



COMMONWEALTH OF AUSTRALIA

SENATE

Official Committee Hansard

**ENVIRONMENT, RECREATION, COMMUNICATIONS AND THE ARTS
REFERENCES COMMITTEE**

Reference: Commonwealth environment powers

FRIDAY, 24 APRIL 1998

TOWNSVILLE

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SENATE
ENVIRONMENT, RECREATION, COMMUNICATIONS AND THE ARTS
REFERENCES COMMITTEE

Friday, 24 April 1998

Members: Senator Allison (*Chair*), Senator Tierney (*Deputy Chair*), Senators Hogg, Lundy, O'Chee, Payne, Reynolds and Schacht

Participating members: Senators Abetz, Bartlett, Bolkus, Boswell, Brown, Calvert, George Campbell, Chapman, Colston, Coonan, Cooney, Eggleston, Evans, Faulkner, Ferguson, Margetts, McKiernan, Neal and Patterson

Senators in attendance: Senators Allison, Bartlett, Hogg, Payne

Terms of reference for the inquiry:

- (a) the powers of the Commonwealth in environmental protection and ecologically-sustainable development in Australia, including an examination of case studies;
- (b) the practicality, adequacy and application of existing Commonwealth mechanisms, including legislation, to promote the national interest in the protection of natural and cultural heritage and to achieve compliance with the principles of ecologically-sustainable development, with particular reference to:
 - (i) implementing Australia's obligations under international treaties and conventions, in particular, the Ramsar Convention and the World Heritage Convention,
 - (ii) the National Reserve System and the consistency of management regimes for reserves created under the National Reserve System program,
 - (iii) environmental impact assessment in or near areas of high conservation value in which the Commonwealth has an interest, and the consistency of guidelines for assessment processes between all levels of government,
 - (iv) export controls,
 - (v) the use of the corporations power,
 - (vi) the Endangered Species Protection Act,
 - (vii) the Inter-Governmental Agreement on the Environment, and
 - (viii) the National Strategy for Ecologically Sustainable Development; and
- (c) the most appropriate balance of powers and responsibilities between Commonwealth, State and local levels of government and mechanisms for implementation of treaties, conventions and national strategies to ensure consistency between all levels of government in environmental protection.

WITNESSES

COOK, Mr Clive Robert David, Manager, Impact Assessment Unit, Great Barrier Reef Marine Park Authority, PO Box 1693, Townsville, Queensland 4810	222
ELLISON, Dr Joanna Clare, Lecturer, Department of Tropical Environment Studies and Geography, James Cook University, Townsville, Queensland 4810	197
FITZGERALD, Mr Royce Douglas, Mayor, Cardwell Shire Council, Bryant Street, Tully, Queensland 4854	251
GIANDOMENICO, Mr Giuseppantanio, Mayor, Hinchinbrook Shire Council, PO Box 366, Ingham, Queensland	251
GIRGENTI, Mr Angelo, Member, Herbert River Canegrowers Executive, Ingham, Queensland 4850	251
HAIGH, Mr David, Senior Lecturer in Law, Department of Law, James Cook University, Townsville, Queensland 4811	197
HARVEY, Mr Alan Sydney, Chief Executive Officer, Hinchinbrook Shire Council, PO Box 366, Ingham, Queensland	251
HEINSOHN, Dr George Edwin, President, Townsville Branch, Wildlife Preservation Society of Queensland Inc., PO Box 857, Aitkenvale, Queensland 4814	261
LULY, Dr Jonathan Gregory, Lecturer, Biogeography, James Cook University, Townsville, Queensland 4811	197
McPHAIL, Dr Ian, Chair, Great Barrier Reef Marine Park Authority, PO Box 1693, Townsville, Queensland 4810	222
MOORHOUSE, Ms Margaret Jeanne, Executive Member, North Queensland Conservation Council, Po Box 364, Townsville, Queensland 4810	261
O'KEEFE, Mr Michael, Manager, Legal Services Section, Great Barrier Reef Marine Park Authority, PO Box 1693, Townsville, Queensland 4810	222
PREEN, Dr Anthony Robert, Research Fellow, James Cook University, Townsville, Queensland 4811	197
SAENGER, Professor Peter, Independent Monitor, Centre for Coastal Management, Southern Cross University, Lismore, New South Wales	215
SILVA, Mr Rowan David, Solicitor/Coordinator, Environmental Defender's Office of Northern Queensland Inc., 451 Draper Street, Cairns, Queensland 4870	229
SMITH, Mr Gregory Walker, President, Cardwell Chamber of Commerce, PO Box 14, Cardwell, Queensland 4849	251
TAGER, Mr Jeremy Evan, Coordinator, North Queensland Conservation Council, 340 Flinders Mall, Townsville, Queensland	261

THORSBORNE, Mrs Margaret Grace, Honorary Life Member, Community for Coastal and Cassowary Conservation, Po Box 165, Mission Beach, Queensland 4852	261
WEBB, Mr Trevor John, PhD candidate, James Cook University, Townsville, Queensland 4811	197
WHITEMAN, Mr William Grant, Deputy Chair, Cardwell Chamber of Commerce, PO Box 14, Cardwell, Queensland 4849	251
WILLIAMS, Mr Keith, Chief Executive, Cardwell Properties, PO Box 444, Main Beach, Gold Coast, Queensland 4217	236

**ENVIRONMENT, RECREATION, COMMUNICATIONS AND THE ARTS REFER-
ENCES COMMITTEE**

Commonwealth environment powers

TOWNSVILLE

Committee met at 9.10 a.m.

ELLISON, Dr Joanna Clare, Lecturer, Department of Tropical Environment Studies and Geography, James Cook University, Townsville, Queensland 4810

HAIGH, Mr David, Senior Lecturer in Law, Department of Law, James Cook University, Townsville, Queensland 4811

LULY, Dr Jonathan Gregory, Lecturer, Biogeography, James Cook University, Townsville, Queensland 4811

PREEN, Dr Anthony Robert, Research Fellow, James Cook University, Townsville, Queensland 4811

WEBB, Mr Trevor John, PhD candidate, James Cook University, Townsville, Queensland 4811

CHAIR—I open this public hearing of the Senate Environment, Recreation, Communications and the Arts References Committee. Today's hearing in Townsville is to assist in our inquiry into Commonwealth environment powers. The committee prefers that evidence be given in public, but should you at any stage wish to give your evidence, part of your evidence or ask specific questions in camera, you may ask to do so and the committee will consider your request. I point out, however, that evidence taken in camera may subsequently be made public by order of the Senate. I call the committee to order and welcome Dr Tony Preen, Dr Jon Luly, Dr Joanna Ellison and their colleagues who will give the committee a briefing. I invite you to brief us today. Perhaps I can get some indication from you as to how you want to plan that briefing. I think that the committee would like to ask you some questions at the end of that time. We have until 10 o'clock. I invite you to organise this whichever way you wish.

Dr Luly—I will do a very brief introduction and then pass on to David, who will be followed by Trevor, then Tony or Joanna. I guess the thing to start with is a very brief history of the exercise, which we see very much as being a saga of changing and conflicting interests of people, communities and so on; some extraordinarily poor process, that is, very poor organisational arrangements and the following of organisational arrangements in the spirit of the organisational arrangements, which has resulted in considerable conflict; an inadequate scientific base for the evaluation of impacts and outcomes; and polarisation in the community that has flowed out of the above elements. We also identify a potential for the problems that are seen at Oyster Point to recur more or less endlessly up and down the Queensland coast. There are something over 100 potential projects in which there are, of course, going to be similar problems unless those difficulties that are exemplified at Oyster Point can be sorted out. I think it is a fairly important business to understand the implications and to deal with them in the future. I will list some of the historical things that are worthy of mention in the Oyster Point project. It began a fairly long time ago—roughly 1986—when Tekin was issued a 10-year lease over a site for a resort on 44 hectares of land, 19 of which are freehold, with a vision of marina access to Hinchinbrook Channel. At that time no EIS requirements were in place for Queensland. Subsequently, there have been a variety of toings and froings going on, which involved Tekin's building exercises, its

eventual financial insolvency and abandonment of the site. It was left in a fairly degraded state for a period. At that stage, there were two options that were available, one being to rehabilitate the site; the other was to find a new use for the site. I think that took some considerable time. As part of that process, the Great Barrier Reef Marine Park Authority was involved in some debate over jurisdiction. It finally decided in 1991 that, in the GBRMPA's view, the Hinchinbrook Channel was essentially in the control of the Queensland Government. So the world heritage area was, in part at least, ceded towards Queensland for administrative purposes. In 1993, Cardwell Properties bought the site to construct Port Hinchinbrook using the existing permits, with some amendments and some additional permits. I guess part of the exercise is that the old Tekin exercise was flowing through the process to Cardwell Properties. In 1994, the Queensland DEH released an environmental review report—which is a document substantially below the normal standard for an environmental impact statement—which concluded that there was inadequate information to quantify the impacts of a development on the site. That led to some considerable concern with the world heritage unit in DEST starting to try to determine the possible impacts that it had on the world heritage values of the Great Barrier Reef Marine Park. That led to the commissioning of the Valentine report, which was commissioned and released. The report identified that there was a critical lack of information on the site and its impacts, and also that the EIS was a flawed document. In fact, it had not been prepared at all.

Since that time, there has been a variety of other processes going on: 1994 saw some deeds of agreement signed between the Queensland Government, Cardwell Shire Council and the developer. At that time there was some concern about the impacts of mangrove clearing and dredging. The Governor-General was signing proclamations under the World Heritage Properties Conservation Act 1983 to halt the clearing of mangroves and required the developments to obtain ministerial consent before commencing activities that may further damage the site. A scientific workshop was convened by the chief scientist, with the result that there was a limited consensus and suggested modifications of various procedures to stabilise the foreshore that had been disturbed by mangrove clearing.

In 1995 an environmental risk assessment was commissioned by the development. It was a very limited study in that it was limited to the impact of dredging. It was very widely criticised by many scientists as being a very limited document that failed to address regional impacts and was concerned essentially with the area immediately around the site. That was also a criticism levelled at the Reichelt report in 1996, which synthesised the comments of six scientists who were commissioned to review the Sinclair Knight Mertz environmental study and concluded that, with best engineering practice, dredging could go ahead without impact in the immediate vicinity of the dredging operation, that is, around 100 to 200 metres—which, of course, ignores the regional scale impacts and indeed did not even extend out past the centre of the Hinchinbrook Channel.

Subsequently the Heritage Commission advised the minister that consent for the proposal would have direct and indirect adverse effects on the national estate. Subsequent to changes in state and federal governments, new deeds of agreement have allowed development to proceed on revised terms, including additional controls and further changes in the nature of the project, again without formal EIS assessment.

In 1997 there have been further changes, including a formal request for a waiver with respect to rezoning for new canal developments. There have been other changes, again without environmental assessment, including the esplanade and resort building along the high-water mark being replaced by house block frontages. In 1998 the land-holding of the developer was extended over 200 hectares, with an application for a further 60 hectares which is listed as an ecosystem of concern as it is the habitat for the mahogany glider, which is a rare endangered animal of north Queensland. There has also been the development of the Hinchinbrook-Cardwell coastal management plan, which would presumably have been part of addressing some of the issues involved. That has since died for various reasons.

Senator BARTLETT—Are you saying the whole thing has died?

Dr Luly—Yes, it appears to have. I think we are going to have to try again. That summarises a brief history of the development. The exercise can be summarised basically by saying that the character of the project has changed since that initial exercise in 1986. The change is intended to be incremental without normal assessment processes or the appropriate research background. There has been a failure to implement EIS process, and that has cost the community millions of dollars and also created needless division in the community.

Also, some reforms have emerged from the process that may limit some of the problems that have recurred. Those include the amendment of the Great Barrier Reef Marine Park Authority Act to include the precautionary principle in dealing with environmental matters, and also recognising world Heritage values in the management of mangroves, seagrass and dugongs. There has also been a Commonwealth review of the Great Barrier Reef World Heritage area, which has been conducted as part of a general evaluation of world heritage values in world heritage areas in Australia. That review confirmed the values of the world heritage areas of the Great Barrier Reef Marine Park. That is an important exercise for ensuring that management is succeeding. There has also been the first regional coastal plan under Queensland coastal planning and management legislation, which as I suggested before was an excellent start that seems to have collapsed subsequently. That is a bit of a historical run-down. David Haigh is the next cab off the rank. He will elaborate on some of those matters.

Mr Haigh—My submissions will deal with what I consider to be one of the fundamental issues at the heart of the tension that has occurred in the Hinchinbrook area, and that is the failure to recognise the world heritage significance of that area and the complete failing of governments, both at state and federal levels, of whichever political flavour to recognise the importance of world heritage. I will put to you that that is a very important concept.

If it had been taken into account properly at the beginning, I suggest this development would never have proceeded and the issue that we are now looking at would be nought—nil—and the community of Cardwell would be far better off. The failure of the World Heritage Properties Conservation Act, the Great Barrier Reef Marine Park Act, the Environment Protection (Impact of Proposals) Act and the Australia Heritage Commission Act to protect world heritage is a fundamental issue here. I suggest that as a result of what has happened the Great Barrier Reef should be listed on the world heritage endangered list, according to the convention. I have no doubt about that. The precedent is the Yellowstone National Park, where there were similar issues and where an area only 100 kilometres from

the actual world heritage area was listed as world heritage in danger—and it remains so, as does the Everglades National Park in the United States. The precedent is there; the political will is not.

I have put up an overhead which shows you the magnificence of the area we are talking about. Undoubtedly it is a world heritage area. It is a unique place that is basically unspoilt. Now it is threatened by a major development which will have an incredible impact on that area, which my colleagues will indicate. The world heritage area crosses over at the end of the Hinchinbrook Channel. It follows the low-water mark along the beaches and along the island right to the end and then crosses over to the mainland again. The channel itself is in state jurisdiction. That is a major problem for the management of world heritage in this area, because we have two different management regimes, one under the Great Barrier Reef Marine Park Act and the other under Queensland jurisdiction, which refuses *carte blanche* to recognise the world heritage significance of this area. It could recognise it in the Nature Conservation Act of Queensland, which has world heritage management areas within it and adopts the principles of convention. It has failed, despite representations, to implement that act. If it did, I again suggest that this development could never have proceeded, nor would the mass development which is planned for that area, or which could be planned for that area, proceed.

CHAIR—Would it be possible for you to point out on that overhead the area of the development?

Mr Haigh—Cardwell is here. The development is there. This is the world heritage boundary. This is all internal waters of Queensland. It was in the Great Barrier Reef Marine Park Act, which manages the Great Barrier Reef world heritage area, but because a legal opinion said that it was exposed inland waters, it is now contained in Queensland. At the beginning of the development, there was a PER—public environment report—under the impact of proposals act, but that was dropped when they went broke and it could not be put in after that opinion came down.

CHAIR—Was Hansard able to pick that up, or was Mr Haigh too far away? We need you to tell us again what you have said about the overhead.

Mr Haigh—The development is at the northern end on this point. The town of Cardwell is next to it. The Great Barrier Reef Marine Park Authority was involved and did a PER under the impact of proposals act, but that was not brought back in because of a legal opinion which meant the channel returned to state jurisdiction as inland waters. That is critical. In relation to the World Heritage Convention—and I have put up an overhead to give you some examples—there is no question that politics or principle is involved here. World heritage is about principle and, of course, politics. But when politics dominates, the principle goes out and world heritage is undermined. That creates a considerable dispute. I suggest that this development has been attacked most cogently on its great threat to world heritage.

The preamble to the World Heritage Convention states that it is for irreplaceable places on the earth. That emphasises the importance of it. Its importance to a nation is also its importance to the world. As a result, the standard on which a nation manages world heritage

is the highest possible standard that can be set for any beautiful place, such as you have seen before on the overhead. There is no doubt about that. The High Court met on this issue in the Tasmanian dams case and said that the dominant duty is protection of that place.

Admittedly, that is contentious. I have no doubt about that. But when you read the convention, you see that that clearly is what it must be; article 4 states that it is for future generations. What we do now in wrecking our world heritage—in degrading it and in killing it by a thousand cuts—will mean that for the future the very underpinning concept of world heritage will be lost. We are losing this beautiful place because of this development and the way it is being done and proposed to be done.

The convention includes the right to present the place. That allows some economic development. It does not allow *carte blanche* for the biggest development of its type in this nation—a huge marina and a huge population, almost doubling the size of Cardwell. That might be good for real estate agents; it is not good for world heritage. There is no doubt about the concept of the buffer zone. It is in world heritage to the extent that it is in the buffer zone. True it is that the majority of this development is on the edge of the world heritage area, but it is from me to you away. The actual channel cuts into the world heritage area.

I say quite categorically that that channel cannot be seen as presentation of this development or of any world heritage area. One has to look to whether there are alternatives. That has not been looked at in this development. When Senator Hill asked whether there were alternatives to the developer, the developer said, 'I won't go anywhere else.' Is that management of world heritage? Clearly not. It cannot be. It is not for the developer to determine the management of world heritage. World heritage has principles. Those have not been applied.

He says in article 5 that it will be a concept of world heritage if we rehabilitate the site. Rehabilitation does not mean that you knock down all the mangroves, bring in some half-hearted coppicing of them and build luxury homes along the beach. Whereas previously that natural place, carrying on for future generations, consisted of mangroves for time immemorial, those have gone under the present developer's plan. That is unacceptable in world heritage. It is clear in the convention.

There are various tests of management of world heritage; that is true. There is what is called a values test, presently applied by this government. Basically, it says—as we will hear from Trevor Webb—that values are important and have been assessed in this area. Only the values on this test are protected, rather than the area. I suggest that test is wrong. The area is what is to be protected, and the development which is allowed to impact on it or be inside it is determined by the word 'presentation'. If that is not to be, then world heritage will be lost.

Can I say this, as I know I am short on time: if this committee was to support the present decisions of the Commonwealth government concerning a biodiversity act, including concepts of world heritage or a separate legislative instrument for the cultural world heritage, because biodiversity will only cover natural, then it will be returning Australia to the Dark Ages of world heritage protection. There is no way that the biodiversity act as proposed in the green paper is sufficient to cover world heritage. The test is 'significant effect' or 'any impact'. 'Significant effect' raises the threshold far too high for the standard of protection

that must exist in a world heritage area. That has been the problem at Oyster Point. The developer has got away with a development which should not exist because the test of 'significant effect', quite frankly, is too high. 'Likely to damage or destroy' is the test which should be applied, and that is the test which Senator Hill's own Attorney-General has said is the test, and yet that test is not intended for the biodiversity act. In other words, it is weaker on world heritage than the present regime under the present World Heritage Properties Conservation Act. Further definitions are required, much more categorical on the meaning of aesthetics, the meaning of integrity, the meaning of presentation, the meaning of protection. These must be defined and not left to the vagaries of politics. If we are to devolve to the states power over world heritage, the experience of Queensland, as I pointed out, to not even enforce world heritage would be a disaster. I suggest that if this committee was to take on board any devolution, it would only be done on the basis that there is an umbrella of Commonwealth legislation that sets the standards, which is repeated at the state level if they wish that, so that there is no doubt about the legislative standards which must be in place. There must not be five or seven—as it could be—different standards for world heritage management in this nation. We have that at the moment in the one world heritage area with the Great Barrier Reef. The Great Barrier Reef Marine Park puts one, and then the Queensland regime puts another non-existent other.

You will hear later—time is running out and I cannot carry on; I will make a submission further to these issues—concerning the deed of agreement and the MOU and the great difficulties that those have. I know that is a focus of this particular inquiry. Let me just close on this point. If this Commonwealth government were to bring in a biodiversity act of the standard of the one proposed at present, and to split it between two acts—one cultural and one natural; the biodiversity and the Heritage Act—then I suggest that would not comply with the international obligations which this nation has to world heritage, being one of the most keen—if not one of the first—parties to sign that convention. It will mean that what is described as the Nobel Prize of our protected areas, world heritage, will be lost and will not be handed to future generations—to our children and our children's children. They will not get Hinchinbrook. It will be lost. And it has come about because already world heritage management has not been properly carried out. If we are to continue that, we certainly will lose, and we as a nation will be demeaned upon the international arena.

Dr Luly—The next speaker is Trevor Webb, who specialises in world heritage matters and values. He has a bit to say about the outstanding universal value of the world heritage in that region.

Mr Webb—I want to deal with the nature of one of the regions included on the world heritage list, which focuses on this concept of outstanding universal value, which is the central theme of the World Heritage Convention. It is the quality of a property or an area that distinguishes that property from other heritages in the world—from local heritage or state level heritage. So it is the quality that makes it of international importance.

The convention notes that the world heritage list itself is not intended to cover all properties of great importance, interest or value but only for a select list of the most outstanding of these from an international viewpoint. Now, in assessing the outstanding universal value or the world heritage value in a total sense—

CHAIR—I am sorry to interrupt your train of thought. It has just been pointed out to me that I ought to have informed you that we are being broadcast by ABC television and that I should have given you an opportunity to object to being broadcast in this way. If you would like to say anything along those lines now, please do so, otherwise we will proceed.

Mr Webb—In terms of assessing the outstanding universal value of a property, the World Heritage Committee, established under the convention, has established a set of criteria, the world heritage criteria. There are two sets of criteria: one for cultural heritage and one for natural heritage. In terms of natural heritage criteria, currently there are four criteria which relate to geological processes and phenomena, ongoing ecological and biological processes, aesthetics and natural beauty and, finally, biological diversity and the habitats of threatened species. In order to be eligible for inclusion upon the world heritage list, a property must meet at least one of these criteria, although the committee acknowledges that most properties meet at least two. In addition to meeting the criteria, there is a set of conditions of integrity which refer to the management regime and the long-term viability of the property. So a property must meet its criteria and associated conditions of integrity in order for that property to be eligible for inclusion on the world heritage list.

The evaluations of the property will be carried out by advisory bodies to the World Heritage Committee—in this case the International Union for the Conservation of Nature for the evaluations of natural properties, and ICOMOS, the International Council on Monuments and Sites, for the evaluations of cultural properties. The evaluators assess the attributes of a property against those criteria and assess the management regime and long-term viability of the property against the conditions of integrity. The World Heritage Committee advises their bodies to be as strict as possible in their evaluations, and they adopt a broad comparative approach to the evaluation of properties, so that coral reefs are compared with other coral reefs in the world rather than trying to do some sort of comparison with non-like entities.

The Great Barrier Reef world heritage area was nominated in December 1980. As was not uncommon at the time, the nomination document is quite small. There are nine pages of text and 27 pages of appendices, with appropriate maps and pictures and things like that supporting the nomination. It is a broad and general nomination, which was not uncommon at the time, as I said. The primary focus of that was on coral reef ecosystems of the region, with only passing mention of other marine and terrestrial components. The Great Barrier Reef world heritage area itself covers the region from the tip of Cape York down to above Fraser Island from the low-water mark out to the edge of the continental shelf, so it covers a region much greater than just the coral reef system itself. So other components are fundamental in both providing the value and maintaining the area's integrity.

In terms of the cultural criteria for the area, the nomination noted that the area contained midden and archaeological sites of Aboriginal and Islander origin, shipwrecks, ruins and operating lighthouses of cultural and historical significance. The nomination was based, however, upon its natural heritage criteria, noting that it is by far the largest single collection of coral reefs in the world, that it supports the most diverse ecosystem known to humanity, that it provides some of the most spectacular scenery on earth and involves exceptional natural beauty, that it provides major feeding grounds for the endangered species—dugong—and that it contains nesting grounds of world significance for endangered turtle species. The evaluation of the nomination was carried out by the IUCN and they concluded that it seemed

clear to them that if only one coral reef site in the world were to be chosen for the world heritage list, then the Great Barrier Reef site would be chosen. Subsequently, the area was inscribed upon the world heritage list in 1981, along with Australia's other two initial sites, Willandra Lakes region and stage 1 of Kakadu.

