effect, all that land subject to statutory land rights in New South Wales under the Land Rights Act would be in fact affected by the provisions of the amending legislation, particularly the Council Bill.

Under the provisions of the Lands Rights Act the main concern that land councils have is that, firstly, the crown land is going to be affected in this way without prior knowledge or prior consultation before this Committee was instituted. Secondly, that there is a scheme within section 36 of the Aboriginal Land Rights Act which provides for resource assessment.

It doesn't explicitly say it, but what I am referring to is one of the reasons the Minister can refuse an Aboriginal land claim under this Act, that it is needed or likely

to be needed for an essentially public purpose. That is a test that crown land has to go through, a hoop it has to go through before the Minister can transfer it to a land council.

Now under section 36 there is this ability in the Minister to refuse the claim because it is needed or likely to be needed for essentially public purposes. The courts haven't give us any definition on what that means yet. It is still a fairly general term. I have seen everything from it being said to be urban development or urban expansion in one case, protection of fossil insects, extraction or clay shale for brick making in another case. So it is not clear what an essential public purpose is, but this legislation proposes to look at what a public purpose is with specific reference to resource management. So it is clear that there is going to be a clash between the two.

Now under the land rights legislation, under section 36(5)(a) the Minister for crown lands or administering the Crown lands Act has the power to grant Aboriginal land claims conditionally if they are needed or likely to be needed for an essentially public purpose. So hypothetically there could be a parcel of crown land which has let's say on old growth forest that would be good for timber getting. If it is the subject of an Aboriginal land claim there is nothing under this Act stopping that land being assessed as part of the land claims procedure.

The Minister coming to a decision that it is needed for the essentially public purpose of timber getting and then approaching the claimant land council and saying, We are going to refuse this claim for timber getting, we could grant it conditionally if you are happy with that land use and the land council would be in a position to say yes or no to the proposed management of that resource. So there is no question that this Act provides for consultation and for discussion about resource management. It is not a massive land grab. It is actually couched in terms of negotiation. Now that is the scheme under this Act.

OCEAN WATCH

Mr LEADBITTER: ... we did question why only the forest industries that were covered by it. As regards to the Heritage (Amendment) Bill, we have never seen the Heritage Act used to protect vulnerable fish habitats, although conceivably it could be. It is with some disappointment that we see natural heritage taken out of the bill, primarily because it removes an option for short-term protection of a fish habitat that might be under threat.

CHAIRMAN: As to the Heritage (Amendment) Bill, I understand you believe that should naturally remain in because it is of benefit to you if you wish to apply to preserve a particular area.

CHAPTER 7
RECOMMENDATIONS

The Committee recommends that the Natural Resources Package in its present form be withdrawn and referred to the Government for further consideration and attention be given by the Government to the evidence received by this Committee.