The subsequent management of the area for world heritage has been assumed to be catered for under the management regimes already in place. An explicit consideration of world heritage matters did not really take place until Oyster Point. As was pointed out, when Oyster Point was proposed there was an environmental review report prepared by the Queensland Department of Environment which, within its dealings of world heritage, was considered to be inadequate and, not surprisingly, the slimline nomination document proved to be an inadequate basis upon which to manage the area for world heritage purposes.

Consequently, the federal government, recognising their duties under the convention, commissioned a report by Peter Valentine to describe in greater detail the world heritage attributes of the region and identify the impacts of Oyster Point. In his report, Valentine noted that the main attributes giving rise to world heritage values in the region concerned the geomorphological processes of Hinchinbrook Channel and the island, the high biological diversity of Brook Island coral reefs, the visual splendour of Hinchinbrook Channel, the diversity of mangrove communities, the floristic diversity of Hinchinbrook Island lowlands, seagrass habitat and the associated threatened form of dugong and turtle. He also noted that the natural beauty of the area had been maintained at that time by the area's wilderness management.

Subsequent to that report, GBRMPA and the federal government, in conjunction with the state government, commissioned a broader study looking at the whole region of the Great Barrier Reef world heritage area. It is a document which effectively expands upon this document into something like this. Nominations to the World Heritage Committee these days look more like this than they do like this. Given the time, without going into too much detail, that process involved the interviewing of a range of experts on attributes and experts in management in the area as well. None of the experts questioned the outstanding universal value of the Great Barrier Reef region and noted that the outstanding universal value was predicated on two main factors: the scale of the region and the high potential for effective conservation management of the region.

Importantly, there were some significant information gaps. One of the main areas where information was lacking was in terms of aesthetics and the value of aesthetics in terms of outstanding universal value. Aesthetics is often interpreted as meaning visual amenity, but it is actually a broader concept than purely scenic value as it incorporates a whole range of meanings and attachments to a place. The document itself details the range of attributes which contribute to the overall world heritage value of the area. It is probably worth now going on to Joanna or Tony to talk specifically about a couple of those attributes.

Dr Luly—I guess the importance in some sense is that, as I am sure Mr Williams will point out later, the site concerned is not in the world heritage area, but one of the major effects of the development is the propagation of influence into the world heritage area from its boundaries. Joanna and Tony are in a position to deal much more specifically with issues that flow from the actual site itself. I guess Joanna might start and Tony next, or whoever.

Dr Ellison—Okay, I am happy.

Dr Preen—I am going to speak more specifically than the previous speakers, so if I am getting into too much detail I will try to back off. I am going to talk a little about why seagrass and dugongs got involved in this whole issue, how they are dealt with and what we know about those issues. Why seagrass and dugongs are involved is through a series of steps. The development was strongly supported by state governments without a formal EIS ever being prepared.

Senator BARTLETT—Is that the very first stage that you are talking about?

Dr Preen—No, the current one. Because due process was not followed, there was a lot of public disquiet with that and a lot of protest. That is what dragged in the federal involvement. But federal involvement centres entirely on the World Heritage Properties Conservation Act. As you have heard, the world heritage area starts with the low-water mark. Technically, the clearing of mangroves in the marine park is not strictly, or directly, a world heritage issue. However, seagrasses occur below the low-water mark, and dugongs are dependent upon seagrasses for food. Dugongs are specifically listed as one of the few species in that very thin document—in the initial world heritage nomination of the Great Barrier Reef. Dugongs are listed as being vulnerable to extinction both internationally and in Queensland legislation. That is why those two topics are in the whole thing.

The seagrass issue is really centred on a loss of seagrass habitat. The threats are perceived to be the dredging of the access channel—which, I think, will be about 600 metres when it is finished and go through general seagrass habitat, although most of it does not have a lot of seagrass there—turbidity caused by the dredging and from the erosion of the mangrove mud—turbidity has the effect of reducing the light available to seagrasses—and sedimentation as a result of dredging and erosion from the mangrove mud and the artificial beach, which I guess Joanna will speak about. From those types of impacts, it is clear that the impacts on the seagrass were going to be localised and that the impacts could theoretically be quantified, although it has to be pointed out that the baseline mapping was not done until after there had been quite a bit of site work. So there is no before impact actual seagrass maps. For those reasons, because of the expected localised impact and a quantifiable impact, the commissioned assessments tended to focus on seagrass issues and not dugong issues.

The dugong issues are important because of the importance of the Hinchinbrook area for dugong populations along the Queensland coast and the threat that a development of this scale was perceived to pose to that population. The different threats were habitat loss—the actual loss of seagrass around Oyster Point—and the loss of access to other seagrass beds in that area, which I guess comes further down on my list. The other main concern is an increase in the amount and the type of boat traffic in the area. The follow-on effects of that are boat strikes, where dugongs are actually hit and killed by boats. This is certainly recorded in the area. The warning bell on that issue comes from Florida where the endangered manatee, which is the closest relative to the dugong, occurs and 83 per cent of human-related manatee deaths are due to boat strike.

Another issue is underwater noise pollution for species that are acoustic animals like dugongs and dolphins. Certainly in dugongs it is very much an understudied area, but research has been done on the effect that the noise of boat traffic has on whales and on dolphins. The other factor is habitat alienation through displacement where harassment by boats as a result of boat strike and as a result of noise pollution can displace dugongs from otherwise suitable and favoured habitats.

A subset of that is limited access to important habitats. In the Hinchinbrook Channel area, most of the seagrasses are grown in the near intertidal area. The water is not clear and light penetration is not very great so the seagrasses are stuck up close to the intertidal where they get enough light. In that area dugongs are restricted to feeding to a large extent around the high tide. The concern is that boat traffic around the high tide mark, which is when the boat traffic would be, would displace dugongs from feeding on those intertidal seagrasses. I guess the connection there is that dugongs do seem to prefer intertidal seagrasses or near intertidal seagrasses often when they get a choice. There is some evidence that they have higher levels of nitrogen, so they may be important nutritionally.

I will just give you a bit of background about what we do know about dugongs in the Hinchinbrook area because much has been said and much of it is very wrong. The bigger context is that dugongs in the Great Barrier Reef area have declined by 50 per cent in the eight years up to 1994. For a very slow breeding species such as dugong that is really a great concern, and you are probably aware of the action that Senator Hill has taken which reflected his concern over that issue. In the whole Great Barrier Reef area south of Cooktown, only in the Hinchinbrook area, which I am defining here is Townsville to Dunk Island—it is a restriction really on the survey data—did the population not decline.

In the 1987 survey, that area contained about 19 per cent of dugongs in the southern Great Barrier Reef south of Cooktown. In 1992 that was up to 32 per cent and by 1994 it was 49 per cent of all dugongs south of Cooktown in the Great Barrier Reef. That increase is essentially due to a decline everywhere else—and I do mean everywhere else. That emphasises the importance of the Hinchinbrook area. It has half the dugongs in that whole area and it is the only place where dugongs have not gone into decline.

The greater Missionary Bay area—on this map of Hinchinbrook Island, this is Oyster Point here; this is Cardwell; this is the jetty; this is Hinchinbrook Island; this area is what I incorporate into Missionary Bay—is without question the core dugong habitat in the whole region between Townsville and Dunk Island. By way of illustration, I have been satellite tracking dugongs in that area for the past 12 months and these are locations from those tracked dugongs and shows the areas that they prefer. This clearly illustrates Missionary Bay, this part of the Hinchinbrook Channel and down around Lucinda. There is some important bias in the data which I will not go into, but essentially there is a lot more use in this area and this area here in the channel and this area here than the satellite tracking data shows.

There is a constant flux of dugongs between Missionary Bay and Hinchinbrook Channel. These are lines joining the locations of just two dugongs that were tracked. Again Oyster Point is marked and Hinchinbrook Island is over here. So, although there is not necessarily a huge density of locations, you can see that there is a huge movement of dugongs up and down; they are not just staying in one area.

The Meunga Creek to Oyster Point area, which is the Cardwell foreshore area, has proved to be a very important dugong feeding area. Again there is Oyster Point down the bottom and Cardwell in the middle. This area between the Meunga Creek and Oyster Point and south of Oyster Point is the largest seagrass area outside that Missionary Bay area in the region. I inspected these 26 sites back in November for feeding trail abundance and evidence of dugongs feeding and much to my astonishment, with the exception of this site which had no seagrass at all and this site here, every site had dugong feeding trails all the way from Meunga Creek to Oyster Point. While I was unable to go down here, I have been there before. I have photographs—in fact, I have got them in my pocket—of feed trails in this area here just on the southern tip of Oyster Point and, of course, I have seen dugongs feeding there.

I guess the final point is that there is some evidence that dugong numbers in the Hinchinbrook Channel, especially in the southern part of the channel, have declined since the 1970s. I will not elaborate. I will run very quickly through some of the likely effects of the development at Oyster Point on dugongs. As you know, it is a marina-based resort so it is going to have a number of effects. It will increase boating activity through the provision of the all-tide, all-weather boat ramp. This is not a criticism; it is a facility that Cardwell has deserved for a long time. It is just a statement of fact that it has, in fact, increased boat traffic quite a bit because local people can now launch when it is quite rough and, although they cannot go across Missionary Bay, they can go into the channel. So it has increased the amount of boating, and that is evidenced by 60 or 70 trailers that now can be seen at that boat ramp whereas before on a similar day you might get 20 up at the not all-tide, not all-weather boat ramps that Cardwell had. That is already happening.

Of course, being a marina with the facilities that it provides, it will attract more boats to the area as well. Then the resort will also change the pattern of boating activity in the area and will increase the average daily intensity of boat traffic. Current boating activities are pulsed on weekends when people do their recreating and there is relatively little boating activity during five of the seven days each week. The resort would operate sightseeing cruises, ferry services, boat hire, reef trips and that sort of thing seven days a week. That will increase both the level of boat traffic and its constancy.

Boat strikes occur in the Hinchinbrook area under the current level of boating activity. In Florida, where there is a great deal of data, there is a very, very tight correlation between the increase in boat traffic and an increase in manatee deaths caused by boats. The boat registrations in the Hinchinbrook area have increased by 24 per cent in the 11 years to 1995, so the level of boat traffic is clearly going up very quickly. The predicted increase in boat traffic is expected to result in an increase in boat strikes as well as habitat alienation.

My final point is that to me the dugongs have highlighted the problems with the environmental assessment of this type of development. The impact of this resort on dugong will occur within a 20-kilometre radius of the site; there is just no question about that. It will occur over many years. It is going to build up slowly so it is not going to be in the next year that it is going to get worse and worse, and the impact of course will be felt forever or for a very long time.

However, when it came to assessing the impacts, the report that Senator Hill commissioned from Russell Reichelt basically assessed the impacts of that resort within 150 metres of the dredging and, in Senator Hill's own words, that was the best scientific advice available. That was then used to justify giving the go-ahead: simply that he had the best scientific advice available. I argue that that is wrong, to put it mildly. As a postscript, both governments have declared a dugong sanctuary over the whole Hinchinbrook area as of 12 January.

Dr Ellison—Mangroves at Oyster Point have been a controversial and emotive ecosystem mainly because they are the obvious ecosystem that has been affected by the development and they are very photogenic. I want to take you to some of the mangrove issues which have come up over the history of the development and point out the scientific aspect of the problem. The value of the mangroves at Oyster Point is twofold. The first is that they are a valuable ecosystem with flora and fauna and of importance to the fish breeding or crabbing up there. You can see from this diagram of mangroves in the Hinchinbrook area that the ones at Oyster Point are in a relatively small area.

In fact, the major value of the mangroves on site is their role in promoting sediment stability in that it is a relatively erosive site. It captures northwardly winds and currents up to the larger stretch of the northern Hinchinbrook Channel and consequently the site is prone to erosion. The mangroves on site at Oyster Point do stabilise the sediment that is there. This shows you the distributions of the remaining mangroves. The mangroves were largely cleared in November 1994 as shown by that first article from the *Australian*, and the seaward edge of mangroves was largely left because of difficulty in getting out that far. The mud bank that you can see there was the previous mangrove coverage.

I went to the site in November 1995 for the Marine Park Authority, which was concerned about erosion problems at the site. It is stated in the report from that visit that other scientists and I found that the site had a lot of features of erosion and that sediment was probably moving offshore into the seagrass depths. We recommended that the site be replanted with mangroves and that monitoring occur to show future erosion trends.

That led to March 1996, when the Australian Institute of Marine Science for the Marine Park Authority replanted about 10,000 *Avicennia* seedlings at the site. That was done in late 1996. Also, a detailed survey was carried out for the Marine Park Authority, the profiles of which are shown here, from which future erosion could be monitored. That survey found that on the site alone 35,000 cubic metres of sediment occurred underneath the mangrove mud bank. Those mangroves stabilised a huge amount of sediment that would otherwise erode offshore. So mangroves were replanted in quite a major effort, many along the seaward edge of where the mangroves are presently.

Later on in the history of development, a lot of sediment was dumped on the foreshore last year, November 1997. A beach was created or sediment was put on the foreshore. That created a different threat to the mangroves in that mangroves are generally thought to tolerate sediment deposition, but in fact they have aerial roots that allow the respiration of their roots in an otherwise very anaerobic substance. In relation to the three species that you can see here—at the top *Rhizophora stylosa*, *Avicennia marina* and *Sonneratia alba* down the bottom—you can see their different root architecture. Those are the different species that

occur at the Oyster Point site. I have gone through the literature and case studies and found 26 cases where mangroves have been adversely affected by sediment burial or have, in fact, died. I have tried to bring out exactly what mangroves can tolerate in terms of sediment burial. There is not much evidence about the *Rhizophora*, apart from the accounts of death, but *Avicennia* and *Sonneratia* can tolerate only five centimetres to 10 centimetres of sediment burial before they go severely under stress.

CHAIR—Sand was put on the foreshore in order to create a beach that was washed off onto the mangroves; is that correct?

Dr Ellison—The sand was put on the foreshore. I have not been involved personally in that stage of the development, but my understanding is based on the GBRMPA report back in November 1995 which shows that the site is erosive, so anything that is dumped on the foreshore will probably move offshore. I am drawing together two conclusions there.

CHAIR—Is it possible to leave us with copies of the overheads that you are putting up?

Dr Ellison—Yes. I want to show you a quick example. Up the top is *Avicennia marina*, with aerial roots about 5 to 10 centimetres in height. Down the bottom you will see this example in Gladstone, where the same tree with this amount of sediment burial has quite obviously died. There are many examples like that, where a small amount of sediment burial severely affects the mangroves.

In summary, it is an erosive site, but over the history of the development the problems have actually changed from erosion to sediment deposition. At present sediment smothering remains a threat to the existing mangroves and also, due to the offshore movement of sediment, it may affect adjacent mangroves as well—mangroves that are some distance away from the development. So the downstream effects of sediment erosion from the site are of major concern. It would be excellent to have continued monitoring of mangrove sedimentation in the area, monitoring of mangrove health, particularly those that are on site, because there are very few trees at the site and they have an incredibly important role in stabilising the sediment.

CHAIR—We are running over time, but I would like to give the committee an opportunity to ask you some questions. No doubt we will once again go through morning tea. I will ask a general question for the panel first of all. To what degree has the scientific evidence that you put before us today—of which, no doubt, you have a great deal more—been suppressed for political or legal reasons? Would you care to comment on that?

Dr Preen—My work has not been suppressed, but I am working in a university, which makes it more difficult.

Senator BARTLETT—Do you think that has something to do with the James Cook University?

Dr Preen—Yes. We find that people who have been working at other institutions have not had the same freedom.

Dr Ellison—I might comment on this. This is a highly controversial development. For individual scientists there is concern about speaking about it at many levels. I came to James Cook University nearly a year ago. This university is excellent in encouraging scientists to speak within their scientific expertise. Other state employers would not give that privilege, so working for the university has enabled me to talk more within my scientific expertise than I would otherwise.

Mr Haigh—From my experience of trying to get scientists to speak, certainly I would say that there was some difficulty with the Australian Institute of Marine Science. The developer was known to contact the scientists. There were degrees, I understand, of threats. Those threats terrorised the scientists, who are not in any position to deal with that. The management in place certainly urged caution. I am not saying that they put on a complete gag, but certainly there was caution. That caution did have an effect on the scientists. Scientists are into science; they are not into going on the media, in effect, or making statements where they are likely to be threatened. That is a problem. That has been an ongoing problem in getting information out to ensure that scientific information is put. The most important thing that can happen when a development is controversial and has any effect on the world heritage area is that information come out. I would say that there has certainly been, in effect, suppression.

Dr Preen—I will read the following article from the *Courier-Mail*. It states:

Mr Williams also warned James Cook University dugong researcher Tony Preen that he would be sued unless he withdrew allegations that Port Hinchinbrook would harm seagrass beds and dugongs. 'I'll serve a writ on Monday if he does not give me an all-out apology for the comments he made in the Townsville Bulletin,' Mr Williams said.

There has been a lot more of that. Several SLAPP writs have been issued during the progress of this development. That sort of intimidation is what keeps a lot of people from speaking out. The history of that case is that the principal funders of the research, the federal government, directed a journalist to me to answer specific questions. Because I was doing the research and I had been directed by the Marine Park Authority, I answered the questions and an article was printed in the paper. Nothing ever came of it. The only thing I ever saw was an article in the *Courier-Mail* in which I was accused of lying. The implication is that I am wrong, that I am lying and that I am going to be sued.

Mr Haigh—Yes, there has been a lot of this. It is well known that SLAPP writs are used in an attempt to suppress information. No-one wishes even to have to defend legal action, even if they believe they are right. The use of SLAPP writs is very effective, and they have been used in this development by the developer who, through this university, has attempted to affect my position at this university and, in effect, shut me up. I am not saying that has occurred broadly in the university, but it has undoubtedly occurred in my instance. That is unfortunate. The university is to be congratulated for rebutting it.

Senator HOGG—I take you back to the early history that you gave us. You said that the site was fairly degraded when it was first developed. It seems to me that this brings up a dilemma that we as a committee will need to address at some stage. Where a site has been commenced for development and is fairly degraded when the developer goes into liquidation, where does the responsibility lie? You said there were two choices: rehabilitation or further

development of the site. Who has the responsibility to determine what should be done with the site? From where is the funding for that to come? There is no sinking fund to which developers must contribute such that if they fall into financial disrepair the site is not left in a similar situation. Who picks up the tab?

Dr Luly—At the beginning point of the development process it was not in a degraded state. I remember that when I first came up to north Queensland there were paperbarks along the edge of the roadway where the current access road is that is now resplendent with palm trees, and we simply find pieces of landscaping. The problem came about because after the development process had begun and site works were under way the development went bust. Your question essentially is one of asking: what do we do with the remains after that exercise? I suppose there are a number of ways of going about it.

One way—and this is the least likely—would be if the various public authorities who have charge of land management processes actually do something to try to stabilise it. In the current economic climate, that is a very unlikely event. Secondly, if you are going to undertake developments in areas that are acknowledged to be environmentally very sensitive—and Oyster Point is a classic example of that—perhaps there needs to be some sort of fund into which people pay a bond of some kind to cover their bankruptcy, if they fail, and the rehabilitation of the site. Mining companies have to pay to rehabilitate their mined areas. This is a reasonable extension into other industries.

Senator HOGG—In your view, who would have the legislative responsibility?

Dr Luly—In my view, it would be the state government, the sites being a state responsibility. However, if you are dealing with a project that potentially has results that propagate into world heritage areas, you could probably raise an argument for some sort of federal contribution as well. The propagation into the world heritage area of this project is one of the key things that is bringing Oyster Point to mind.

Dr Preen—I would like to challenge the claim that it is a degraded site. I would like to know how many people actually went and had a look at the site before this second round. It has been a recurring claim and justification, yet I do not think it was ever seriously looked at. When they started draining the pool in the middle, national parks had to come along and take out a three-metre crocodile. The policeman netted huge barramundi and then sold them off for the local school. The dugongs were feeding offshore. That is my information.

Dr Luly—Although we are saying that a site has been disturbed, one of the things about natural systems is that they do recover given sufficient time. The regenerative processes in a lot of these tropical environments are quite spectacular. An untutored eye may not even pick the distressed sites where disturbance has occurred. The other side of the coin is that disturbance is a natural process in some of these forests. Tropical cyclones are important in particular in rainforest ecology. The disturbance factor referred to in this summary is something that was not there previously. But, as Tony said, these recovery processes often produce things that are just about as valuable as the original.

Senator PAYNE—I wish to clarify your response. As part of the planning process, would you suggest that it would be appropriate to make it conditional on the development

proceeding that, if the site is degraded and not completed, there would be recompense and restoration from the developer? Do you mean from the developer or from the government?

Dr Luly—Yes, that is open. In some respects, if the developer is already bust it is pretty hard to prise money loose from it. The process of funding developments is sometimes a bit of a shoestring exercise in that you have enough to start and, as long as you have a bit of a cash flow, you can keep going. In that sense, they might find it difficult to wring enough money out of a developer before they start the project. In the climate of the current user pays, which seems to be prevailing right, left and centre, it is obviously the developer who has to shell out the money. But the practicalities might mean that you would need a more centralised fund. For example, they could pay an insurance bond or something into a central fund every few years to cover their activities and perhaps some of their mates who do not quite make it. I do not know. I have not given any detailed thought to the mechanisms. I am a palaeoecologist, not an economist.

Senator PAYNE—I think you responded to Senator Hogg that you would suggest that that be done at a Commonwealth level, particularly in regard to sites such as world heritage sites?

Dr Luly—That is where the responsibility lies.

Mr Haigh—I make the point—and I am sure Mr Williams will agree—that the bond is entirely inadequate. It was a part bond. It came up at various points in the process. If that money were to be paid back, its intention to go towards rehabilitating the environment of the site was missed; it was about continuing the development, not protecting the environment. There has never been a proper bond process in this development.

Senator PAYNE—Can you clarify for me at what point in time you are referring to in the history of the development?

Mr Haigh—At the digging of the dirt.

Senator BARTLETT—I will try to pursue one area in the overall theme of this inquiry, which is Commonwealth-state environmental powers. Regardless of which level of government has the authority, obviously politicians at all levels rely a great deal on information from scientific experts about environmental impacts and that sort of thing. I wish to pick up on the comment that Dr Preen made about the Reichelt report and Senator Hill's comment about the best scientific advice available. Can you expand a bit more on that; whether you have experienced or have seen problems in terms of adequate scientific information not being able to be made available either because of constraints of terms of reference being inadequate or reports being changed once they have been submitted, or only parts of them being released, and things like that?

Dr Preen—In that case, obviously the terms of reference were inadequate. They sought information from six people. At least some—I do not know how many—have never been to the site, and I would question their expertise in the areas. Some people, though, did try. In their submissions, some of those six broadened it out into the big issues, because clearly that was what it was all about. But Russell Reichelt, who summarised it, cut it back down,

qualified their comments all the time and then came up with this conclusion that there would be no unacceptable impact within 100 to 200 metres of the dredging area. So I guess he was being directed by his terms of reference. Some of the people who were asked to comment tried to broaden it but were pulled back in. The six people—I do not know whether six is adequate, because they covered a large range of topics. I put in a fairly large submission, being one of the experts on dugongs, and it was never given to Reichelt. So that disappeared. Basically, I think the process was cooked to get an outcome.

Senator BARTLETT—In terms of experience, I imagine that most if not all of you have had experience in giving information to government departments about projects—whether it is this one or other ones. Is that a common experience of bureaucrats either using only parts of reports or indicating back to you that they would really only be able to use certain parts of information, or changing conclusions, or only using some parts of conclusions and that sort of thing?

Dr Preen—I think that was the point. It has really given a useful demonstration on the role of science in society with politics. My observation has been that scientists can put in information, and if it agrees with the people making decisions then it becomes the best scientific advice available. If it disagrees with the direction that the people making the decisions want to go, then it is said that scientists ‘disagree on this matter’. Look at the history of reports done on Oyster Point. There must have been six or so reports done. They were all just replaced by another one until a report came up that said that the project would go ahead without undue harm within 100 or 200 metres of the site. And all of a sudden that one was the best scientific advice available. So clearly, I think politicians spend quite a lot of money to get report after report after report, and as soon as they get one that suits them then that is where it stops.

Senator BARTLETT—So you think this is something that has happened particularly because of this development being so controversial, rather than something that is widespread?

Mr Haigh—I could answer that. There was no real requirement for the precautionary principle. If that was applied properly, given that this is a world heritage area and not a buffer zone, as I said, then those reports would have been sufficient to knock this development out. If there had been proper procedure in law—and I am not suggesting it is going to come through the biodiversity act, either; it is not—then that is what would have triggered the right responses. But that was not there.

Senator BARTLETT—The big issue for this committee is how this is applying across many other proposed developments all the time, and whether this is a common problem or just something because this one has become a heated issue.

Dr Luly—I think there is also a less Machiavellian explanation for some of this process as well; that people’s appreciation of scale is often tinted by the economic necessities. For instance, the Oyster Point story is essentially one where there have been two very distinct scales of scientific endeavour. Scale one is within 100 metres or so of the dredging, and the best available science is brought to bear on that particular site. That may be very good science within the limitations of what has been done. The second is that everyone else is

saying that 100 metres is a very artificial little number. We would like to extend it out into the broader environment where you can demonstrate impacts. That is where there becomes a giant difference in perspective. On the one hand, people say, 'Well, we don't want to pay for a much more broad-ranging study that is going to last a long period.' Time is the other aspect. We expect to get an instantaneous result in an inherently very variable environment, and to get a reasonable trend you are probably talking five or six years at the very least, particularly as we are in an abnormal climate and circumstances now. So this continuity of scale and economics really also play a part in determining what science gets done and what parts of it are acceptable to both the science community and the political people who are making the decisions.

Dr Preen—There is one point that I just remembered, and it is quite relevant. It pertains to the meeting that Senator Faulkner, when he was environment minister, organised under the aegis of Australia's Chief Scientist. This was quite early in the piece. They pulled together something like 14 people from around the country—from a long way to Brisbane. We had a rather busy meeting. Around the table, every single scientist—I do not think there was a single exception, because we had been given terms of reference that we were to look at the site and only at the site; we were not allowed to go beyond that—without exception, from memory, said, 'This is just ridiculous. You cannot look at an impact by constricting it like that.' It was one after the other. The chief scientist who was being given directions by a bureaucrat from the world heritage unit just refused to accept the scientific advice that that was meaningless, so the whole meeting was run on that context; that we were only looking at the site. Of course, the outcome was a fairly neutered effect, because we were not allowed to look at impacts beyond the boundary of the site.

CHAIR—We have run over time well and truly. I wonder if you would be willing to answer some questions that we might put on notice to you. There are still some more questions that we would like to put to you. If you are willing to do that, we will submit them to you. Also, if there is more information which you have, in the form of overheads which you have shown us, and especially the maps, perhaps you could send those to the secretary. I thank you for appearing today.

[10.29 a.m.]

SAENGER, Professor Peter, Independent Monitor, Centre for Coastal Management, Southern Cross University, Lismore, New South Wales

CHAIR—I invite you to make an opening statement. Or, if you wish, we can go straight into questions.

Prof. Saenger—Let me just make a brief introductory statement. I have almost accidentally been involved with Hinchinbrook since 1974, when I first camped at Oyster Point, which was one of the few open sites along the highway. I was one of the experts on that panel of 14 that Senator Faulkner appointed. My recollections are somewhat different from Tony Preen's. But be that as it may, I was a member of that committee. I was also one of the six scientists who were asked to independently review the matters requiring ministerial consent in 1996.

Since March 1997, I was appointed jointly by the Commonwealth by Senator Hill and by the Queensland government to act as independent monitor for Port Hinchinbrook. The reason for the need for an independent monitor will become clear, I hope, when I give the following brief explanation.

I agree with the previous speakers in terms of problems with the decision-making process or the management process as it relates to Hinchinbrook. That stems from the fact that the Commonwealth government has no direct power for the environment under the constitution. It has to seek backdoor ways of finding heads of powers, financial means or otherwise, of obtaining influence in the environment because the constitution does not give it direct powers. One of the powers that has frequently been used is international relations and world heritage, for example, biodiversity conventions, endangered species conventions and so on. Therefore, they have been the instruments by which the Commonwealth government has sought to obtain environmental powers. The other way it can obtain environmental powers is as it has done with the Environmental Protection (Impact of Proposals) Act, which is purely a procedural act which is designed to tie the federal government's own hands. In other words, before we can make a decision, we must follow this process.

As a result of the fact that there are no direct environmental powers with the Commonwealth, they need to find these other areas of power because, obviously, the environment is important, there are votes in it, and a whole range of other things. So we tend to get what we have got here today: emphasis on endangered species, on world heritage and on a whole range of other things without the Commonwealth government having real basic responsibility for straight-out land-use allocation and environmental impact assessment.

CHAIR—Professor, I apologise, but I forgot to ask in what capacity you appear before us today and whether you have an objection to the proceedings being televised.

Prof. Saenger—I am here as the independent monitor for Hinchinbrook. I do not have any objections to the proceedings being televised, or whatever else. I think the emphasis that we have seen in the earlier speakers on pulling out individual bits is purely because of the fragmented nature—uncoordinated nature—of the Commonwealth government's role in

environmental impact assessment. I think that it is as part of that that the independent monitor was appointed. We had at least three Queensland government instrumentalities involved, we had at least three different Commonwealth government instrumentalities involved, each of whom were emphasising special little segments. I think it was not going very far, as a result of which they appointed an independent monitor who, hopefully, brought considerable scientific expertise to the debate but also could have a coordinating role over the thing. That has been my role. That is my opening statement. Now I am happy to answer any questions.

Senator HOGG—If there is no overt Commonwealth power now, do you believe that most of the problems that have been seen here would be overcome if the constitution were changed?

Prof. Saenger—Yes, and I think what you would need is for the Commonwealth to find the courage to conduct a referendum to actually assume direct environmental powers as they did with Aboriginal powers.

Senator HOGG—Is that desirable over the rights of the states and also the rights of the local governments?

Prof. Saenger—That is a question that I cannot really answer. Obviously, the states would oppose that because, like all governments, they are keen to protect their own particular interests. What I am saying is that, unless the Commonwealth really adopts a primary responsibility in terms of the environmental powers, the uncoordinated and sectoral interests of the Commonwealth in environmental management will continue.

Senator HOGG—So we are just going to see a repetition that we have seen here?

Prof. Saenger—Sooner or later, I believe that the same problems will arise. I do not believe that this is any different from other problems that will come up in the future. I think that it had the makings in previous decisions of the same nature.

CHAIR—Can you tell the committee about the regional management plan? I understand that this was a condition of the Commonwealth approval for Port Hinchinbrook. Do you know the status of this plan?

Prof. Saenger—No more except that it is in the process of being done. What the time line is, I do not know, but it is currently being done. I am not directly involved in that.

CHAIR—So your role in monitoring the situation is for what purpose? To whom do you report? Why do you monitor and what do you monitor?

Prof. Saenger—My role as independent monitor was initially to look at the various management plans and safeguards that were built into the project before the dredging and so on went ahead to ensure that best practice was in use and to make sure that whatever steps to minimise the effects were in place. To ensure that then actually performed in the way that it was meant to, a detailed monitoring program has been in place and that involved really verifying the model predictions that were made in relation to the dredging process, to look at

things like the potential for high turbidity in the seagrass areas, to look at the seagrasses themselves, to look at foreshore stability and to look at acid sulfate soil run-off that might be occurring from the dredged areas. I report to a technical advisory group, which has representatives of the Commonwealth and the state governments and the developer on it and I did that during the dredging operations which, by the way, is now complete. The access channel is dredged. I reported on a daily basis. At the moment, I report on a weekly basis.

CHAIR—And you are employed by the developer; is that correct?

Prof. Saenger—No, my actual contract is with the Department of Economic Development and Trade—a Queensland government department—and I am funded jointly by the Queensland government and the Commonwealth government, by Senator Hill's office.

Senator PAYNE—This might not be an issue that arose, but I am interested in your view about the process. If in your reporting of the independent monitoring a problem arose, what flows from that? Do you report the problem of the independent monitor and then what happens?

Prof. Saenger—My role is essentially a reporting role, so that if I feel that we are heading towards a problem or the problem has already occurred, yes, I report to the technical advisory group. I may occasionally, if it is significant enough, contact GBRMPA directly, I may even contact Hill's office, or the Minister for the Environment in the Queensland government, Minister Littleproud. So all of those are possible. In some cases, I will also contact the developer and say, 'You have got a problem there. Fix it.' More often than not, he does.

Senator PAYNE—Can a third party bring problems to your attention?

Prof. Saenger—That has been done.

Senator PAYNE—In relation to the Commonwealth assuming power in this area, do you project that this would be a universal option of power, that is, over all environmental matters in Australia or restricted, for example, to world heritage sites?

Prof. Saenger—It has that now. Under the international affairs powers, by signing a convention and then translating that into domestic legislation, which has been done, the powers are there. What I am saying is that it really is only then emphasising the world heritage process. In other words, the process is only triggered if there is a perceived threat to world heritage values. We have a fairly distorted view of what is involved in terms of world heritage management. What happens is that that is not the same as general environmental management. You are getting it only in certain cases where that power can be brought to bear. What I am saying is that if you had broader powers, whether it involves world heritage management or general land use planning for the whole area, it does not really make any difference.

Senator BARTLETT—You said at the start that you agree there are problems with the decision-making management practice that has been followed to date. Do you see those same problems being repeated? Have we learnt from those mistakes?

Prof. Saenger—I think that in some ways the appointment of the independent monitor is an attempt to recognise the problems with the process and to try to fix them. I think the process will be repeated again and again.

Senator BARTLETT—With other developments?

Prof. Saenger—Yes.

Senator BARTLETT—In terms of your own role as an independent monitor, just how large an area do you monitor? Do you just monitor what happens on site?

Prof. Saenger—Essentially yes, but then you say ‘on site’. If you mean the property, that is not correct. We go offshore, and the monitoring sites are a considerable way offshore, and we have control sites in the channel, which are 1½ kilometres south and north of the site. It depends on how you want to define the site. You could certainly say that the active monitoring is circled from the mouth of Stony Creek in at least a kilometre and a half radius.

Senator HOGG—What do you base your monitoring on? What original base do you use to test whether or not things have degraded or things may well have for some reason improved?

Prof. Saenger—That is probably not really easy to answer. In terms of things such as seagrasses, predredging surveys, maps and so on exist. Immediately following the dredging, the seagrasses were resurveyed and remapped using the same methodology that had been done before. In that case there were some predredging maps. In terms of, say, the actual dredging and the turbidity that it might generate, the dredge operation was modelled and it was suggested that there would be increases: obviously, a certain amount at 100 metres, and a particular amount or a lesser amount at 200 metres, and so on.

What had to be decided on—and this is decided by the Minister for the Environment—was what was an acceptable risk principally on the basis of advice. The monitoring program was designed to ensure that the turbidity that was generated by the dredge was at lower levels than what had been predicted, which was a risk that had been deemed acceptable.

Senator HOGG—But there was really no previous research on which a reasonable base model could have been established over a period of years?

Prof. Saenger—In relation to what? In relation to turbidity, there was data. It was limited, but there was data. Some general water chemistry studies have been done of the channel. There was certainly a reasonable basis for that. It was not wonderful, I agree, but it was reasonable.

Senator BARTLETT—Just in terms of the sort of activities and things you have to monitor in that role, you have to basically oversee all the activity—construction, dredging, et cetera. There would be a fair range of different activities that you have to oversee. What sort of expert advice from people in those various fields are you able to draw on? Presumably, if you have people who are constructing spoil ponds or whatever, you would have to rely on

other people's advice to be able to be sure that they had been constructed adequately and that sort of thing.

Prof. Saenger—The original or the four-partite deed that governs the development has in it independent monitors for each of the individual activities so that in some cases they are spelt out and in some cases they are not. I would have independent technical advice from surveyors who do the foreshore surveys on a regular basis—and four had been done which show there was no erosion—as well as geotechnical engineers who inspect the bund walls and report on their stability or otherwise. I can draw on the expertise of QASSIT, which is the Queensland Acid Sulfate Soil Inspection Team, which is in the Department of Natural Resources. I can obviously draw on the resources of GBRMPA and various other more direct players that are involved. As well as that, I have a department of coastal management at Southern Cross University which has an academic staff of 30, many of whom have specific expertise. As head of that department, I can draw on any of their expertises as I choose to. I also encourage my staff members to go out and make statements and talk about problems in the real world.

Senator BARTLETT—What is your own expertise that you bring to this?

Prof. Saenger—It is fairly broad. I guess I started off by being a mangrove ecologist. I have obviously also worked on water quality; I have specialised on heavy metals in mangrove systems. I also studied law, so I have a reasonable background in the legislative requirements that are involved.

Senator BARTLETT—Just looking at one particular example of activity, as I understand it your authority under the deed is to report environmental risk or environmental damage; is that right?

Prof. Saenger—It is to ensure that the monitoring is dumped in such a way as to minimise harm to world heritage values.

Senator BARTLETT—But if there is a problem, you would report that or you would be required to report that?

Prof. Saenger—Yes.

Senator BARTLETT—In terms of, say, the beach and the mangrove clearing area that we heard about earlier on, just by way of example, that area has now had sand put over the top of part of it; is that right? Some concerns were expressed about erosion of soils back into the channel, et cetera. What sort of material has actually been placed on there? Is that just clean beach sand or is it a mixture?

Prof. Saenger—It is essentially beach sand that has been done. I should say that it is not on the beach; it is really a little bit higher up on the foreshore. The beach is not artificial. If you go back to 1974 air photos when the mangroves were entirely cleared both north and south of Stony Creek, there was in fact a natural beach at high-water mark, which is what I assume Joanna Ellison was talking about. That has been built up because the offset gradient that you need under the Queensland legislation needs to be—I do not know what it is—one

in seven, one in five or something. It is 8.6—there you go. I should just say that of the sand that has been placed, there has always been—going back to the 1974 air photos and subsequently—a sharp line between the sand and the intertidal mudflats. It goes from yellow sand to black mud. That has always been there, and there is no evidence whatsoever of sand moving seaward. There is some evidence that sand moves northwards.

Senator BARTLETT—So you are not aware of any erosion of sand or other soil through into the channel?

Prof. Saenger—Certainly of the surveys that have been done—and there have been four surveys done of intertidal profiles along that beach—there has been no sign during that period of erosion. There is a general northward drift, which has been well documented by the Beach Protection Authority of Queensland over the past 15 years. Yes, there is sand movement along that coast, essentially moving northwards.

Senator BARTLETT—Just in terms of the other issue that has got some attention which is to do with the spoil ponds, acid sulfates and that sort of thing, which I am sure you are well aware of, and in terms of the wide number of expert people whom you are able to draw on, you said before that you had people from the Queensland Acid Sulfate Soil Inspection Team, which is part of the State Environment Department; is that right?

Prof. Saenger—The Department of Natural Resources.

Senator BARTLETT—They have been the ones that have come on site to assess the absence of that stuff; is that right? Have you had people from the Australian organisation that deals with acid sulfate soils?

Prof. Saenger—Are you talking about the Australian Soil Sciences Association as mentioned in your speech in the Senate the other day?

Senator BARTLETT—Yes.

Prof. Saenger—They are a fairly small, amateur, scientific organisation. Their accreditation scheme is a scam, only because it is a farce. At the time that QASSIT did the work on site, they were not accredited. They had paid their sufficient moneys but it had not been sorted out. I have staff members who are accredited by the Australian Soil Sciences Association. It costs you \$60 after you have done a course, which costs you \$260. Even you could become accredited.

Senator BARTLETT—Gee whiz! But those people are obviously more expert in it than I am.

Prof. Saenger—Certain of their members are, yes. If you are referring to Melville, if you are referring to Lin—yes, they are. I talk to all of them.

Senator BARTLETT—I am talking about the ones whom you have access to.

Prof. Saenger—I certainly have access to Melville on a regular basis.

CHAIR—If the committee has other questions that it would like to put—

Prof. Saenger—I will be here.

CHAIR—I was going to suggest that we would put them to you in writing, if you would like to accept them.

Prof. Saenger—Okay.

CHAIR—Thank you very much for appearing today.

[10.52 a.m.]

COOK, Mr Clive Robert David, Manager, Impact Assessment Unit, Great Barrier Reef Marine Park Authority, PO Box 1693, Townsville, Queensland 4810

McPHAIL, Dr Ian, Chair, Great Barrier Reef Marine Park Authority, PO Box 1693, Townsville, Queensland 4810

O'KEEFE, Mr Michael, Manager, Legal Services Section, Great Barrier Reef Marine Park Authority, PO Box 1693, Townsville, Queensland 4810

CHAIR—I welcome you here today. I ask you in advance if you have any objection to your evidence being publicly broadcast.

Dr McPhail—I have no objections to the broadcast or other forms of transmission.

Mr Cook—I have no objections to being filmed.

Mr O'Keefe—I have no objection to being filmed today.

CHAIR—I invite you to make an opening statement or, if you would wish, we can go straight into questions. Mr Cook, are you taking the running?

Mr Cook—Dr McPhail is.

Dr McPhail—Madam Chair, I had not intended to make opening remarks, but on listening to the earlier discussion I think it is important that the jurisdictional complexity of the site in relation to the Great Barrier Reef Marine Park and the Great Barrier Reef world heritage area needs to be understood. I have sent for somebody to bring out a map, but I do not think that they will arrive in time. Would you mind if I did a bit of whiteboard work?

CHAIR—There is only one problem, that is, when you are at the board, Hansard cannot pick up what you are saying.

Dr McPhail—I think that sounds like a positive event. What would you like me to do? I might just sketch very quickly and very crudely the coastline in the Cardwell region and the location of Hinchinbrook Island, with Lucinda down here in the south and Cardwell—in fact, it is probably a little deeper in the bay—in the north. We have running through here what we know as the Hinchinbrook Channel. This is the island, the channel and the mainland. Under the Great Barrier Reef Marine Park Act there is an outer area, the GBR region, that is described as running to the low-water mark of Queensland. It is the low-water mark of Queensland that defines it.

However, this was modified in practice by the Offshore Constitutional Settlement that followed the Seas and Submerged Lands Act High Court case, I think, in 1978—about that time, anyway. The Offshore Constitutional Settlement then introduced, if you like, the concept of inland waters. The Hinchinbrook Channel is defined as the inland waters of Queensland, so that the boundary of the Great Barrier Reef Marine Park Act is, in fact, on

the drawing of baselines here and was excluded from the Hinchinbrook Channel. Therefore, when the Great Barrier Reef Marine Park was proclaimed within the Great Barrier Reef region, it came only to the low-water mark of Queensland and, of course, along this baseline. Under the Great Barrier Reef Marine Park Act, we cease about four kilometres away from the Oyster Point site where the development is located.

However, just to complicate things nicely, when the Great Barrier Reef world heritage area was listed in 1981, it followed the low-water mark of Queensland along the mainland without the operation of the Offshore Constitutional Settlement and it included all the islands as well. So the Marine Park Authority has jurisdiction only to the low-water mark of Queensland within the area proclaimed as the Great Barrier Reef Marine Park. We have no jurisdiction within the Hinchinbrook Channel. However, the Great Barrier Reef world heritage area boundary runs along the low-water mark.

The operation of the World Heritage Convention in Australia is managed through the World Heritage Properties Conservation Act, which came in in the 1980s in order to handle problems associated with the Franklin Dam in south-western Tasmania. It was Senator Faulkner who made proclamations under the World Heritage Properties Conservation Act that the development at Oyster Point, to the extent that it would affect the world heritage values of the Great Barrier Reef world heritage area, required consent. In other words, any activities that might affect the value of the world heritage area required his consent. However, it also creates a very difficult point, of course, because that still does not provide us with jurisdiction over the land. It provides only for the Commonwealth under those proclamations to be concerned about actions that might affect the value of the world heritage area. So that is the jurisdiction.

Senator HOGG—Where does your jurisdiction extend, then, if there are effects from that development into the Great Barrier Reef area?

Dr McPhail—We have a section under our act, section 66(2)(e), which speaks of any discharge—discharge or liquid; I will call it that for the moment—which might affect plants or animals within the marine park. However, the problem here for us would be, at a distance of four kilometres from the point of discharge at Oyster Point, it would be extraordinarily difficult to demonstrate in a court of law that harm to plants and animals had been created by that development. Particularly it recognised—and I am sorry, I have not put it in there—that not very far from Lucinda you have the Herbert River, which discharges into the Hinchinbrook Channel. In times of flood and wet seasons, particularly one as severe as we have had this year, very large amounts of silt are introduced into the Hinchinbrook Channel by way of the action of the river. As well, there are at least two very large agricultural developments south of Oyster Point—very large prawn farms—and these discharge into the Hinchinbrook Channel. Consequently, the capacity under our rather narrowly drawn section 66 to in fact identify a discharge from Stony Creek into the Hinchinbrook Channel as harming plants and animals would be difficult to demonstrate.

CHAIR—That is the end of your opening remarks?

Dr McPhail—Yes. We are happy to answer questions.

CHAIR—Fine. Mr Cook, you do not wish to make any opening statement?

Mr Cook—Nothing further, except to say that the role of the authority in terms of project management was formalised when the Commonwealth became a party to the deed in April 1996. It was at that time that the procedures that Professor Saenger discussed were placed into the deed. They are basic procedures that apply to major projects inside the marine park. The sorts of procedures that we see evidenced in this project management are things like peer reviewing of reports, technical advisory groups and immediate response groups with critical thresholds established through scientific advice. The role of the independent monitor that Professor Saenger illustrated is a crucial element, if you like, of the performance of project management. I suppose that has been our fundamental role—looking at the project in terms of that deed and advising the government about matters that, as Dr McPhail indicated, may affect the world heritage property.

Dr McPhail—If I could just follow that point that Mr Cook made. I should have said in my opening remarks that because we have no jurisdiction to the low-water mark immediately adjacent to Stony Creek we in fact also have no function. We are involved because the deed of agreement that was drawn up between the parties nominated the secretary to the Department of the Environment as the representative of the Commonwealth and he in turn has delegated that function to me as Chairman of the Great Barrier Reef Marine Park Authority. Therefore, in every sense of the word, we act as agents of the minister in managing the project under the World Heritage Property Conservation Act. The minister, if he wished, could use a completely different party to manage the project.

CHAIR—Can you also advise the committee about the regional management plan? Is that something you have any role with?

Dr McPhail—Yes, we do.

CHAIR—What happens to it?

Dr McPhail—The regional management plan is a condition of the deed of agreement and it was the device which was introduced into the deed to ensure that the cumulative impacts of the development could be taken into account. The regional management plan is being prepared under the Queensland Coastal Protection and Management Act and that requires a regional consultative group to be established, which has been established. We have been involved as one of the groups on that consultative group. We have contributed planning expertise to the process as well.

There is a plain language version of the plan due to be released in December this year. I believe it is for the coast. So that is proceeding. There is a plain language version of the draft plan to be released in December. Meanwhile, the Great Barrier Reef ministerial council has made decisions in relation to the management of boats, in particular, within the Hinchinbrook Channel. That is a subject of direct negotiation between the Commonwealth and the Queensland government.

CHAIR—What status does the plain language version of the plan have? Is that an early draft or is it the final document?

Dr McPhail—No, that would be a draft document. I might also point out—

CHAIR—I am sorry to interrupt you. When do you expect the final, binding version to be finalised?

Mr Cook—The process is built into the memorandum of understanding between the state and the Commonwealth, as Dr McPhail said, as a direct fall-out of the deed of agreement in April 1996 that there shall be a coastal regional management plan administered under the Queensland Coastal Protection and Management Act. The memorandum of understanding has in it basic weight points. Unfortunately, to date those weight points have been blown out for various reasons, but essentially the memorandum of understanding envisaged the final plan by December this year. However, that has been extended another six months.

CHAIR—So that deed of agreement has taken two years to date and there is to be another eight months before we have this preliminary document. How long after that before there is a final document?

Mr Cook—I think the intention through the MOU is—we are unclear as to the agreement with the minister as to the absolute extension of time. There is a request from the Queensland government to extend the period of time to accommodate a greater public participation phase of the plan. We are looking at the plain English version going out by December with the final release about 12 months after that.

CHAIR—We have been told earlier today that there are 100 or so projects that are likely to come on stream. What is your guess as to how many of those will be up and running well before the management plan is in place?

Dr McPhail—If you mean 100 or so projects within the Hinchinbrook Channel, I have not heard of them and my resignation is readily available. The management of the Oyster Point project has been an interesting challenge in public administration. Two points need to be made. Firstly, there is a moratorium imposed by both the Commonwealth and state governments on the issue of any further commercial permits for activities within the region defined by the coastal regional plan. We have authority under the Great Barrier Reef Marine Park Act outside of that boundary. So permits that involve the use of the Gould and Brook Islands and other areas close to the mainland are under moratorium. The Queensland government has imposed a similar moratorium on permits within the Hinchinbrook Channel. So there is protection. There are no new commercial permits being issued until the regional plan has been finalised. As well as what I said earlier, the Queensland government and the Commonwealth minister are discussing the question of adequate speed limits and boat channels within the Hinchinbrook Channel at the moment.

CHAIR—Is it your view that this moratorium should be extended to the current project at Cardwell?

Dr McPhail—The moratorium that has been imposed is in a sense a consequence of the proclamations and it is part of the preparation of the coastal plan. There is nothing new about a moratorium being imposed. We have recently conducted major planning exercises in the Cairns region and the Whitsunday region. Obviously, once we announce a planning

process, it would be ludicrous then if a whole raft of permits were to be issued while the planning process was occurring. In both those cases, we imposed moratoria at the time of the announcement of the commencement of the plan. So it is a standard technique that we use to ensure that the purposes of the planning process are not frustrated by a rash of permit applications.

Senator BARTLETT—I just have a couple of questions on what some of the previous witnesses have spoken about. Professor Saenger commented that we are probably condemned to repeat a lot of the mistakes of the past—a lot of the problems with the process that has been followed with this development. Do you agree with that?

Dr McPhail—The original position of the Great Barrier Reef Marine Park Authority prior to proclamations made by Senator Faulkner are on the public record. We had always said that an environmental impact assessment should be conducted on this site. However, for reasons that were considered at the time, the decision was taken that the consent would be given for the development to go ahead but with constraints and conditions.

I was for 11 years head of the local government department in South Australia and then for another seven years head of the Department of Environment and Planning. Under traditional EIA processes, you do get a very large precommencement discussion and debate as to the nature of development and there is a possibility then for the decision makers to decide whether the project should go ahead or not. The weaknesses of that process is that, usually after the development commences, the level of monitoring of the development is quite low. I think you will find that is the case around the country.

The deed of agreement that has been put in place in relation to this project is detailed; it is tight; and it involves four parties. I would think that there are some parties here today who would think that the conditions of the deed were possibly onerous. But there is no question that that deed probably represents in my experience the most significant monitoring and supervisory approach during the development of a project that I have witnessed in the country. So if it may not have met some of the standard approaches in its original consent, it certainly is quite unique in the way in which it is managed during the development process.

Senator BARTLETT—Do you feel that we have learnt enough that we are now avoiding some of the problems with the process in the initial stages of this development?

Dr McPhail—As you know, the major legislation review is being conducted by the Commonwealth at the moment. Obviously, the nature of the EIA process and the approval process will be considered during that review. But this has been, I think, to a large extent, a unique project in that the site already had a series of lawful consents on it prior to the present developer taking over the project. I think that needs to be recognised: there had been a previous development phase where a considerable amount of work had been done before the previous developer went bankrupt during the 1980s.

Senator BARTLETT—I presume GBRMPA has been heavily involved with most of the reviews, various reports, et cetera, that have been put together with this particular development?

Dr McPhail—Yes, we have been involved.

Senator BARTLETT—As to the comment that was made with the initial witnesses in relation to the inadequacy of the terms of reference of those reviews either being too tight or not being broad enough to enable all the full facts to be taken into account—would you agree with the general thrust of that?

Dr McPhail—I simply would not comment on that one.

Senator BARTLETT—The other issue that was raised by the initial witnesses, from their point of view, was the problems of trying to provide scientific evidence in their field of expertise and the problem of legal threats. Have any threats—involving legal action or otherwise—been made against GBRMPA or your staff in relation to this development?

Dr McPhail—From time to time I think our parentage has been questioned. I would like to make one point very clearly, that is, to my knowledge, not one piece of scientific evidence or material has been suppressed. I think you probably all have stacked in your rooms the return to order in relation to this development, which occurred two years ago. Every piece of paper was supplied. In all the reports that have been issued, to my knowledge, all of the scientific material from the independent scientists who have made their contribution has been released. Even if individuals may not agree with the decision that has been taken, they certainly have all the arguments in front of them—for or against. As to all the work that has been done in relation to management plans—the turbidity management plan and the foreshore management plan—we have insisted that all that work be peer reviewed. We believe that any suggestion of suppression is utterly wrong.

Senator BARTLETT—To answer my question about legal threats, have your organisation or individual staff received legal threats?

Dr McPhail—If we could put it this way—at this stage, the authority has not had any writ or any action taken against it.

Senator BARTLETT—Has anyone been threatened?

Dr McPhail—No, I do not believe so. We see our role as professionally and independently carrying the Commonwealth interests in this project. We believe that we have done that openly, transparently and professionally. Consequently we have not been concerned about the occasional outbursts of heat that have occurred from all sides in this development.

Senator HOGG—In relation to GBRMPA's role in its own region, we heard today evidence that suggested that the effects of the development at Oyster Point would reach out to a 20-kilometre radius. That would undoubtedly go into the GBRMPA area. Are you monitoring your own area to determine changes that might be taking place in your own area, not necessarily as part of any assessment program for the site but as an independent assessment? If so, what results do you have?

Dr McPhail—As I explained earlier, there is a moratorium in that area on the granting of any further permissions for commercial tourist operations. That area is under a Great

Barrier Reef Marine Park planning process in order to reduce any impacts from Oyster Point or further development around the Cardwell coast. I must apologise. My map is completely misleading: you should take Cardwell down and put it almost on top of the Oyster Point bump. This area is three kilometres from Cardwell. It is an extension of the Cardwell township. It is not just a question of whether it is this development that would have caused impacts; it would be the natural growth of Cardwell that might also have caused impacts.

Senator HOGG—In general, you have monitoring taking place in your own region?

Dr McPhail—We have taken even stronger action than that. We have put moratoria in place, as has the Queensland government.

Senator HOGG—Yes, but are you monitoring changes, such as changes to the seagrass?

Dr McPhail—I am sorry. That has all been done by the independent monitor.

Senator HOGG—Yes, but is it being done in the area covered by GBRMPA?

Dr McPhail—As you know, we have been heavily involved in major debates over dugong protection. That has involved both using prior seagrass surveys within the region and continuing work on seagrass monitoring. Missionary Bay in Hinchinbrook Island is a major area for dugongs because it is a major seagrass habitat. The regular survey of that will be part of the dugong protection plan that has been put in place.

CHAIR—Would you be willing, Dr McPhail, for us to put questions on notice to you at the end of today? Would you be willing to answer those?

Dr McPhail—Yes, I would.

CHAIR—Thank you very much for your appearance here today.

Dr McPhail—Thank you. I suspect that we will meet again.

[11.32 a.m.]

SILVA, Mr Rowan David, Solicitor/Coordinator, Environmental Defender's Office of Northern Queensland Inc., 451 Draper Street, Cairns, Queensland 4870

CHAIR—I welcome Mr Rowan Silva from the Environmental Defender's Office of Northern Queensland. The committee has before it your submission no. 342, which it has authorised to be published. At this stage are there any alterations or additions that you wish to make to that submission?

Mr Silva—No, there are not.

CHAIR—Do you have any objection to this being broadcast?

Mr Silva—No, I do not have any objection to it being broadcast.

CHAIR—Do you wish to make some opening remarks or go straight to questions?

Mr Silva—I will make a few opening remarks. Our presentation to the committee may be somewhat different from that of others. It is not focused on the case of Hinchinbrook specifically but more on the terms of reference for the committee's inquiry. I should also state that I was not the key author of the submission. That was in fact Andrew Sinclair, the chair of the Environmental Defender's Office of Northern Queensland. He was unable to attend. Therefore, I am attending as the next best person who contributed to it. The submission was not intended as a detailed legal analysis of issues reflected in the terms of reference; rather it was framed as a broad statement about problems with the present system of environmental protection and regulation, and it included recommendations for change, with arguments supporting those recommendations.

In relation to the terms of reference, it was our clear view that the Commonwealth should fully exercise its constitutional powers to protect the environment by regulating activities that harm it. That was emphasised in the recommendations that we made. I will quickly recap on those. We recommended a centralised commitment to identifying environmental concerns, applicable laws, the responsible agencies, notifying those concerned and coordinating the reaching of a swift and certain solution; using the Commonwealth's environmental powers to ensure certainty, consistency and uniformity of environmental regulation in Australia; setting a leading example for other countries in the development and implementation of national approaches to issues which cross the borders of two or more regional governments; enabling business and project managers to seek from one location an indication of compliance with all relevant environmental legislation. I note briefly that the Queensland government has recently enacted an Integrated Planning Act which seems to be the model being adopted by state governments elsewhere. New South Wales has also followed a similar path. That integrates local government and state government and also regional planning considerations, but it does not include the Commonwealth. So we still have this two-tiered system for development approvals.

We also recommended a review of all areas where the states may wish to devolve management responsibilities to the Commonwealth where this can be seen to be in the

national interest. We note there that we recommend what we feel is perhaps the opposite approach to that being put forward in the current reform of environmental legislation by the government in that it appears to be involving the allocation of responsibilities back to the states rather than collecting further responsibilities on the part of the Commonwealth.

Finally, one of the recommendations relating to the Commonwealth's role was the provision of effective and enforceable penalties for breaches of environmental law, with interstate and Commonwealth cooperation in detection and enforcement. Basically, our emphasis was on the Commonwealth enlarging its role, recognising factors such as the fact that the environment itself recognises no state borders and that Australia has unique opportunities for national environmental regulation because it is an island continent. In that sense, on a broad scale it has an ecosystem which does not rely on cooperation and collaboration with other national interests in terms of maintaining processes on the continent.

It was also because of the problems that we see in environmental regulation in Australia, because of different approaches adopted by the various states. For example, vegetation clearance has recently been recognised by the Commonwealth as a serious problem that was emphasised leading up to the Kyoto meeting. It was also recognised that the major source of the problem is Queensland. In Queensland we still have no effective vegetation clearance controls. We believe that if it is a national issue the Commonwealth should use its constitutional powers to implement a national solution.

I should mention that it is further reflected from my experience as a member of a national environmental law network. The EDO has an office in every state, and frequently I am fielding inquiries from other states asking, 'What is the position in your state, because our state is proposing to do this?' There is a collaborative approach towards gathering information about what is happening in different states. Of course, the different states are following different approaches. It is our view that to adequately protect the environment there needs to be much greater uniformity and consistency between the environmental law framework within the states and the Commonwealth.

I do not want to take up too much time, because I know that there are many other speakers, and I wish to leave time for questions. I wish to focus on one issue and give a couple of examples in support of it. It is covered by one of the terms of reference of the inquiry—(viii)—relating to environmental impact assessment. We have the intergovernmental agreement on the environment, and it has set down a certain framework for the development of uniformity and consistency of environmental regulation in our federal system. One item of that relating to environmental impact assessment in schedule 3 states that the process to be applied to proposals from both the public and private sectors should be the same.

Yesterday I had a call from a concerned residents group on the Atherton Tableland about a project being advocated by the local shire that will involve the clearing of a large section of significant rainforest habitat. It appears—and this is one of the concerns of the residents group—that the shire will not obtain for itself or commission an environmental impact assessment. Its obligation to do so falls under the State Public Works and Organisations Act—a Queensland statute that has not been amended for nearly 30 years. It requires as a prerequisite for an EIS that the proposal be likely to have major environmental effects. That is obviously quite different from the EIS regime that operates for private developments

requiring the consent, for example, of that same council, or the EIS process currently available under Commonwealth law under the EP(IP) Act.

I will cite another example involving a Commonwealth interest. Other people in the Mount Amos region, just south of Cooktown, contacted us. This is a very important area adjacent to the Black Mountain National Park and also the Wet Tropics World Heritage Area. A logging proposal is being put forward in a forestry reserve area by the Department of Natural Resources. I have been corresponding with it about that proposal. It has been arguing that under the state act I have just mentioned—it is a state activity—the project is not going to have the major environmental effects necessary to warrant an environmental impact statement. But it is in an area of national estate, so it is listed under federal legislation. However, the federal legislation does not apply and no EIS is required in that area. I see that as a problem where the Commonwealth is assuming responsibilities but is falling down in the area of ensuring that there are environmental impact assessments before development proposals proceed, even in areas where it has recognised that it has an interest.

Finally, in the context of the discussion about Hinchinbrook, I point out that our office is currently representing a client in an appeal before the Planning and Environment Court under Queensland legislation. In that case, an environmental impact statement was prepared. This relates to a marina development project at the southern end of the Hinchinbrook Channel. What we had in that case was a local authority applying to itself for development consent for the project to proceed. At the same time, it was responsible for commissioning the environmental impact statement.

In its capacity as a referral agency which is consulted about the terms of the environmental impact statement, it was arguing very forcefully—and successfully, as it turned out—that the terms of reference should be altered and diminished. There was no public input into that process. Unlike the Commonwealth process, the environmental impact statement itself was never released as a draft. So I just give that as an example of where the environmental impact assessment process between the states and the Commonwealth is very different. We would like to see in an inquiry concerning Commonwealth environmental powers a movement towards the acceptance by the Commonwealth of greater responsibilities and greater efforts at ensuring international best practice standards in environmental management and environmental regulation.

CHAIR—You say in your submission that you would like to see a duplication of environmental regulation. Can you flesh that out a little? Can you also perhaps discuss whether or not you think that formal environmental assessment processes for, say, world heritage areas would likely be appropriate in all situations or, if we were to move in that direction, whether they would become so general as to be of not much use in any case?

Mr Silva—In answering the first question, the comment about duplication was really, I guess, reflecting the approach to the Companies Code, where there was a uniform Companies Code throughout the states and overarching Commonwealth legislation. It was really to ensure conformity and consistency between the two levels of government. You would not have a ceding of power from the states to the Commonwealth: both would agree to have matching legislation which would reinforce each other. That was the intent of the comment there about duplication.

In relation to the formal assessment in world heritage areas, we believe that there should be a mechanism for formal assessment in every case and that the agency which is given responsibility for assessment is thereby empowered to have input into the assessment process. We may have a situation where, for example, under the Environmental Protection Act in Queensland there are two forms of environmental licence. There is a licence and an authority. One needs to be renewed annually. One is an authority which operates from then on. So you would have different forms of approval which would reflect the nature of the activity for which consent was required. One was continuous and the other one might be annual. And in the assessment processes, I am sure you could devise simplified systems so that matters which were unlikely to be of any great concern could be assessed and approved swiftly and efficiently.

CHAIR—You will be familiar with the discussion paper that the federal government has put out about the review of its environment powers. What is your view of the proposal that we move towards bilateral agreements?

Mr Silva—In relation to bilateral agreements, you are talking about the conservation agreements which—

CHAIR—Between the federal government and the states.

Mr Silva—As I have indicated, we believe that the thrust of those arrangements appears to be devolving greater responsibilities to the states at the expense of the Commonwealth. I think that is particularly reflected in the definition of ‘national environmental significance’, which is used as a trigger in the proposed Environmental Protection Act whereby the Commonwealth is basically reserving to itself a role in matters which are clearly of Commonwealth or national environmental significance in place of the states. In our view, as I have indicated already, environmental issues generally do not know and recognise state boundaries. We believe that many environmental issues which are traditionally governed by state systems, for example broadscale agriculture, which in turn affects habitat over large sections of the country and crosses state boundaries, is a matter which is of national significance. But the way in which ‘national significance’ is defined, it leaves the Commonwealth with a narrow role and diminished responsibility.

CHAIR—Presumably these bilateral agreements would cover more than one state. I wonder if you can comment to the committee about the success or otherwise of such agreements in Queensland between the federal and state governments.

Mr Silva—I heard a comment from an officer of the Marine Park Authority which is a good example of a bilateral agreement between the Commonwealth and the state to protect the marine park. It was suggested that the relationship was potentially fragile many times over the long period that the relationship had lasted, but in practice it had proven fairly effective. I guess my view is that bilateral agreements have the potential to run into political problems with changes of government, whereas a strong centralised role by the Commonwealth using its constitutional powers in certain areas may provide greater certainty and consistency over the long term for the environment rather than bilateral arrangements which may vary according to political changes.

Senator HOGG—What role do you see local government playing in this whole issue? We have had evidence before this committee so far that some local government authorities feel that they have a real role to play but they are being locked out.

Mr Silva—I certainly endorse the view that local governments have a role to play. I believe—and this follows on from what I have said about the significance of environmental issues—that the local authorities need to look beyond their boundaries, because those boundaries are particularly narrow, and look more towards regional interests in planning and development controls and the addressing of environmental concerns. That, I think, is the contemporary movement: for there to be a greater emphasis on regional planning through cooperative arrangements between local governments. That is certainly the approach that is currently being adopted in Queensland. We are now seeing throughout Queensland regional development plans on a long-term basis in north Queensland, Far North Queensland 2010 and SEQ 2002—south-east Queensland 2002. The idea is to unite the different local government areas in long-term planning, and environmental planning is a key component of that.

In terms of the powers, I believe that the current approval system which goes through the local government could perhaps be integrated with federal approvals. In Queensland, state agency approvals are now being integrated with local government approvals under the Integrated Planning Act. I believe that, from an environmental point of view, all approval processes should really be integrated, including at the federal level.

Senator PAYNE—I want to ask a question on your submission. You talk about a centralised method of identifying environmental concerns and so on. Could you expand on that a little more for me?

Mr Silva—The idea was basically to set up a national agency—and we have not developed that in any great detail—which would be a repository of information and, basically, in the nature of an environmental protection agency which could be notified of concerns, would receive information about environmental issues, would effectively collate the information and allow for statistical analysis and reporting about the frequency of concerns being experienced around the nation as a whole, and would act as a national repository of information about environmental matters. At the moment we have this federal system, where the states have the major role in environmental regulation. Collaboration in the exchange of information between the states may or may not be good, depending on relationships between the states and the moves which are taking place at any one time, and we felt that a national information centre about environmental issues would be logical and helpful.

CHAIR—From the states through the Commonwealth?

Mr Silva—Yes. We believe that the Commonwealth's revenue-raising powers are one of the bases upon which it can garner to itself a greater role in environmental regulation through imposing conditions on the grants that it makes to the states. It may, for example, impose some form of deduction in the grants that it makes to the states, recognising its acquisition of that role, if it accepted it. Yes, we believe that the Commonwealth should fund it.

Senator PAYNE—In terms of the ongoing operation of existing bodies in the states, what contribution would you expect them to make through such a national agency?

Mr Silva—We would see guidelines being developed for the reporting of information and the pooling of information. I think that becomes much easier and more cost-effective with information technology developments which, we all know, are occurring rapidly from day to day. We would see them performing a formal role in accordance with guidelines which are nationally applicable.

Senator PAYNE—Given the nature of our federation, what practical prospect do you think there is of going down this road?

Mr Silva—I guess it is a matter of resolve. Certainly there are practical difficulties, and we all know that the states' rights issue raises its head on a regular basis when the Commonwealth seeks to assume a greater role in any particular area, but we believe that there are very sound and logical arguments about environmental measures, such as these being in the national interest. We also believe that the mood within the electorate is changing with time. There is clearly a much greater focus and awareness of the environment as being intrinsic to every citizen's life and wellbeing. We believe that if it were appropriately sold, then the political difficulties which often arise under our federal system could be overcome.

Senator BARTLETT—I have a few questions. I am just seeking your opinion; I do not need an expanded answer on it. You are suggesting that we need a greater role for the Commonwealth. Do you believe that the Commonwealth currently has adequate power under its existing constitutional arrangements to do the sorts of things that you see are required or do you believe, as Professional Saenger suggested, that we actually need a referendum to give the Commonwealth a codified head of power in environmental issues?

Mr Silva—I guess a referendum would be a particular course to follow. There are a lot of political considerations as to whether the Commonwealth should use the referendum mechanism. The constitution itself, obviously, was written nearly a century ago. At that time, the environment, I do not believe, loomed large in the minds of the so-called founding fathers. In our view, we should not feel constrained in any definite way by the fact that the constitutional heads of power do not specifically specify the environment as an individual head of power. What we have always had in the federation system is a regular series of constitutional law cases under which the Commonwealth's powers have expanded and contracted. I think, as everyone knows, the recent development is that the constitutional law cases which involved a consideration of environmental issues have generally led to an expansion of Commonwealth power. We believe that the Commonwealth could certainly rely on the trend of the recent decisions to feel confident in relying on existing constitutional powers.

Senator BARTLETT—In your opening remarks you gave a couple of examples: the local council that submitted an environmental impact assessment to itself and the issue on the tablelands that you spoke about of clearing and councils perhaps not following the proper process. Do you believe that the existing legislation to cover that sort of thing is inadequate or is it simply a lack of political will at whatever level of government to enforce what is currently there?

Mr Silva—At times there can be a combination of both, but in those examples it is clearly a situation where the legislation is inadequate. I mentioned that the trigger that the state works under, under Queensland legislation, requires a proposal to be likely to have major environmental impacts. I think nearly everyone supports the principles of ecologically sustainable development, one of which is the precautionary principle. That trigger, for environmental impact assessment, quite clearly is not consistent with the precautionary principle and should be amended.

Senator BARTLETT—Just finally—and speaking broadly as you have been rather than specifically about Hinchinbrook—you obviously have a lot of experience with legal matters, and that is one of the roles that the EDO deals with. On the general issue that has arisen this morning about people feeling like they have had threats of legal action made against them, in your experience is this a common problem that arises with people who try to raise concerns about commercial developments?

Mr Silva—It is a very well-recognised problem. It is well documented. It seems to be an evolving strategy. They are loosely referred to as SLAPP writs—strategic litigation against public participation. It is recognised that it is a strategic legal tool. It is essentially used by people with large financial interests and the ability to use the law to pursue commercial ends. We all know that the law is a very expensive tool to use. The ordinary citizen, generally, is unable to use the law in that way because of the costs that are involved. Unfortunately, the legal process—the legal system—is open to abuse. The phenomena of SLAPP writs is well recognised and certainly occurs in Queensland.

CHAIR—Mr Silva, thank you for coming along today. If there is anything else that you have forgotten about or wish to make representation to the committee on, please feel free to do so in writing. Of course, we have your written submission to take on board.

Mr Silva—Thank you very much.

[12.01 p.m.]

WILLIAMS, Mr Keith, Chief Executive, Cardwell Properties, PO Box 444, Main Beach, Gold Coast, Queensland 4217

CHAIR—I welcome Mr Williams to the table. I apologise that we are running over time as usual, Mr Williams. Do you wish to make an opening statement and then are you prepared to answer questions?

Mr Williams—Going on the time that has been spent by the opponents of Port Hinchinbrook, I think I deserve time to at least correct a lot of the statements that have been made.

CHAIR—Do you have any objection to your evidence being televised and publicly broadcast?

Mr Williams—I do not know about televised and publicly broadcast, because I may say some things that might be considered to be damaging to certain persons. I think we have to take it on the understanding that this was subject to parliamentary privilege and, therefore, I do not want to say things that can be used against me.

CHAIR—I take it then, Mr Williams, that you do not give your consent. Obviously there is parliamentary privilege here.

Mr Williams—If parliamentary privilege does not completely cover me, then the answer is no. Accusations have been made against me which I want to correct. I believe a lot of misleading statements have been made, and I can prove that.

CHAIR—Do you mind if we just adjourn for a moment for a small private meeting? Stay where you are. We will come back to the table in a moment.

Mr Williams—I think you are going to note that what I am going to say is quite acceptable.

CHAIR—I will ask you to confine your opening remarks to the issue at hand rather than to make any statements which may be defamatory.

Mr Williams—Defamatory statements were made against me.

CHAIR—I am not saying that we do not want you to make them. I would prefer you did not, of course, but if you make them, perhaps we can do them further on during the discussion with you rather than in the opening remarks.

Mr Williams—I will try to think as I go through. Because of what has happened this morning, my whole schedule of what I am going to say has been messed around, but I think you have all got copies of the basics of what I am going to say. So if I miss anything out, it will be in that; you have it in writing.

CHAIR—Thank you, Mr Williams. I just make the remark that, of course, these proceedings are covered by parliamentary privilege. I invite you to address the committee.

Mr Williams—First of all, I would like you all to be aware that my office is open to any of you at all times and that there are no secrets in my office; every document is available. Secondly, just to touch on the accusation of threats being made by Dr Preen and Mr Haigh, let me assure you that I do not make threats willy-nilly, but I reserve my right to take legal action against anybody. So there can be the threat of legal action. I reserve my right to take legal action when anybody makes defamatory statements that cannot be proven. That will remain. Let me also say that there have been no threats as such other than with regard to taking legal action.

Getting back to the subject, firstly, I am astounded that this inquiry could be convened here in Townsville, particularly at the James Cook University, which is the hotbed of academics who have opposed this project from day one, and let me say opposed it without one shred of scientific evidence to support their spurious claims. I cannot understand why it was not held in Cardwell, or at least in more appropriate premises. I think you should really inspect the site, because that is the most important thing. It is the site that is in question and its appropriateness for the type of resort that is being built on it. When I say ‘inspect the site’, I do not mean a cursory glance of the site. I am talking about a thorough on-ground inspection which will reveal Port Hinchinbrook’s close proximity to the township of Cardwell and its remoteness from Hinchinbrook Island and the pristine areas of the Hinchinbrook Passage.

Dr McPhail inadvertently made an error—and I wish to put it on the record—that we were three kilometres from the township of Cardwell. Our front gate is, in fact, about 350 metres from the built-up area of the township of Cardwell and the whole of the site is within the urban area of the township of Cardwell. I think that this committee would have been better served if it had walked through the streets of Cardwell and had spoken to the people of Cardwell. Mr Haigh said that, if this project could be stopped, it would be better for the people of Cardwell. The only thing wrong is that about 99 per cent of the people do not agree with Mr Haigh. I find it very difficult to understand why people from Townsville—academics—can come to Cardwell and tell them how to run their town and tell them what is best for their town.

You have to realise that these people have been kicked around from pillar to post for years, starting with Senator Richardson stopping the timber industry and telling the people that their future was in tourism. Where has their future been? The first worthwhile thing in tourism was stopped by the federal government and by Senator Richardson’s own friends. I think you should really go and speak with these people, and not listen to all the things that have been happening and all these decisions made by government under the guise of protecting the environment when they have not been for the purpose of protecting the environment; they have been, bluntly, for the purpose of protecting their own arses.

The opponents of Port Hinchinbrook talk about this project as though it does not exist, but it does exist. It exists and it will only go forward, unless the government wants to open its purse and buy it back, and that has always been my offer. I am not in there for the big dollar; I am not in there because I want to do something spectacular and make money. From

day one when Senator Faulkner made his proclamations, I said, 'You can buy it back for what it cost me, what it has cost me to that day,' and my offer still stands today. I do not even ask for any compensation; I only ask to be paid back what I have paid out. I think that is fair enough. So that scotches any thought about me being the big bad developer in there for the big dollar.

I think you should also look at the other projects that I have developed and see what is wrong with them. The answer is: nothing. I am proud of everything I have done. I am proud of Sea World, Hamilton Island, three motor racing circuits and lots of other businesses that I have started. I like to be proud of what I do. Unfortunately, it is very hard to be proud of what I am doing now because of the antagonism being shown by others.

Since we are talking about it, let us also look at the dredging of the access channel. It is virtually complete and the public boat ramp is enjoying great popularity. There were 120 boat trailers there on Easter Saturday alone. The dredging of the marina basin is virtually complete. The monitoring of beach erosion, turbidity, dredging, maintenance, mangrove removal, acid leachate and seagrass—all of these things are virtually complete. The monitoring has been done. The proof is there. There has been no damage. We have never at any time exceeded the parameters within which we are required to work—not once. There have been no breaches of the deed. Our opponents come out in the paper talking about me making threats and they say, 'We have documented evidence of 40 breaches of the deed.' They have not got documented evidence of one because, if they did, they would have taken some action about it. I can assure you that I have not made one breach of the deed, and I have been meticulous about that.

Let us look at where the place really is. Unfortunately, the equipment does not do it. The first speaker today started talking about 1988. Here are photographs taken in 1974.

Slides were then shown—

Mr Williams—You will notice that all the mangroves have been cleared from the foreshore both north and south of Stony Creek. All timber has been cleared from the site, both north and south of Stony Creek. We went to some trouble when I went in there to redesign the marina from Tekin so that nothing would happen to the mangroves south of Stony Creek—at the entrance. We cannibalised about three hectares of our most valuable land and shifted the mouth north so it only cut into the site and not into the pristine area south of Stony Creek. Do you want to pass that around?

CHAIR—Do you have any objection to this being tabled?

Mr Williams—That photograph was taken by the Beach Protection Authority.

CHAIR—Mr Williams, are you giving this to the committee for our use or is it something you want back?

Mr Williams—Yes, I am quite happy to give that to the committee. I hope I can get some more copies. There is the site when I first took over. There is the site in 1994. That was just about the day of Senator Faulkner's proclamations. That is the site today, which

shows that most of the marina has been dredged. We have only to remove this other area here. There is the dredge at work. I am seriously considering putting a second dredge in to get it done more quickly. There is a photograph from a different direction, which shows the major canal. The public boat ramp is at the end of that canal. We have diverted three creeks through that canal and built the culvert bridge over it. That is the main entrance to the sea. There is a little bund wall across there. After we finish the marina basin, we will close that bund temporarily, put in a temporary public boat ramp so the public will not be deprived of the use of it and then we will complete this, which means just rock revetting. The rock revetting of almost the entire marina has already been completed. Some of the rock revetting in that area has been completed. There is a photo taken on one of the days over Easter showing the boat ramp and showing the rock revetting that will extend all the way around that canal. We spoke about other things that are in that district. I think it was Dr McPhail. There is a photograph of the aquaculture ponds taken quite a time ago, 1995. They have now quadrupled the size of those ponds. You can see Port Hinchinbrook there, not so far away, and the township of Cardwell there. This has been a total case of victimisation being perpetrated by one man, Mr David Haigh. There is no doubt about it being victimisation. Not so long ago, a conservationist phoned him and told him about damage being caused by the prawn farms, that mangroves were floating around the channel, and asked why he did not do something about it. Mr Haigh's reply was—and we can get this on an affidavit—'If Keith Williams isn't involved in it, we don't want to know about it.' If that is not victimisation, I would like to know what is.

We might also have a look at the rest of the slide. I think this gives you a better idea. That was taken looking southward. It shows the dredged spoil settlement ponds in the distance where the spoil has been pumped to. It shows the landscaping that is going on. It shows the marina and the areas that have not yet been grass covered, but that will not be long. You will also notice that our opponents continue to talk about this being sandwiched between the world heritage area and the Wet Tropics area. It is a very strange type of sandwich. It is about seven miles to the Wet Tropics and four miles across the channel to Hinchinbrook Island. We are sandwiched between the Bruce Highway and the railway line that runs parallel to the Bruce Highway and a very muddy foreshore at low tide. That photograph also very clearly depicts the mangrove hedge. We have agreed that that mangrove hedge will be made more robust. That will be done by planting.

According to the deed, the Commonwealth has to undertake the planting at its cost. Its first attempt was a fiasco. I do not know how many plants they said they would put in—it was about 1,000 or 2,000. Not one tree grew. The PVC stakes are still there. If I left one PVC stake in the foreshore, it would be considered vandalism. The Commonwealth has left 1,000 or more, and nothing was said about it. Those trees will be coppiced to a height of four metres at the outside edge. In two years time, in accordance with the deed, we are allowed to clear the growth between that hedge and the foreshore. We wonder why it is, because it is supposedly on the pretext of erosion. There have been four surveys taken over four years that show no erosion whatsoever—in fact, the opposite; there has been accretion.

There was also talk about sand being dumped. Professor Saenger mentioned that. There was no sort of material being dumped. Sand was put there in accordance with what we are required to do under the deed. There is also a patch of sand, which you might not be able to see, down the far end. Again our opponents screamed and said that I had broken the deed.

The deed does not just allow me to do it; the deed says that I must put that trial patch there: 'Must' is the word used in the deed. I have also come back with my offer to leave some of the high-growing mangroves in that outer fringe, even though I am not required to do so, because I think that the whole atmosphere will be improved.

Senator BARTLETT—Is that at high tide?

Mr Williams—That is right, yes. The low-tide mark would be beyond that screen. Low tide is between 300 and 350 metres offshore. Somebody who wanted to be deceptive spoke about the length of the channel, when he knew damn well what it was. It is not 600 metres; it is 450 metres from that rock wall into the point.

CHAIR—Mr Williams, can you also point out where the sand was deposited?

Mr Williams—You can see it. Right at the bottom there is a little rock wall. Sand was deposited there, because our property boundary was out a little further than that. The terms of the deed require me to comply with engineering drawings. Those engineering drawings were approved by the state government and by the Cardwell Shire Council. Those drawings require me to fill the land within my boundaries at extreme tide to a required level and then it is to taper outwards from there at 1:8.6.

CHAIR—What happened to the sand that was put there?

Mr Williams—That is it there. All it is doing is bringing our boundary line to the proper position and putting in the right 1:8.6 taper.

CHAIR—So the sand stayed in place?

Mr Williams—Yes, it stayed in place. I should say that it does move northward. It will always move northward. There is an obligation under the deed to keep maintaining that beach, but that beach has always been an accreting beach. You can go back into the histories of the Harbours and Marine Department and the Beach Protection Authority. It is clearly said that the beach at Oyster Point is accreting. The beach at Meunga Creek, about five kilometres to the north, is accreting. There is slight erosion on Cardwell beach, which is in between.

CHAIR—How often do you estimate having to replace the sand that is there?

Mr Williams—Not very often—it might take two or three years between replenishments. It is a very stable beach. I think there have been various comments made by people; in fact, I think Professor Saenger wrote in one of his reports that it is a stable beach. The two blocks across the green grass there are houses that are being built. They are under construction right now. The loop road is all high-quality asphalt. All the landscaping on that road has been done with foxtail palms, which are native to north Queensland.

The next slide looks from the other direction across towards Hinchinbrook Island. You can see the distance. At the closest point it is over four kilometres. This particular shot, taken a bit further back, is taking in more of the marina. You can see the town of Cardwell

in the background. As I said, it is 350 metres to the built-up area. That is another one taken looking to the northern tip. That point that you can see in the distance—not right off in the distance—is called Hecate Point. If you take a line running directly west from that one, across one of the parallels of latitude, that is the boundary of the Hinchinbrook Channel.

CHAIR—Mr Williams, can you just point out for us the spoil pond?

Mr Williams—You would have to go back to the first one. On the subject of the spoil—in case I do not have time to cover it later—that was the greatest exaggeration in history. It was reported to the department that 15,000 cubic metres of water ran out with 5,000 cubic metres of spoil. The true facts are that the pond will hold only 3,000 cubic metres.

CHAIR—Could you point that out to the committee and tell us where the wall failed?

Mr Williams—It took one hour to fix. I am not at all satisfied, because three intruders were seen trespassing on that site at 6.30 a.m. on the morning before it occurred, right on that site. It happened right there. It ran into some forest country there. Getting back to the pondage—the 15,000 cubic metres was only sea water. It was not acid. It registered 7.6. If you understand acid, you will know that seven is neutral. Below that is acid; above that is alkaline. The water measured 7.6. It was simple sea water. It had been pumped out of around the basin—the spoil was dropped. It was sea water. The amount of spoil that went out they said was 5,000 cubic metres. When surveyed and measured it was 312 cubic metres in its wet, muddy state, and that will shrink to 150 metres in its dry state. So the quantity came down from 5,000 metres to 150 metres. Had the correct facts been given to the department in the first place, I doubt that we would have even heard about it. I said, ‘Don’t overlook sabotage, because we have had sabotage before.’ I intend to go through those items that I have typed up for you, but before I do that I think I should answer some of the comments that have been made.

Senator BARTLETT—Are the blocks at the front—those grassed areas you were pointing out—residential estates; is that right?

Mr Williams—Yes, they are residential. They keep saying that the context of the project has differed. It has not differed from day one. In fact, we have a higher hotel content than did Tekin in its approved plans back in 1988. There is no difference between the copies of the plans presented to the council 10 years ago and those existing today—no difference.

Senator BARTLETT—So the resort part of it was around the back?

Mr Williams—Yes, the resort was all around the marina and at the back of the marina. I should have given you concept plans. I will forward them to you by mail. That will show the layout of the whole thing.

Senator BARTLETT—And it will all be on the northern side of the creek bed? There is no planned development on the south side?

Mr Williams—It will all be on the northern side of the creek, except for another project, which is quite separate, called Cardwell Boat Haven. It will be a servicing facility. The

marina will be a clean, pristine marina. There will not even be fuel—nothing. You cannot paint a boat. You cannot pull a boat out. You cannot do anything. It is a clean marina. All of the servicing is in that channel, which makes it probably the most environmentally sensitive marina in Australia, if not the world. If in one chance in a million there were an oil spill while a boat was being fuelled, we could have a boom across that 60-metre wide section of the channel in about two seconds flat. Not only that, the prevailing winds blow from the east all the time so that any spill would be pushed up to the western end of the channel where it would be able to be dealt with. That is the cleanest situation you can have.

Senator BARTLETT—Those mangroves on the south of Stony Creek?

Mr Williams—They will not be touched. As I said, we placed emphasis on moving our access channel to the north so that those mangroves would not be touched. This slide is of the town of Cardwell. This one is of the jetty. At low tide it is dry at the end of the jetty; it cannot be used. With any sort of wind it is plain dangerous for us to try to launch a boat on the public boat ramp, which is in poor condition, anyhow.

They speak about the look of Port Hinchinbrook from the water. That is ludicrous, because it is only at a level of 3.5 metres as required by the council. We are restricted to only two levels of accommodation—two-storey buildings. By the time the trees have grown, you will not see it. By comparison with our 3.5 metres, Cardwell has a height of 8.5 metres on the main street running right through that whole distance. All of their claims are spurious and cannot be supported.

Dr McPhail spoke about the Herbert and Seymour rivers. For the record, I point out that the figure for the Herbert and Seymour rivers is 30 million cubic metres—I said ‘tonnes’ before. Thirty million cubic metres of silt runs into the Hinchinbrook Passage from the Herbert and Seymour rivers and the tributary system. The water running out of our channel is the cleanest water of any creek entrance on the coast. That is because the big canal acts as a settlement pond. Everything settles out. The water is clean. Those facts are available from Professor Saenger. The recordings show that at all times the water coming out of our channel is cleaner than the waters of the Hinchinbrook Passage. As far as turbidity is concerned, the same thing applies to acidic water.

CHAIR—It may be that this information would be better coming to us in writing in order that we can have an opportunity to ask you some questions.

Mr Williams—I will just go through the headings. I want to go through what was said.

CHAIR—I am just letting you know that we are happy to take whatever you have in front of you in writing rather than going through it all now.

Mr Williams—Respectfully, I would like to ask for a bit of time. In the main, the initial group did not speak on the subject it was supposed to speak on. Furthermore, I am now half an hour over time. I have to answer all of their claims.

CHAIR—We are inviting you to do that in writing.

Mr Williams—I will go over the headings very briefly. We have dealt with the Herbert and Seymour rivers. One thing that Mr McPhail did not mention—and I do not think he would mind my mentioning it—is that on the day before the proclamation the Great Barrier Reef Marine Park wrote a letter to the federal minister saying that its people were aware of the site, that they had inspected it and could see no damage to the environment from mangrove clearing, dredging the channel or building the breakwaters. They were the only three things in contention. On the same day, the Department of Primary Industries wrote a letter stating that its experts had gone over it. It knew that the mangroves had been cleared twice before. They could see no damage. That came from the Minister for the Department of Primary Industries to Senator Faulkner.

As I said, the clearing of mangroves started in 1994. The EIS that has been referred to is the great dark cloud that our opponents continue to draw over the whole thing. The requirement for an EIS is ridiculous, and they know it. It is just a sham to try to gather attention all the time. Firstly, I bought the land with the permits to proceed and without the requirement for an EIS. The permits were granted. If the government had then wanted to go back and ask me for an EIS, it would have had to compensate me because I had the permits. You just cannot go back. I think you know that. You have got to do something about it. They did better than that; they blackmailed me. I make it clear, even though I now know what they did to be the right thing. They said, ‘You have got the permit for the marina basin and you have got the permit to do the job, but you haven’t got a permit’—there was an implied permission; and they agreed to that—‘to dredge the access channel.’ The previous developers had just not done that. Under the Canals Act they had applied for it in stages, but it was known that it was all going to happen. So armed with that they said, ‘We’re going to make you sign a deed with all of the environmental obligations.’ That deed, again as Mr McPhail said, is the most obligatory deed that has ever been put before any developer in Australia and it ties and binds me to every environmental concern, without any doubt, in the extreme.

Somebody said that the developer should be screwed for the money or something. I put up \$1.2 million in bonds to start with. They have not mentioned that. They have not mentioned, either, that when I asked to clear the mangroves I offered to plant an equal area of mangroves on my own land, develop it correctly to assist mangrove growth, and give it to the Crown—it was theirs. They knocked that back and said, ‘No. We would rather you pay \$100,000 for fisheries and mangrove research in the Hinchinbrook Channel,’ and I agreed to that and paid the first \$20,000 of that on signing the deed. These little things just get quietly left out.

I might add that when officers from Senator Faulkner’s Department of the Environment and world heritage liaised with the people from the Queensland Department of Environment, there was a letter on file to say that the deed was a comprehensive and responsible document and went further than would have been expected from an EIS—it went further. It has gone a lot further than would have been expected from an EIS.

The other gentlemen mentioned the one report from the Queensland Department of Environment. They did not mention that there are about three other reports. There are reports from Loader and Bailey and reports from Sinclair Knight Mertz. They did not mention those. They did not even mention the deed, because it was not in their best interests. They did not

mention the Sinclair Knight Mertz report. Somebody said it was not comprehensive. It was about the most comprehensive report you would ever see in reference to the issues at hand—I think there were some 160 pages of it. Unfortunately, I did not have that, because I had no need to get it, before Senator Faulkner took his unprecedented actions and put a proclamation on the property. But you will notice that he made that proclamation only on 22 letters from 16 authors—so six had a double dip—and most of them were from the James Cook University. All of them were academics—every one of them. On the last day, at 3 o'clock in the afternoon, before the proclamations were made, Senator Faulkner was hustling around to get more letters. We have got the fax times when the letters came out of this university—about four in the one 30-minute period—all because they had been asked for to try to back up his case. So that will give you an idea of the fact that there was no scientific evidence.

I see them holding up in front of you the Valentine report. That has to be the all-time joke, because it contained outright lies, and I make no bones about it. The very first thing it said is, 'Williams is building the largest resort that has ever been built in Australia.' They knew damned well that it was nothing like the largest resort. The one I built on Hamilton Island was three times the size for a start. Sanctuary Cove is three or four times the size. It is a small, integrated resort by comparison. That was just one of the lies to start with. There were so many lies in it.

But when it came time for Senator Faulkner to forward to me under legislation the evidence upon which he had made the proclamations, that report did not turn up. So I rang the head of the World Heritage Unit at the time, Mr David Kay, and said, 'I think you have made a mistake. You have left the Valentine report out.' He said, 'No, it wasn't a mistake. I didn't think it was an appropriate document to send.' At a later date he told me what he really thought of it, but I will not repeat it here. If you want to ask me in camera, I will tell you. But that was the Valentine report—a wonderful document for doing nothing.

They spoke about the effects of the seagrass and the surveys being limited to 200 metres. That is subterfuge. Four surveys have been done by Dr Coles, the most eminent scientist in regard to seagrass in this state. He works for the Department of Primary Industries. It covered three kilometres north and three kilometres south of my development, not 200 yards, so do not be fooled by that. The reports are there for you: four reports taken over four years. There is one final report to be taken. But there was a report taken only a few months ago immediately the dredging of the outer channel finished. All these reports have shown no change to the seagrass beds in either area or abundance.

The claim over the foreshore was mentioned as an addition to my land. There has only been a lease over the foreshore for the purpose of stopping the hoodlums from attacking my men while they are trying to do approved work, and attacking the dredges. They have done that openly and been charged and been fined for it. I have said to all people that they are welcome to walk through, fish from, or do what they want in that leased foreshore land. I have particularly mentioned it to the local Aboriginal people, the Giringun people, who asked it of me. I said, 'You are most welcome there any time.' Everybody is welcome there, so long as they stay a reasonable distance away from men and machines that are working on approved projects. I have to keep trimming the mangroves; I have to restore the beach under the deed; I have to protect the channel markers; I have to maintenance dredge the channel.

And I would be subject to harassment forever if it was not for the Queensland government, which gave this lease. They talk about how I got away with another thing: the EIS over—

CHAIR—Excuse me, Mr Williams. I am sorry to interrupt again. I do not know that there is a need for you to respond in this way. None of this material did come forward to us this morning.

Mr Williams—These are all comments that were made by the first group here this morning—every one of them.

CHAIR—I am just aware of the time. If you are going to proceed in detail then—

Mr Williams—I respectfully suggest that the timing has not been very good. I am the person in the hot seat being shot at by about 10 different people and I am the only person who—

CHAIR—Perhaps you could just take on board my request that you perhaps keep those comments as short as possible.

Mr Williams—I will go as fast as I can. They talked about another exclusion from EIS for this land next to me. Very simply, there was no requirement. It was under government legislation that said that if an EIS and requirements have been taken on land adjacent, you do not have to get it. I asked for nothing unusual; quite the normal thing.

Mr Haigh told you a lot about the world heritage legislation, but he never talks about one of the absolute prerequisites of world heritage listing, and that is presentation. He talks about this place as though it should be locked away and nothing should ever happen, but with every other world heritage site in the world they are trying to attract tourists, and they are required under world heritage legislation to present the product. We are doing the best job possible of presenting that product, and none of our activities are going to damage the world heritage area. I gave a voluntary undertaking to stop our boats from going over six knots, while the Great Barrier Reef Marine Park and national parks boats run up and down the channel at 30 knots. I said, ‘My boats will go at 12 knots, and there will be sightseeing cruises; not stepping ashore on Hinchinbrook Island, going ashore only at Lucinda on the mainland and coming back.’ And 200 pairs of eyes have never harmed anything. So all this rubbish about how we are going to harm the world heritage area is garbage.

If I can get down to Dr Preen and his dugongs—it is amazing how things change all of a sudden. He showed you slides, but there is a publication which he put out that has been surreptitiously withdrawn from everywhere. It was September 1997. Try to get a copy of it today. Six incidents, four markings of a dugong in the Hinchinbrook Passage—or five—none really close to Oyster Point, as you can see. But look at the massive readings in Missionary Bay. Dr Preen came to me and asked permission to go out of my entrance to do some more checks only a couple of months ago. I said, ‘Certainly. We would love to do that. But we want an observer to go with you.’ He found a way of making sure that no observer went. He turned up in the middle of the night with a two-man canoe. So I have some grave doubts about Dr Tony Preen’s recordings. There is more likely to be a redrawing. And he talks about dugong strikes. There was no reporting of a dugong mortality with the Department of

Environment. I know about two dugong strikes. They occurred when Tony Preen's boats were racing around trying to catch dugongs to tag them. That is how they occurred, and that is fact. The driver of the boat will attest to that.

They also talk about noise. I am not an idiot when it comes to marine mammals. I did own Sea World and I was involved hands-on with anything that happened there. We never had any worry with noise from boats when our boats were running around within a few feet of the dolphins—in fact, right amongst them at times. So I do not know where that has come from. And why is it that these dugongs are so precious to this channel when, in Moreton Bay, the numbers have revived since the slaughtering of dugongs before the war for the oil. They used to take the oil out of them, as they did with whales. There were almost none then and they rejuvenated to a stage where they were being hunted from about 1960 to 1980, and now there is a population of hundreds and hundreds of dugongs right in the Rouse Channel in Moreton Bay right up near Comboyuro Point, where the main ships go past, as well as all other ships. There would be 50 times as many boats going by these dugongs as there will be in the Hinchinbrook Passage, and it does not seem to have affected them. And we do not get any reports of boat strikes and neither does the Department of Environment.

Dr Tony Preen also speaks about the seagrass, but he does not tell you that there are 30.8 square kilometres of seagrass in the Hinchinbrook Channel. He talks about the manatees. If he had some serious evidence about likely damage to dugongs, he would not be drawing on the manatees in Florida, where it is an entirely different situation—very narrow waterways, narrow enough in some places to take only a couple of boats. Certainly there have been deaths of manatees over there. They are slower moving and a bit hard to get out of the road. But on top of that, it is a totally different set of circumstances. Why dredge up manatees in Florida when we have plenty of dugongs in Australia in various locations? Use examples of what is here, not go off in fantasy land.

I told you about the grazing trials and boat strikes. There have been no reported mortalities of dugongs and there are not likely to be, because dugongs keep out of the way of boats. They graze in shallow land. Boats stay in the channel. That is pretty obvious, so it is a self-correcting situation.

I think I have been through a bit of this. Talking about the history of the thing I will just run through that very briefly. I call the history 4½ years in the political hall of doom, because it has all been political and not environmental. There was 18 months of investigation by the Queensland government, then came the Valentine report, which we have dealt with. Then Haigh addressed the government committee, and I will let you judge for yourself what he said. Then we got the Queensland government approvals after Goss had demanded that he would not sign the deed until he met personally face to face with Senator Faulkner. He went down to Tasmania, met with Senator Faulkner, came back and said, 'Everything is okay,' signed the deed and told me to start work. That worked for about one week and then in came Faulkner with his proclamations. He phoned me and said, 'Would you stop work while we investigate further?' I said, 'You have had full advice'—full advice—'for six weeks. You know all about what I am doing. Why stop now?' He said, 'We do not think that we have enough information.' I said, 'Are you prepared to pay the wages of my men who I have to put out of a job while you do this investigation?' He said, 'No, I will not do that.' So I said,

‘Well, I will not stop.’ Eighty per cent were cleared when I got the first phone call from Senator Faulkner. I am sure that he will agree that that is what I said.

CHAIR—Mr Williams, I will have to ask you to finish in two minutes.

Mr Williams—I will do that.

CHAIR—Then we will have three minutes of questions.

Mr Williams—I got the Queensland government approval before Senator Faulkner’s proclamations. Some of you may not realise that the Queensland government was so incensed with Faulkner’s action that it took full-page advertisements in most of the Australian newspapers criticising the federal government for their action. A lot of people have forgotten that.

On the Pittman report, Professor Saenger was one of those and there were others there—Preen was there—and the two stories are very different but my story is more in accordance with Professor Saenger. I have spoken to many of the people and the end result of that report of 14 scientists, which Faulkner thought was going to support his proclamations, did just the opposite. They said that they could see no reason why the project could not go ahead. If Faulkner had been any sort of a man, at that stage he would have withdrawn the proclamations and said, ‘I have made a blue.’ But who was it? Preen again talking about going on until you get a report that suits you. Let us go through the reports. Over \$1 million worth of reports Faulkner got and none of them proved anything. Not one of those reports said, ‘Yes, there will be damage.’ He got a report on the breakwaters and found that, yes, they were correctly designed. He got a report on the acid sulfates, which told us nothing new. We knew all about what was going on. He went through the Pittman report and he went through the Valentine report. He could not get anything so he cobbled together a group called NECS—nobody had ever heard of them before—National Environmental Consulting Service. Who do you reckon they went to for evidence? Right here to the James Cook University, right into the home of all of those who opposed our scheme, and never got any evidence from anybody who ever supported the scheme or anybody who had any proper scientific evidence, not emotional diatribe. So those are the people he went to.

CHAIR—Can we ask you, Mr Williams, to just finish at that point?

Mr Williams—Okay. I have finished.

Senator PAYNE—I have a question that I want to ask Mr Williams in relation to the bond. Mr Williams, you referred to the payment of a bond of \$1.2 million.

Mr Williams—Yes.

Senator PAYNE—Under the deed of agreement that bond was required?

Mr Williams—Yes.

Senator PAYNE—Can you tell me for what purpose it was required?

Mr Williams—For several purposes. That \$400,000 was in regard to building the boat ramp and an access to it and \$500,000 was in regard to anything that might occur during the dredging of the outer channel and the breakwaters, but at a later date we withdrew the breakwaters because it was just too much of a problem for us to try to cope with. We had stupid comments such as the colour of the rock at the breakwaters might not be aesthetically pleasing and navigation markers should not be there. I do not know how ships get through the world heritage area, but I think they use navigation markers. But that was a good excuse to use against me. That was the bond; five and four is nine and there was—I just cannot think, but anyhow it was \$1.2 million. In fact, there are still bonds in there right now for about \$300,000. One is to do with beach foreshore management and the remainder of the dredging is still being held there.

Senator PAYNE—Who exercises the authority to take that money and spend it if it is deemed necessary?

Mr Williams—I beg your pardon?

Senator PAYNE—Who exercises the authority to take that money?

Mr Williams—That is all covered in the deed in great detail.

Senator PAYNE—You gave evidence about an offer to build replacement mangroves and you indicated that the offer was rejected and the money was given elsewhere.

Mr Williams—Yes.

Senator PAYNE—By whom was the offer rejected?

Mr Williams—The Department of Environment.

Senator PAYNE—The Commonwealth Department of the Environment?

Mr Williams—No, the state Department of Environment.

Senator PAYNE—Thank you.

Mr Williams—This is before the Commonwealth was involved.

Senator PAYNE—Thank you. I have no more questions.

Senator HOGG—Have we got a copy of the deed that has been referred to?

Mr Williams—I think that everybody should have a copy of that deed. You would understand just how comprehensive it is and the fact that it covers everything.

Senator BARTLETT—I have just a couple of questions in relation to the role of government. For example, in your statement you mentioned the prawn farm just south of Stony Creek and concerns about that having impacts.

Mr Williams—Yes.

Senator BARTLETT—Do you think that that development is having potentially negative impacts on the environment?

Mr Williams—It is having and will continue to have a lot more impact than my Port Hinchinbrook project. If we are speaking about water quality in regard to acidity and acid run-off, there has been no acid run-off from Port Hinchinbrook: none. You have to realise that when acid runs into salt water, it is immediately buffered and negated because salt water is alkali, fresh water is acid. The water that runs into our properties from the creeks across the road comes in at levels as low as four. We have had it lots of times at five and it is common to have six. You have to realise that acid sulfate is the natural phenomenon that occurs when a swamp in the inland dries out. You have a very dry spell for a couple of years, then you have a downpour of rain. The material is all cracked and that washes the acid out. If it comes down a very small creek, then it will have an effect. But when it is in an estuary situation, I have never heard of any situation at all where there have been any serious fish kills or anything else in an estuary situation, and we are in an estuary situation. So as soon as this water runs in that big canal, it immediately comes out alkali.

Senator BARTLETT—Do you feel that governments are not adequately protecting the environment in the Hinchinbrook Channel, for example, from other activities such as the prawn farms?

Mr Williams—Yes, I do, because all of these horror stories are exaggerated out of all proportion; they are not real. So yes, I think that there is more than adequate protection for everything at the present time.

Senator BARTLETT—So you feel that the governments are adequately protecting the environment?

Mr Williams—Certainly. In my case, there has been an overkill only because of a handful of fanatics who do not know when to quit.

Senator BARTLETT—In terms of the role of governments—state and federal governments—in your case we have a bilateral agreement and we both have a role.

Mr Williams—Yes.

Senator BARTLETT—Obviously, governments have a responsibility to ensure that the environment is protected. What is your view on the worth of that bilateral arrangement—of state and federal both having a role in it?

Mr Williams—There is a new requirement for changes to legislation, but I have to say that in this case the federal government should never have been involved in it at all. When Faulkner knew that his proclamations were wrong and when the Pittman report came in, he should have pulled out then, as I said. As far as all other issues are concerned, it would have been better monitored by the state government. Let me say this: Senator Faulkner did not ask to be a party to the deed. When Senator Hill asked to be a party to the deed, he was warned

by the state government's solicitors that it would only cause problems. It certainly has caused problems and it would have been better off to stay out of the deed and let that be administered by the state, because 90 per cent of what is in that deed are state matters.

Senator BARTLETT—In terms of the future of this area, as you have outlined the development today, that is basically the extent of what is being proposed? There is no further expansion or other activity over on the island itself that you are suggesting?

Mr Williams—No, I do not. I would no more have thought about going into building a resort in the pristine mangrove forest of the Hinchinbrook Channel than I would think of flying to the moon. I was offered a designated site on the mainland in the township of Cardwell.

Senator BARTLETT—But any other activity on the island as well just to facilitate greater visitor numbers?

Mr Williams—Visitor numbers are controlled by the state government and I have not asked for any expansion of those numbers, nor am I likely to. In other words, it is up to the state government to control visitor quotas to the island. There are places on that island where you could put 10,000 people on the beach and you would not do any harm, but there are other places that are fragile. It is up to the government to determine which is which.

Senator BARTLETT—I had better stop there.

CHAIR—Thank you, Mr Williams, for appearing before the committee today.

Mr Williams—Thank you. I am sorry for taking extra time.

CHAIR—If there is anything further that you wish to put to us in writing, please feel free to do so.

Mr Williams—You can have those copies. I will answer this so-called fact sheet by the Australian Conservation Foundation. It is a very good exercise in how to raise money from unsuspecting people: all you do is tell lies, lies and more lies.

CHAIR—Thank you very much.

Mr Williams—I will point them all out.

CHAIR—The committee will hold just a short private meeting.

[1.40 p.m.]

FITZGERALD, Mr Royce Douglas, Mayor, Cardwell Shire Council, Bryant Street, Tully, Queensland 4854

GIANDOMENICO, Mr Giuseppantanio, Mayor, Hinchinbrook Shire Council, PO Box 366, Ingham, Queensland

GIRGENTI, Mr Angelo, Member, Herbert River Canegrowers Executive, Ingham, Queensland 4850

HARVEY, Mr Alan Sydney, Chief Executive Officer, Hinchinbrook Shire Council, PO Box 366, Ingham, Queensland

SMITH, Mr Gregory Walker, President, Cardwell Chamber of Commerce, PO Box 14, Cardwell, Queensland 4849

WHITEMAN, Mr William Grant, Deputy Chair, Cardwell Chamber of Commerce, PO Box 14, Cardwell, Queensland 4849

CHAIR—I welcome to the table the mayors of the Hinchinbrook and Cardwell shires, together with Mr Bill Whiteman from the Cardwell Chamber of Commerce and colleagues. I invite you to make some opening remarks. I am not sure whether you have organised amongst yourselves who will do that. If not, the committee may go straight to questions.

Mayor Giandomenico—I believe this inquiry was instigated for us to comment on the Commonwealth's environment powers. We in local government believe that the environment is very important to the wellbeing of both locals and visitors alike. Integrated planning is needed, especially with respect to environmental issues. Local government must be—and I repeat must be—part of this approach. The 12 world heritage areas in Australia are all significant tourist attractions. Tourism is a major economic activity and this carrot was waved in front of us when they listed our rainforest areas as world heritage and they removed our timber industry.

Helene Marsh and Peter Valentine have said that the participation of local people can help engender a sense of world heritage and a pride in ownership of the universally important site located nearby. They also said that locals should be in control. I find it insulting that blatant lies have been put forward today. I believe that is an indictable offence, and a few people should have been gaoled. Some of the so-called doctors who have spoken today have insulted their doctorates with their outlandish remarks.

Hinchinbrook Island is not a pristine area as promoted by the media and extreme conservation groups. Hinchinbrook Island and the Channel have been home to cattle grazing, pineapple farming, gold mining, tin mining, timber milling, oyster farming, fish trapping and residential pursuits. Even today the island is burned annually by DOE to prevent it becoming a rainforest naturally. I feel the community would be better served by decisions made by the local community, at all times respecting and protecting the environment, according, of course, to state and federal laws. Please let the community have their say and do not base all

of your decisions and evaluations on extreme minority radical groups with no interest whatsoever in the community. That is where the local authority is coming from.

Mayor Fitzgerald—I am also a member of the RCG, the regional coastal management plan committee. Earlier it was mentioned that it was thrown out. The reason it was thrown out is that it was put together by the Department of Environment and it was not workable. After about six or seven meetings, both the mayor of Hinchinbrook and I decided that it was not a workable plan in the form in which it was put up, and also neither the Hinchinbrook town plan nor the Cardwell shire plan had been consulted. We asked the department why that was not done, and it stated that it was told not to take any notice of it.

CHAIR—To which plan are you referring?

Mayor Fitzgerald—The Hinchinbrook town plan and the Cardwell shire plan.

CHAIR—The town plan?

Mayor Fitzgerald—That is right.

CHAIR—Who prepared those?

Mayor Fitzgerald—Consultative groups. We have a town plan, which was released last May. I think the plan for Hinchinbrook was released in December.

CHAIR—Who commissioned those?

Mayor Giandomenico—That was a statutory requirement under the Department of Local Government and Planning.

Mayor Fitzgerald—Neither of those plans was consulted. We were given a draft book and told, 'Here is the draft. This has to be finished and given to the minister in one week.' We said that we were not interested and we walked out. We could not see where there had been any public consultation. That is one of the big problems with any type of environmental position that comes up, especially in our area. It would appear that the environmental groups are being listened to and action is being taken, but definitely very little consultation is done with people outside of those particular groups.

The RCG plan was taking into consideration freehold land and land that was currently under cane and so on. I have not heard mentioned today the sugar industry infrastructure program, SIIP, which is a \$5 million project that is trying to control the amount of water and floodwaters coming into the bay and also heading towards the Great Barrier Reef. The amount of water that comes through the Tully and the Murray in floodtime is absolutely horrendous. Mr Williams mentioned a figure of so many million cubic metres of silt. When you consider the amount that comes out of the Tully, the Murray and the Herbert rivers and people start whingeing about what is happening when a bit of dredging goes on at the site at Port Hinchinbrook, I really cannot see the equation working out.

Interestingly, if Port Hinchinbrook did not go ahead and, say, for argument's sake, we approved a dozen or two dozen motels around Cardwell, there would be absolutely nothing to stop all of those people owning boats and going out into the area. I do not know why the environmental people have never ever raised that issue. Trawlers were mentioned earlier. If we are going to discuss environmental issues, let us address the whole coastal plan and the problems associated with fish habitats caused by trawling. Recently, there was a fish kill in the Tully-Hull Heads area. There were thousands of dead fish on the beach. It stunk people out of their houses. That was caused by the discharge from trawlers, which was washed in and killed thousands of fish. I have never heard a complaint from the environmental people about that.

The Port Hinchinbrook site was also mentioned. If we go back to what it looked like, say, eight or nine years ago, it was an absolute eyesore. It really was. When the plans and the photographs were shown earlier, we could see that it was very bare—just like a baby's bottom. It was not a very good site. Mr Williams has been working with the Cardwell shire under a deed of agreement. That is something of which we, as a council, are very conscious. I can assure you that, if he steps outside of that agreement, we will be the first to come down on him like a ton of bricks. He knows that. He respects us for it and we respect him for it.

Mr Harvey—Unfortunately, most of the debate that I have heard today has focused on a particular site. I guess that is understandable, given where it is and what it is. From a local government point of view—and I am also a member of the regional consultative group—I share the same views as Royce in relation to where it is going, why it is going there and the potential outcomes. Local government has a mandatory role in preparing strategic plans under the Local Government Act. The plans need to address all of the issues—environmental, social, economic and so on. To separate one from the other is very difficult in the real world, as is being able to state to the communities how you are looking after their welfare and wellbeing into the future.

I wish to take up a reference made earlier by Mr Silva, who spoke about a court appeal. I do not propose to touch on issues that might go before the court, but matters of fact need to be qualified. The land in fact is freehold land owned by the Hinchinbrook Shire Council which was purchased from the Queensland state government following the failure of a previous lessee tenant to develop in accordance with a development lease. The land was purchased at freehold cost by the Hinchinbrook Shire Council.

The development was related to a development control plan that was developed for Dungeness. Dungeness is just near Lucinda, which is at the southern point of Hinchinbrook Channel. This development control plan was done in consultation with input from people from the James Cook University, GBRMPA, the Department of Environment and the DPI. It took a couple of years. In fact, the Queensland state Department of Natural Resources, then the Department of Lands, was the lead agency which put it all together for the purpose of identifying a location which might be suitable for appropriate development. Council, as I said, bought the land at public expense. In fact, we did go through the correct channels—we had no other avenue—of providing an environmental impact statement simply because of its proximity to a fish habitat—the wetland area. Again, that was at the community's cost. That was done by independent consultants. In fact, it is quite normal under the act for a local

authority to itself be an applicant. At the end of the day, it matters not whose name is on the bottom of the application form, the process at law follows—of appeal processes.

It is interesting to note that none of the government departments lodged an appeal against council's proposal. It was done by an independent group; and again, that is before the court. I understand that that group has 32 financial members. Again, the community will pick up the tab from that. Someone raised earlier this morning: who is going to pick up the tab to do this development? The river bank at the particular site is subject to erosion simply because what was proposed to be done now cannot be done because it is bogged down in a legal process. I suspect that that is the nature of the game—which it is—to send the applicant broke, or the community in this case. I happen to be the chief executive officer of the council and, of course, with the mayor here, had a duty of responsibility, amongst other things, to—

CHAIR—Excuse me, Mr Harvey. Can I take you back a bit? The council required the EIS to be done and then prepared it on behalf of the developer? Or was there no developer at that stage? Or was it the defunct developer?

Mayor Fitzgerald—The council was the applicant for the development.

CHAIR—Even though the council is not doing the development?

Mayor Fitzgerald—No, the council will probably not do the development.

CHAIR—Is that a normal practice?

Mayor Fitzgerald—It is not unusual, as I understand it. But the land is freehold land in council's name. Irrespective of who did the development, the council would still be a party simply because it had to give its approval for the application.

CHAIR—If it was freehold land and had never been in the ownership of the council, presumably that is not a process you would go through; is that correct?

Mayor Fitzgerald—If it was freehold land owned by someone else, that someone else would most certainly have put the application in.

CHAIR—So there is some delay in the ownership, is there?

Mayor Fitzgerald—Sorry, no.

CHAIR—I cannot understand the time line.

Mayor Fitzgerald—The ownership process was crown land straight to council. In between that process there was a special lease issued to an independent group that was not fulfilled. Council wanted to see the development proceed in accordance with the development control plan for that particular site. It purchased the site freehold from the Crown in order that this development may be put in place. So that is where it is at the moment. Those are the facts of the matter. I just wanted it to be clarified that no council acts illegally by

themselves in making an application. It is not common, but it is not uncommon, if you get what I am saying. So the whole focus seems to shift to strategic points that probably have no real bearing on the issues. But I wanted to make that point.

Our councillors work quite closely with state departments and have some small involvement with federal government departments, particularly GBRMPA, simply because of our physical location in the shadow of Hinchinbrook. As you would appreciate, it casts a fairly long shadow up and down the coast, up into the hills and into major cities. I believe that the existing structure of local government planning schemes and the Integrated Planning Act, which has been introduced into this state and which is deemed to be—and hopefully it will be—a very good, useful planning tool, if wisely used, can be very beneficial to the community by taking on board all the issues—not just the coastal issues, not just Hinchinbrook, Dungeness or Lucinda, but putting something else over the top of that. This is the problem that Royce was talking about, I believe, with the Regional Consultative Group. There seems to be yet another plan over a plan. After listening to Dr McPhail this morning, I commend him on getting around what it was, because they are very complex issues. But in my opinion, if you put in another set of legislation, another set of rules and another set of appeal processes, we are going to go nowhere. And that would suit some people very well.

CHAIR—Are you referring to the regional management plan that was discussed earlier today?

Mayor Fitzgerald—The regional management plan is, I believe, an overlay of further processes over something that is already in there. If all people play the game, I think it can work quite effectively. Everyone has the right of appeal under all town planning schemes. If you look at the Integrated Planning Act, which is very new, there is a whole process in place where people have to respond in a timely manner and they have to give the right information. What I am suggesting is that surely there is enough information, legislation and procedural processes in place now for normal, well-meaning and well-thinking people to be able to access that and to use it wisely for the benefit of everyone, not isolated groups from either side of the spectrum. Fortunately, we live in a very nice part of the world but, unfortunately, we are running into these sorts of obstacles all the time. I do not envy your job, trying to work out which is which from the discussions I have heard today.

Mr Whiteman—I will firstly address the broader terms of reference that this committee was set to deal with—the issue of the Commonwealth government decision making on environmental policy and the impacts that that has on local communities. Since we have focused on Port Hinchinbrook, I will just refer to the Cardwell area. Sixty-eight per cent of the land area of the Cardwell Shire is now world heritage, state forest, national park or other protected land. The council is struggling to provide local government services with a rate revenue base from less than 32 per cent of the land area of the shire. There is very little room for agricultural expansion. One of the positive sides of that is that we have enormous potential for ecotourism. But for that tourism to be realised, there needs to be some form of positive communication and planning between local communities to gain the benefit, I guess, of those tourist opportunities.

One of the problems that we seem to have encountered along the road is that many of the environmental managers and researchers tend to see environmental issues from the

perspective of their training and their backgrounds in science. They rarely see the implications of their decisions on local communities. The examples are just classic. If you look at all the publications, every management plan that has been produced by National Parks or even GBRMPA—this is one of their latest ones: *Guidelines for managing visitation to seabird islands*. In the summary page, the very objectives of the document say that the guidelines are designed to guide island managers in formulating management strategies and techniques for minimising or eliminating the impact of human visitation. These are very typical of the attitudes conveyed in management plans.

As a commercial operator, we have great difficulty in dealing with the institutional processes of obtaining permits, of dealing with environmental issues and negotiating with government departments to get access to areas. Part of that problem is the lack of clear policy guidelines. You have asked every person who has appeared before you about the coastal planning process. As deputy chairperson of the regional consultative committee, I will give you the details. It was unfortunate to hear Dr Jon Luly's response when you asked him and he said that as far as he was aware that process was dead. I can assure you that it is far from dead.

At the moment there is a memorandum of understanding which has been prepared between the state government—Brian Littleproud, the minister—and the two councils, Cardwell and Hinchinbrook councils. The next meeting of that committee will be on the 30th of this month—next week—and we will be sitting down at that meeting to look at how we will go forward from here to come up with a meaningful plan. There have been two reasons for the extensive delays as to why this process is not already here. The first one was an attempt, I guess, to meet the political correctness of having half the committee comprised of women. This is fact that I am telling you here.

Various interest groups, commercial fishing organisations, tourism, chambers of commerce, were asked to nominate representatives who would best represent the interests of those community organisations. They put forward those names. I believe there were only four or five women of a committee of 21 people. In the process—and it took months—the word came back that there had to be more women on the committee. So there was another round done, but many of these organisations felt that they had already nominated the best person to represent their interests and gender had not been taken into account. So it took many months to sort out the process of the various government departments coming up with enough female representatives to bring it up to a reasonable proportion so that the committee would then be politically acceptable.

CHAIR—The requirement was not understood from the outset?

Mr Whiteman—No, certainly not in the case of the local authorities, our chamber of commerce, the fishermen or those other groups represented, but that is by the by. The fact is that it was a year late getting started.

The whole, sole role of this committee is going back to local communities and putting feedback into the process of the environmental planning that will reach appropriate compromise and appropriate management for the coastal areas of the Queensland coast. Community participation was a major part of that process. The committee felt that it was totally

unrealistic to deal with the many complex issues—on fishery resource management, access to national parks, agricultural, chemical distribution, drainage schemes for the sugar industry—all of those. There would be just too much to realistically try to do in six months. So we sought an extension.

There was an overriding political factor. The Commonwealth government, through GBRMPA, had sought to put in a moratorium. Dr McPhail explained that that was a normal part of their process. The deadline for that moratorium—the 12 months—runs out on 7 May this year. So there was an expectation that this planning process would be all completed and that there would be at least interim guidelines by way of a plain English plan available for ongoing management of the coast until the actual plan became formulated in legislation.

That never happened. The reason why it never happened is that the committee itself said that it was just too much to do. It needs to be done thoroughly; it is too important to rush. So we sought an extension until December of this year. That is now the new deadline. Unfortunately, GBRMPA and the Department of Environment do not have the interim management plans—the draft management plans—that they were hoping to have by 7 May. But the members of the committee firmly believe that the final result is going to be worth the wait and that it will be a proper community consultation process. If we had rushed just to meet a politically expedient deadline, then what we would have produced would not have been appropriate for our integrity as being members of the committee.

Mayor Fitzgerald—The big problem was that there was no public consultation at all. The draft was put together by Department of Environment and then given to us. They said, ‘You have got a week to approve that. It must be signed off tonight because we have to get that back to the minister by next Friday.’ That is why both Pino and I said, ‘It cannot be done.’ It was so thick and we had not read through it and it was absolutely unworkable.

Mr Whiteman—Just to conclude very quickly, one of the big problems that the community perceives is the conflict between science and politics. We heard a number of eminent scientists here this morning speaking about issues—dugong and so on. It is unfortunate that all of those scientists have seen fit to stand up on television and go to the media and also state their political positions with regard to Port Hinchinbrook. It is very hard for people to accept that they are giving an unbiased, factual, scientific representation of issues when they are standing up and making public statements. With reference to the comment that they have been in some way censored, every publication that I am aware of—seagrass studies and dugong studies—is there in the public arena. It is all available for anyone who wants to look for it. I guess this is part of the problem with local communities. The conflict is that people in local communities see the likes of David Haigh standing up on television vehemently opposing Port Hinchinbrook, and then perceive that to be the position of James Cook University. In the initial stages, he was presented in the media as a lecturer of law at James Cook University. So this is a very difficult area for local communities to come to grips with.

What is often forgotten is that people who have lived in an area for 50-odd years do have a very good understanding of natural processes in that area, even though they may not have science degrees. They may not be zoologists who know all the details of dugongs, but from 50 years of observation a lot of the fishermen in that area are very aware of the

movements, habits and changes in dugong population. I guess that it is a bit hard for them to accept when someone stands up and says, 'Dugongs now are only half of what they were 10 years ago,' when people know that in places in our area the dugong population has stayed relatively stable for all of that time. These are also very sensitive issues.

The fact that dugongs are getting hit by boats and the comparative studies with manatees, even the Australian Marine Conservation Society acknowledges that it is an unfair comparison. Manatees live in the confined waters of the Florida Everglades. They have an unfortunate habit of basking on the surface. They are slower than dugongs. The Australian Marine Conservation Society themselves say that they do not really see a problem with speed boats. I suspect that a vessel travelling at less than 20 knots in five metres plus of water poses little threat to dugongs. That is a statement by a conservation group focused on marine conservation, yet we hear such conflicting information being stated to the media about how boat traffic is going to wipe out dugongs from the Cardwell area. For many, many decades, boats have been operating in that area that are much larger than the boat traffic that is there now. These are all problems. I will stop now.

CHAIR—Thank you. If I could ask you to keep it to two or three minutes. That is all we can afford, I am afraid.

Mr Girgenti—I am Angelo Girgenti of the Herbert River Canegrowers Executive. Since we are the dominant industry in the Hinchinbrook, I intended to demonstrate how we intend to manage our future in the environmental area. We are looking to do it more on a local basis with state consultation. Since you have given me three minutes, I will have to cut it short.

Up until now, we have not come forward and said very much at all, because there has been a lack of research on a local basis. At our annual general meeting of state canegrowers, CSIRO released a report on a six-year research within the Herbert River region itself. I will just quickly go through it. I will just refer to item 1 to clarify a lot of the misconceptions. Dr Rob Brand of the CSIRO who is based in Townsville had as a research topic water quality in the Herbert River catchment. In short, Dr Brand's overall assessment, to put it very mildly, was that water quality in the Herbert is of a good standard and also that chemical residues within the Hinchinbrook Channel mudflats are almost what I might call at a non-existent level. So industry impact on adjacent reefs and coastal waters is deemed to be of minimal consequence in the given situation.

Item 2 was by Dr Andrew Johnson of the CSIRO on tropical agriculture. He is based in Brisbane. The topic of his research was land use changes in the Herbert region. I will just touch on it. Dr Johnson has indicated that the popular belief that the Herbert River flood plains were actually covered in heavy rainforest and open forest is incorrect. In fact, in the pre-European area, the Herbert River plains were largely open grass plains.

Item 3 relates to mangroves. The CSIRO's Drs Johnson, Herbert and Murray have established through aerial photography that in 1943 there were 15,156 hectares of mangrove from a region they would call 'the Point', which would be the mouth of the Seymour, which is the south portion of Hinchinbrook Island—the Channel—right down to our southernmost sugar production land, which we call Crystal Creek. Actually, that covers approximately 60

kilometres of coast. Now we are told that we have at this stage—1997—14,706 hectares of mangrove. That was just to give some research into the matter.

Just to give you the area of the catchment, the Herbert River catchment area is 10,000 square kilometres. The percentage that the sugar industry uses of that catchment area—the total—is 6.5 per cent. That is all we use of that entire catchment. So it is something that we can quickly think about: the sediment blooms are made up of more than just the run-off out of canefields. There is quite a large area out there that rains into the Herbert River and hence into the Hinchinbrook Channel. Close to next Wednesday we intend to have a meeting with Hinchinbrook Shire Council, which is armed with the new town planning regulations. As the canegrowers organisation we are going to discuss strategic planning for future expansion.

Just quickly, to assist this in the environmental arena, we have a Herbert River information centre of whom the stakeholders are the CSIRO, canegrowers, Herbert River Council and Queensland Department of Natural Resources. They are the stakeholders in this whole system. Firstly, there will be a flyover that takes photographic images of the entire valley—pristine and agricultural land as well. Then there is information—and this particular information is from the Department of the Environment. The overlays will give you accurate information—in this case, these are riparian zones, wetlands, et cetera. This is information from the Department of the Environment, so these are authentic. What I am trying to get at is that, if anyone else buys a piece of land in, say, cattle country and attempts to convert it into sugar lands, they have to go through this process. These overlays are placed on it and we can quickly identify if there are no-go areas as far as the sugar industry is concerned. This is technology which is some of the first in the state as far as agriculture is concerned. That is just a quick—

CHAIR—I might have to stop you there. I am sorry to do this to you, but we are, of course, constrained by the time of our flight. In fact, I am going to suggest to my committee that—

Senator PAYNE—Can we ask if it is possible for the committee to obtain a copy of the report that Mr Girgenti referred to?

Mr Girgenti—Since you cut me short, I was going to give you all those maps. I was going to give you this atlas and we have a CD for the purposes of a quick examination. You can have our sustainable growth code of practice and you can have—and I hope you all look at it—a film. But, wait, there is more.

CHAIR—Can I ask you if you would be willing to take our questions on notice? We really must finish this session now, I am afraid. Do you want to say one thing in conclusion?

Mr Smith—If I have the opportunity.

CHAIR—I invite you to put this in writing to the committee and we will take it on board.

Mr Smith—There is one thing I would like to touch on quickly. Bill touched on the point before that scientists are being scientists and then spouting their political views on TV.

There are other ways they do it, too, and it makes it hard for the average man in the street to see whether they are being unbiased or biased. An example of the sorts of things they come up with is a postcard that was done up 'World Heritage to be destroyed: Hinchinbrook Island'. There is a spiel on the back, which you can read at your leisure, which is full of misinformation and just about straight-out lies. The gentleman at the bottom did it.

CHAIR—Thank you for appearing before the committee today.

Senator BARTLETT—This may be for my benefit as the Queensland senator, but presumably what you were going to say you could put in writing in your submission. If you would do that, it would be good.

Mr Girgenti—I just want to say something in relation to this film. We commissioned a consultant to finalise this film and edit it. We have actually got this consultant's card. You can phone him as to the authenticity of this film once you view it. I have actually put it in here for you and I would be very pleased if you would take all this and use it.

Mr Fitzgerald—Take a note of the wording of the program under the Cardwell Shire. That really does give you control of flood waters, et cetera, and that is available.

Mr Smith—There is just one comment I would like to make as well. I would like to support Keith's earlier statement. I have a real concern that this meeting was held in Townsville and not at Ingham, Cardwell or Tully. The people from that region have had to travel 170-odd kilometres down here today to come to this meeting—one that is about our area—when all the academics who have spoken here this morning have simply had to come from their staffroom and walk up the passageway over to here. I just cannot understand why it was held at this location when you obviously went to Stradbroke Island yesterday and not to Brisbane City Hall. I would not mind an answer on why you did not go up there actually.

CHAIR—The committee has to make decisions about where it will conduct its hearings according to the facilities that are available and where the witnesses are coming from. We take on board your comments and apologise for you having had to travel a great distance.

[2.15 p.m.]

HEINSOHN, Dr George Edwin, President, Townsville Branch, Wildlife Preservation Society of Queensland Inc., PO Box 857, Aitkenvale, Queensland 4814

MOORHOUSE, Ms Margaret Jeanne, Executive Member, North Queensland Conservation Council, Po Box 364, Townsville, Queensland 4810

TAGER, Mr Jeremy Evan, Coordinator, North Queensland Conservation Council, 340 Flinders Mall, Townsville, Queensland

THORSBORNE, Mrs Margaret Grace, Honorary Life Member, Community for Coastal and Cassowary Conservation, Po Box 165, Mission Beach, Queensland 4852

CHAIR—Welcome. The committee has before it submissions Nos 264, 293, 251 and 171 which it has authorised to be published. Can I ask you at this stage if there are any alterations or additions you wish to make to those submissions?

Mrs Thorsborne—We will probably be expanding on them.

CHAIR—Of course. I invite you to make some opening remarks or, if you do not wish to do so, we can go straight into questions. Have you organised amongst yourselves how you will present today?

Mr Tager—We actually did not know we were all going to be appearing at the same time.

CHAIR—Perhaps we can start with you then, Mrs Thorsborne.

Mrs Thorsborne—I am expanding on C4's submission of last June in relation to the Commonwealth environment powers. One of the many concerns of C4 is that, while the partial sale of Telstra is directed to funding environmental issues, considerable emphasis appears to be on repairing and replanting badly degraded areas such as creek and river banks and wetlands. At the same time the same degradation of remaining unspoilt areas—the same sorts of areas—of creeks, rivers and wetlands is continuing. In the past, ignorance could be blamed for this, but no-one has that excuse these days.

The future cost of the repair of these areas could engulf the funds from the sale of the whole of Telstra, not just the third, for repair does not mean just planting trees; it also means years of after care to ensure planting and any other work are a success. This is Commonwealth taxpayers' money and the Commonwealth should become more involved in the protection of our very important non-degraded areas not only for the waste of public money involved in future repair work but for the effect that these bad practices have on siltation, erosion, loss of topsoil, effects on neighbours' land downstream and eventually the fishing industry, the coral, the fish, the seagrasses and the other marine life of the Great Barrier Reef. The transformation from clear, beautiful, running, tree-lined waterways and wetlands—the wetlands that are so important as flood filters as well as for their beauty—into weed-

lined, muddy drains is not a legacy that we would be thanked for by the young people growing up now or by the people of the future.

It is three years since the draft mahogany glider plan came out. As yet, there is no management plan. The reassessment of mahogany glider distribution of 1997 proved to be totally inadequate. There is uncertainty in the farming and grazing community. The clearing continues. The mahogany glider is listed under the Endangered Species Act. It is essential that the Commonwealth does not devolve its powers to the states, but takes a more active role in the protection of the glider and its habitat.

The cassowary is a threatened species under the Commonwealth, but is an endangered species under Queensland law. The vegetation clearing is a major threat, but the issue of clearing is not being addressed by the Queensland government. We would suggest that the Commonwealth convene meetings of state and local governments to work out cooperative, reasonable and fair ways, including tax and rate incentives, to protect remaining riparian areas, wetlands, cassowary and glider habitats and all the other systems listed of concern or threatened. What we have now is all we will ever have.

Though we sometimes do not agree with Commonwealth policy, we emphasise that environmental protection should be enshrined in the constitution and that the Commonwealth's environmental powers are not only confirmed but expanded. You have the Community for Coastal and Cassowary Conservation submission, do you not?

CHAIR—Yes.

Senator HOGG—You put forward a concept of some tax or rate rebate. Do you have any specific ideas how that would operate?

Mrs Thorsborne—If the riparian vegetation land were left uncleared or if other important corridors were left uncleared, the landowner should be compensated. I think that would have to be worked out with the various government agencies.

Mr Tager—The Commonwealth government has produced a document on those kinds of incentives to be given to land-holders in order to protect the environment further.

Dr Heinsohn—I think probably the best thing I can do is endorse what Margaret says. As you can probably tell by my accent, I was not born in Australia, but I have been in Australia for 35 years. I have children and grandchildren here now. I am a proud Australian. I have been involved with conservation since I came to Townsville. I rather facetiously said that I was part of a James Cook conspiracy. That is really not true, because there is no such thing. One of the things that has always concerned me in this country is the relatively low level of Commonwealth involvement in being able to take care of environmental problems. It is something that concerns me. There are national parks, but there are no really true national parks, because the national parks are controlled in the main by states, with some exceptions.

The world heritage concept, which ensures federal government protection, is extremely important. There must be no erosion of that. There should be no erosion of the Commonwealth environmental powers that do exist. This is a point of major concern. I can give some

examples. National parks can be relatively easily exploited, because they are the state parks. It is the state government that can affect them. In the Hinchinbrook region and Townsville region, which I always consider to be protected areas, there are several state forest areas that have been degazetted. There was a part of a state forest that was degazetted about 1996-97 and was converted to cane fields. Some of that state forest area was probably mahogany glider habitat and also would have contained cassowaries. We also have another state forest up the road, of which part of it was lost to grazing interests and to aquaculture. I think there are some other examples that Margaret might know from her own area. Those are some of the types of concerns that I have. In order to have permanency of conservation, it has to be conserved at the very highest level, which is the federal level. At the same time there must be a huge amount of local input and, of course, obviously state input. It has to work at all levels. There has to be local interest and pride in the animals, wildlife and vegetation in a particular region. I think that is all.

There were some questions asked about suppression of information. I have one good friend who is a senior scientist at the Australian Institute of Marine Sciences. He is an oceanographer, an expert on currents. He did quite a bit of work in Hinchinbrook Channel, but his work did not go into any of the submissions. That is his claim. He has had trouble publishing his work, although he is a world authority on oceanography. His work dealt directly with the impact of mangrove clearing on seagrasses.

Mr Tager—I am wearing two hats here. If I could, I will wear my Catholic hat first and then address some of the questions at Port Hinchinbrook. I do not think there is much doubt that the three major environmental threats that are facing Queensland are land clearing—coastal development control in the Great Barrier Reef Marine Park region. The claim that environmental groups ignore those is actually completely false. If you look at the more coastal zones, sugarcane expansion is a major problem in the Herbert and Murray Rivers area. Mention was made of this SIT package. What that package proposes to do—in the Herbert region, anyway—is to bulldoze a river through mangroves that have not previously been disturbed in order to allow drainage off caneland, which was inappropriately planted in the first place. There are a number of practices relating to sugarcane land that are ongoing concerns. They related to failure to preserve riparian areas, destruction of remnant vegetation—actually, 70 per cent of the coastal lowland forests have already been destroyed in the name of primarily sugarcane and also grazing—the disturbance of acid sulfate soils and movement into intratidal areas and the planting of cane in intratidal areas. If you go near Lucinda, at the very highest tides you can sometimes see cane under water.

Trawling is perhaps the most destructive practice allowed in the Great Barrier Reef world heritage region. For every kilogram of prawns that ends up on your plate, there is an average of about 10 kilograms of waste or biomass that is allowed to die and is thrown back into the sea. It destroys the sea bottom. CSIRO estimated that at one pass of a trawler, 20 per cent of the biomass is lost; at 12 to 15 passes, up to 90 per cent per cent is gone. They estimate that about 80 per cent of the Great Barrier Reef world heritage region is open to trawling. Fish kills are obviously a concern. They are only a symptom of far greater damage being done by the trawling industry. That also includes the death of endangered species. It is the greatest cause of sea turtle mortality. There are six threatened or endangered species in Queensland waters. The greatest cause of sea turtle mortality is prawn trawling.

Finally, I turn to coastal development—and I will refer to Port Hinchinbrook in a minute. At the moment, it is estimated that there are between 150 and 180 major coastal developments along the coast of Queensland. Port Hinchinbrook is only one of them, but in toto and cumulatively that figure represents the total aggregation of the Queensland government's responsibility to protect the coast for all people and to protect world heritage areas. All of those uses and all of those environmental factors are under the control of the state government. I think that if anybody looks honestly at the state of the environment in Queensland and at the state of the environmental laws and the way they are enforced in Queensland, they cannot honestly say that the Queensland government is either competent, willing or able to fulfil its obligations.

There is an urgent need for umbrella-type legislation from the Commonwealth in order to ensure that the minimum standards are met. George mentioned the kinds of protection in the United States. If the kind of structure that exists in the United States were applied here and if minimum standards were set by the Commonwealth government, that would allow the states to set their own legislation provided that it met minimum standards and provided that they were willing to enforce the laws that they pass.

Senator HOGG—You said that there were 150 to 180 coastal developments. Of those, how many would be good and how many would be bad? Can you give us a rough break-up to give us some idea of the problem?

Mr Tager—I do not know whether I could break it up in that way. Part of the problem is that a lot of the project proposals have been on the books for a number of years. It is very difficult to tell whether they are current or not. Keswick Island is a really good example. That involves a proposal to develop an uninhabited island off Mackay. Barrier Reef Vision is proposing to develop four bays, two marinas and an airport. The state government has already given approval in principle for that. GBRMPA has decided that an awful lot more information is required before any kinds of approvals can be given.

Senator HOGG—So not all of those developments are current?

Mr Tager—Some of them are current, some are pending, some have partial approvals and some are simply conceptual. It changes fairly constantly. It is hard to tell, say, with something like a Tully-Millstream that constantly resurrects itself, whether in fact a project has disappeared or not. The Great Barrier Reef Marine Park Authority has that map. Its map lists 184 projects. I am somewhat circumspect about using that number, because at this stage nobody is entirely sure how many of them are in fact still current or whether any other approvals are on the books.

I would like to table several letters that form a chronology of the regional planning process. The series of letter represents correspondence between the environment minister and the Queensland Conservation Council. The minister actually threatened to withdraw funding from the Queensland Conservation Council on the basis of statements it made in relation to Oyster Point. In reply to him we pointed out that the 10 reports that he cited in his letter giving support to Oyster Point in fact do not do so. Mr Williams mentioned that there is not a shred of scientific evidence opposing Oyster Point. Virtually every scientific report, except for the ones paid for by Mr Williams, have either called into question the development and

have said there is not enough information to proceed or have said that an EIS is necessary. I think there is fairly conclusive scientific evidence. The kinds of approvals given and the lack of processes instituted are pretty damning. The other document is a chronology of the regional consultative plan.

Briefly, I wish to address some of the issues brought up by the mayors. In relation to the question of the town plans not being considered, several requests were made for town plans to be considered by the regional consultative group. Those town plans have never been tabled at the RCG meetings.

In relation to the question of freehold land, the coastal protection and management plan envisages an integrated planning process that allows regulation and control over freehold land and all different kinds of tenure, both state and private. The efforts by the mayors to remove freehold land from the planning process, which in fact is what they have admitted to doing, will make that planning process completely useless. If, as they argue, there is enough legislation in place to allow proper environmental protection at a regional level to take place, that would be appropriate. I would disagree with that strongly. I think there is no regional planning process in place and the Integrated Planning Act is not a document that will provide environmental protection anywhere in the state.

In relation to the composition of the RCG, the mayors mentioned that the sole role of the regional consultative group was to go back to local communities and consult with them. That is not in fact the case. The primary objective of the act is conservation of the coastal zone, which can extend all the way back to the catchments. The obligations of the regional consultative group under that statute are to consult not just with the local community. We are talking about two world heritage areas. We have argued that that consultation should be very broad. The other obligation is to provide advice to the minister. In fact, the representation on the RCG is heavily biased in favour of users of the area and heavily biased in favour of the local region. There are four conservation representatives on a panel of 25.

Finally, they keep mentioning the draft that was rejected by the mayors and which was the cause of much consternation. There has never been a draft management plan under the coastal act. There has been a draft discussion paper, which was rejected by the RCG very early on. There has not been a plan.

In talking about environmental laws, I think the notion underpinning environmental laws is clearly an ethical one, or it should be. The notion behind virtually every piece of environmental legislation is to protect and conserve things to ensure that future generations have access to them. But what seems to happen at a government level—and it happens more and more as you get down to local government or state government levels—is that the ideology twists the ethics until the ethics are gone. We begin to see laws implemented mechanically rather than ethically. In part, this is because the laws themselves are so weak that they allow so much discretion and are so incapable of allowing community involvement, accountability and public access to the laws.

I think Port Hinchinbrook is a monument to lawlessness and to the ineffectual nature of environmental laws in Queensland—to the failure, bastardisation and flouting of laws. The whole question of threats has come up. Mr Williams has attempted to minimise that issue by

saying that it is a legal right. Certainly, it is a legal right for him to threaten people. But the fact is that the threats extend to government. We know that at least two DOE staff have been threatened with lawsuits, one at least a half a dozen times. We know of one DOE staff member who was removed after lawsuit threats were made. That is not a viable way of conducting government, if you are continually subject to those kinds of threats. It may be legal, but it does not make it correct or right.

The states' record on environmental protection is so poor that we would argue very strongly that any devolution to the states, based on their present conduct, is completely inappropriate. Again, I point to Port Hinchinbrook. Firstly, they waived the EIS requirements. They agreed with Mr Williams that the Tekin permits were appropriate. In fact, the project has changed substantially since then. They ignored EPA licence requirements until we brought them to their attention. We had to seek legal advice, even though we brought it to their attention before that. It was not until legal advice was received that they actually insisted that Mr Williams get a licence for his dredging. They have ignored a number of acid spills. Margaret will speak to the deed and the 50 breaches. We can document all of those and will be glad to do so.

The state government has ignored the illegal construction of pond walls using acid sulfate soils. It has ignored the illegal clearing of mangroves. It has ignored the dumping of sand on the beaches. It has given an EIS waiver over a 12-hectare site that is not a separate project; it is part of the same project. One should ask Mr Williams why he wants the 60 hectares south of Stony Creek—the mahogany glider habitat—for recreational purposes. One should also ask him what he intends to do with the additional 250 hectares he owns further south. Are we going to see an incremental death of the region through a massive development that is disguised as a single 26-hectare resort development that is gradually and quickly growing bigger?

If he asks for a golf course, a water theme park or an airport, what is the state government going to do? When he asks for an expansion at the airport, which he has raised before, into the Edmund Kennedy National Park, will the state government say no if, with hat in hand he says, 'I'm losing money because I can't get access to Hinchinbrook Island or Brook with the bulldozers'? Is the state government going to say, 'No, you can't have access.' We know perfectly well that it is going to say yes, because it always has.

The MOU that was signed ultimately as a result of the concerns given extended the travesty of Port Hinchinbrook into the whole region. You have heard a bit about the planning process. I tend to agree with some of the mayors that the planning process thus far has been a disaster. In fact, I think it has been a clear demonstration of the inability of the state government to properly plan and to implement environmental regulations. Both the state environment minister and the Premier have fallen over themselves to demonstrate how little they know both about process and in fact the statute under which they are presumably acting. Dr Martin Robinson tabled some material on the planning process. I table a chronology of that. That demonstrates how inadequate the process has been.

Even the 31 December deadline is going to be a joke when you remember that the draft plan for the wet tropics took eight to 10 years, as did the one for Hinchinbrook Island. They are still trying for one for Hinchinbrook Channel. The notion that you can get a draft plan in

place in a year or even two years for an area that is so complex, with so many conflicting uses and so much contention, is a dream. Unless the Commonwealth government comes in and says that we need to make sure that this is done properly, we are going to see a plan that is a non-plan, that is in fact given over to the mayors to integrate into the planning schemes, to the Integrated Planning Act. Unless that happens, the Coastal Protection and Management Act will mean virtually nothing.

Ms Moorhouse—I will address the usefulness of deeds. Before I do, I will raise a few quick points arising out of earlier comments. Trevor Webb mentioned the environmental review report that the Queensland government did for the proposals for Oyster Point, but he did not mention that Mr Williams had considerable input into that. I have here a copy of the deed and one of the drafts with his handwriting on it. I can give that to the committee later.

Joanna talked about sediment being deposited on the foreshore at Oyster Point. Somebody here used the word ‘sand’ and she took it up and used the word ‘sand’. Therein lies the whole problem, which I will come to later. Material that has been put on the foreshore is not pure beach sand; it is sedimentary material. It is material excavated off the site. What is left on the beach eventually might be sand, some of it. The rest of it is washed away—the soils, the silts. If there was acid sulfate material, then the whole lot has gone out into the Great Barrier Reef lagoon.

When it comes to suppression of documents, from the re-permit assessment record that was done by John Hicks of the Department of the Environment on the mangrove permit for Cardwell Properties in the first instance, that was suppressed. He was overridden by higher delegates. In fact, he addressed all the issues under the standard criteria, Department of the Environment. I can certainly supply you with a copy of that. The dugong issues, the whole bit—they are all addressed in there. He was not recommending that anything should go ahead. In relation to the experts meeting in November 1994, you should be aware that there were two dissenting reports that followed that meeting—two scientists’ dissenting reports.

Deeds have no teeth. They are really a public relations exercise. All the parties must agree, thus ensuring that the developer gets monitoring personnel that he wants, who will work for him. They do not come under any act. They have an ex legislator status. There is no third party enforcement possible. So when Mr Williams says that if there was something wrong with the deed we should have done something about it, we could not. There is no possibility open under law. It has recently come to my attention that some DOE staff believe that the deed for Oyster Point actually supersedes the Environment Protection Act of Queensland, which of course it does not.

The renegotiation of the deed is always possible. If all the parties agree, they can change everything that is in it. So if the deed is put up as a way of letting some project go ahead, you can put anything you like in the deed and change it later. It is entirely up to the political flavour and the ideology of the government of the day and how much they are prepared to go the developer’s way and how much they are prepared to protect the environment, if that is what the issue is.

There is no public access, there is no expert review and there are no automatic triggers for legal or remedial action built into it. It is difficult in this particular deed for the

Commonwealth to access any of the reporting at an early stage. They have to wait until something arrives up the reporting chain. They also have very little chance of enforcing compliance. One thing that might have helped would have been a large cash bond against environmental damage, which there has not been. There is nothing there for that.

On the subject of this artificial beach, I have some photographs here. They are more or less in a series. You can see what we have got there is a Cardwell Properties truck dumping very dark coloured material onto the tip of Oyster Point, right into the water. We have a whole series of photographs like that that go on over the years—particularly since 1996, since the new consent. That series of photographs are just some examples which show how the material was built up on the foreshore, spread out and eroded away by the sea, and some of the plumes that went off, naturally, out into Hinchinbrook passage and out into the GBR lagoon.

To say there is no erosion occurring of course is rubbish. You need to be aware that there is a difference between net erosion and erosion of the original material, because many thousands of tonnes of excavated material have been piled up above the high water mark and also pushed out on to the foreshore itself.

How did this beach come about? Crown law advice was very sound that there could be no beach under the World Heritage Properties Conservation Act. Mr Williams first said on 12 April that it was the Queensland government that wanted him to lay 300 millimetres of sand on the foreshore. This is in his application to Senator Hill. Then on the 30th he put in a full application to lay sand on the foreshore. At the same time, he also notified Senator Hill that he had widened the internal access canal on the pretext it would become a silt trap and protect seagrasses.

At the same time, we were told by GBRMPA staff that they were being threatened individually with legal action under copyright law if they photocopied the SKM ERA, which they had to do to implement the Commonwealth-instituted process by which interested parties were to comment on it. There was quite a delay. As we understand it, they would not move until they had some sort of indemnity from the minister so that they could photocopy those documents and send them out without being subject to legal action. We are not surprised that SKM did not want that document circulated, because the use of statistics in it was pretty dishonest. Any first year student could have picked that up. It was certainly very large and full of beautiful colour pictures and was no doubt very expensive to produce, but the information could have been reduced to a few pages of properly used statistics.

When it came to writing the deed of agreement in the first place, because it existed before the Commonwealth came into the act, it contained a lot of very bland statements like ‘the company will adopt best engineering practice’, now referring to the 1996 one, which are all very interpretable. The reporting structure was not set up fully until December, yet the work was started back in September of that year without that reporting structure in place. The GBRMPA, inasmuch as they were trying to act for the Commonwealth, were in fact acting, as we understand it, by bluff. They were not appointed officially as the nominee until 12 December. There was no environmental site supervisor until 8 October, but the work was going on, even though it was a basic condition of the deed that no work begin before that reporting structure was in place and plans were approved. The approval of plans was not

complete during that time, either. When Jeremy mentioned when the environmental site supervisor interfered with the work or stopped work and pointed something out, he was got rid of. There were two that we know of, Hamish Malcolm and Martin Gledhill, in DOE.

When the deed that Senator Hill signed and the extra part that was written in for the Commonwealth was prepared, as we understand it, by Phillip Toyne to a large extent—it talks in there about the addition of additional sand and, as Mr Williams said, it uses the word ‘must’. It says that the company must establish, as part of that monitoring, at its own cost several test sites using sand, geo-fabric or other measures the company believes have the potential to stabilise the foreshore should the strategy proposed in the beach and foreshore management plan prove to be inadequate. So it is not an absolute statement, it is a conditional one in the first part.

In one of the schedules to the deed, it also gives the company the opportunity to get sand, as it is called in here, onto the foreshore. Mr Williams interprets that as permission and direction to put sand on the beach. I must say that that is the way we saw it when we got this in September 1996. We put out a media release to that effect, and Senator Hill has denied ever since that he has got around the Commonwealth law which says that a beach would not be possible to give consent for on crown law advice. He has got around that by giving directions to the developer to lay sand on the beach. But what we do not know is whether he was actually duped or whether he was aware of how this would be interpreted.

CHAIR—Senator Hogg, do you have any questions?

Senator HOGG—Not at this stage. I do not think Ms Moorhouse is finished.

CHAIR—Were you finished?

Ms Moorhouse—Not really. That material—of course, we keep calling it sand, but it is this material excavated off the site. You will see the colour of it in some of those photos. It is not beach sand. It is not pure sand, which is what you ought to be putting on the beach if you do not want to contaminate the water. But that has been going on for years.

There are a couple of other things in that consent document. The canal was wider, and the question is: did Senator Hill know that this was going to become a canal estate? One of his concerns should have been the marine visitation arising out of this development. We now have three waterways there: the original marina basin that Tekin has half done; the now widened access channel, which has become a grand canal—it is called—and it is going to have residential development on one side and, I understand, commercial development on the other; and then there is going to be another waterway, which is already there and which runs parallel to the highway. We do not know what that is for. We have the documents that Cardwell Properties have put out for the sale of the blocks. They clearly show that there are going to be private jetties, private pontoons and private boat ramps as well as the public boat ramp that is already there. This is just allowing the most enormous amount of visitation to a marine area, and this should be of major concern to the Commonwealth government, because they have no way of controlling private visitations in the GBR. The permitting system is only for commercial boats, and this is a dugong protection area.

I think I have finished, except that I have some documents here which I can give you. I will pass them around. In this ERR there are several references to Keith Williams wanting access to Hinchinbrook Island, Dunk Island, Beaver Quay, the Brook Islands—there is a whole list of sites. It is all in here, despite what he said this morning. So you really need to go back to source rather than take as gospel anything that he said. There are people that you might ask in the Department of the Environment, like Geoff Mercer, about some of the negotiations that went on when he was the regional manager here.

Senator HOGG—My main concern is that I have now listened to two days of evidence and, while you might not be privy to what we heard yesterday, I am forming the view that people are looking to the Commonwealth government to be playing a policing role as much as a legislative role. Is that an incorrect interpretation of what I am hearing in relation to this inquiry?

Ms Moorhouse—I had not thought of it that way. If the Commonwealth delegates responsibilities to the state government and they simply do not carry them out, what is the Commonwealth going to do?

Senator HOGG—I am just wondering what people want. I posed the question yesterday: what do people actually want? Do they want the Commonwealth to be the legislator with no legislation, say, at state level or local government level? Or do they want a combination of things? It may well be that you have federal legislation but the policing is done by the local government. We heard evidence to that effect yesterday as well.

Mr Tager—I do not think that at the moment local or state governments have the expertise or the inclination to enforce environmental laws. One of the really critical things beyond just being a legislator or a policeman is actually the Commonwealth's role in educating and designing the kinds of expectations that the Commonwealth has for environmental protection and making sure that those are adhered to. I think that, ultimately, the role of day-to-day enforcement or policing is not one that the Commonwealth should ultimately have, but initially that may be necessary in order to ensure that the standards that they set are actually being met.

Senator HOGG—Do you have a preferred model, in effect, that your organisation would like to see in existence?

Mr Tager—I would like to see the Commonwealth setting standards that state governments and local governments must adhere to. But that requires that the Commonwealth is then willing to insist that those be adhered to. Frequently what happens—such as in deeds of agreement—it sets standards and then ignores them. It allows breaches to occur. And when we said that there were 50 breaches, we should also say that there has not been a single penalty or a single fine as a result of those breaches even though they were documented from DEO themselves.

So I think that the Commonwealth can set up a legislative structure that says, 'This is what we expect for coastal development, for instance. You can implement your own legislation provided it is no less stringent than this law and provided that you actually ensure that you adhere to the requirements of those laws.' There is a form of accreditation being

proposed in the Commonwealth legislation discussion paper. We have very little faith at this point that accreditation is something that is viable, because the states have no demonstrated history—or Queensland does not—of environmental protection. It is a real concern how you bridge that gap between accreditation and ensuring that the state actually has some inclination and expertise to do that.

CHAIR—You would be aware that currently the federal government has reviewed its Commonwealth powers and it has released a discussion paper which, amongst other things, proposes that there be bilateral agreements with the states. Given that perhaps in Queensland more than in other states there would appear to be a hostile climate, as it were, at the state level towards environmental protection, particularly with world heritage areas, does that offer you some optimism or does that give you greater levels of concern, particularly about world heritage protection?

Mrs Thorsborne—I think there is some misunderstanding about the opposition to world heritage and even perhaps to the development at Oyster Point. Many people do not want that development and many people support world heritage. I think you might have the wrong impression there.

CHAIR—I thought what we were discussing today were the problems which arise from the state government level not accepting the same responsibilities as perhaps the Commonwealth does in terms of protecting world heritage. I am not referring to Queensland as a state, I am simply talking about the problems that arise here today. Have you had a chance to look at that discussion paper and does that offer opportunities or further threats? That is really my question.

Mr Tager—The bilateral agreement is a real concern and I think that Margaret's explanation of the deed and how it is essentially a private agreement—it does not allow public access; it does not create public accountability; and there are no third party standing rights at least in the discussion paper. There is no mention of the public involvement in the process of either making or becoming a part of the laws to protect the environment and their community. Till that happens, bilateral agreements essentially sound like contractual agreements between developers, the state government and the Commonwealth government, which are entirely private and unenforceable by anyone except parties to the contract. In those terms, it is completely unacceptable and it is a step back 50 or 60 years in terms of environmental protection.

CHAIR—How do we get beyond problems? How do we get to a position where the Commonwealth can either enforce its legislation on the states—and this is what you were telling us is not happening. Where do we go to? How do we bring on stream, if you like, all the parties to agreements, treaties and conventions for protection of, say, world heritage areas?

Dr Heinsohn—There should not be any backward steps taken. The Great Barrier Reef Marine Park Authority is based in Townsville. Do they have other regional offices?

Ms Moorhouse—No.

Mr Tager—One in Canberra.

Dr Heinsohn—It would be better to have one in Rockhampton and also one in Cairns as well as some other regional offices. This is where the management participation and the planning that they do occurs—there may be some faults, but overall it is very good. The same applies to the Wet Tropics Management Authority, which has been very slow in getting off the mark and there seemed to be quite a few hindrances. I would certainly like to see that strengthened with the main office being in Cairns and perhaps smaller regional offices elsewhere. That is important in terms of interpretation and tourism. People visiting should feel very free to walk into the offices. One criticism I might have of GBRMPA is that you go in the office and there is a receptionist and access is a little bit hindered. But at the same time it might hinder GBRMPA to have too much access.

Ms Moorhouse—I think that is right. If the Commonwealth seeks to protect responsibility that it has for all Australians, they have to put some money into it instead of defunding GBRMPA, which has just happened.

Senator PAYNE—Ms Moorhouse, I assume you are not attempting to persuade me to your view by distributing a document entitled *Best Engineering Practice: Liberal Party Style*. Can I just give that back to you?

Ms Moorhouse—That was not my intention.

Senator PAYNE—Can I ask you a question about the deed of agreement? You will have the benefit of having had a copy of the deed of agreement much longer than I have. Could you tell me who the parties to the deed of agreement are?

Ms Moorhouse—It is the developer, the Cardwell Shire Council, the state government and the Commonwealth government.

Senator PAYNE—I assume from your evidence that you do not agree with the words from this morning of Dr McPhail from GBRMPA that he regards the deed of agreement as representing our most significant monitoring and supervisory approach to the development.

Ms Moorhouse—I am afraid not. I do not know what sort of experience he has got about the deeds of agreement, but if this is the best one, we are all in terrible trouble.

Senator PAYNE—In relation to, for example, evidence given to us today relevant to the aquaculture farms—I think they were prawn growing farms—what role does your organisation play in attracting attention to difficulties in that regard and what role do you envisage for the Commonwealth?

Ms Moorhouse—We have lobbied about the aquaculture there.

Senator PAYNE—Lobbied whom?

Ms Moorhouse—The state government issue directly. We have lobbied GBRMPA as well.

Senator PAYNE—Do you regard it as endangering our world heritage site?

Ms Moorhouse—Yes, we do.

Senator PAYNE—If it endangers the world heritage site, do you regard the Commonwealth then as having any role in—

Ms Moorhouse—Absolutely, because it is a water quality issue.

Senator PAYNE—Have you lobbied the Commonwealth?

Ms Moorhouse—Yes I have, but we have concentrated mainly with the state and with GBRMPA trying to persuade GBRMPA that, for a long time, they did not want to act within the channel, but they seem to have changed their outlook on that somewhat lately.

Senator PAYNE—I would be very interested to see any information which you are able to make available to the committee on the lobbying you have done on that particular issue, particularly in relation to the Commonwealth. Mr Tager, could I ask a question in relation to your mentioning of sugarcane activity in particular where you were concerned in relation to its impact both on the land and in the riparian question. I think you cited in support of some of your comments there a CSIRO report.

Mr Tager—The CSIRO report was in relation to trawling.

Senator PAYNE—Was that in relation to sugarcane? That was in relation to trawling. Could I then ask you whether you are aware of the CSIRO report in relation to sugarcane which was cited in evidence earlier by Mr Girgenti, I think? Are you aware of that?

Mr Tager—I am aware of the work of Andrew Johnson who has actually said that large quantities of mercurochrome still rest on the fields of north Queensland.

Senator PAYNE—But are you aware of that CSIRO report?

Mr Tager—I would have to say no, we are not. I am aware of a report by Andrew Johnson in relation to mercurochrome on the canefields. I am not sure that it is the same report you are referring to.

CHAIR—In relation to your evidence about the use of the land for sugarcane, use of surrounding areas for trawling and your criticism of that, can you just tell me from the perspective of your organisation what ultimate use you think any of the land in the surrounding area can be put to?

Mr Tager—Obviously, there are already extensive uses there. In terms of, for instance, sugarcane there is no prospect nor any point in arguing that every one of the sugarcane growers should go back to planting rainforest. The fact is that we have lost 70 per cent of the coastal low-lying rainforest. We have a number of endangered species there, including the mahogany glider. The little bit that remains needs to be treated with greater care than it has been.

At the moment sugarcane is not regulated except on a voluntary basis. There are codes of practice which you have just received. That has just been endorsed by Minister Littleproud. That is a woefully inadequate document in terms of ensuring that sugarcane practices do not destroy remnant vegetation or riparian buffer zones and do not go into acid sulfate areas. If you look through it and if you look through the sugar industry's own rhetoric, they are certainly moving more towards environmentally aware activities, but they are moving slowly. At the same time as they are moving slowly in that direction, they are actively encouraging large scale expansion of the industry.

The sugarcane industry is now at almost 500,000 hectares in Queensland. It has expanded by 35 per cent in the past 10 years. It is monumentally destructive of an area of coastline between the coast and the adjacent ranges without anything stopping it at present.

Senator PAYNE—First of all, has your organisation made any contribution in terms of dealing with the minister on what you have described as a woeful document? Have you made any comments to the minister on that document?

Mr Tager—We have made comments to canegrowers directly. We have also attempted to convince both the minister and canegrowers that we should have been consulted in the development of that document in order to produce a code of practice and, in fact, take cognisance of environmental protection.

Senator PAYNE—Could I ask you when you make comments and reports like that when you are concerned about the expansion of an activity such as sugarcane growing, can you take into account or do you make any effort to make a contribution on the question of what replacement economic activity or employment encouraging activity could be used that would otherwise take up the sorts of people that are employed in that industry?

Mr Tager—In fact, we have not argued that anybody should be removed from the industry at all. What we argued in relation to the sugarcane industry is that the ongoing expansion of the industry—

Senator PAYNE—But, in general terms, not specific.

Mr Tager—For instance, on the dugong issue we were essentially recommending measures that would put people out of their traditional areas of fishing. We did not recommend compensation because we do not believe there was a property right involved because it was public land, but we strongly recommended that they take measures to ensure that anybody who is dislocated or put out of work be looked after. That would include either retraining money to ensure that they do not lose income as a result of measures that are implemented while they were engaging in legal activities. So, yes, we support those. We have also supported, as Margaret raised, the notion of rate rebates. We are not out to throw people out of their jobs; we are simply out to ensure that the kinds of sustainable practices that are rhetorically approved at all levels of government are in fact implemented. We are not saying that at the moment.

Senator PAYNE—I have one more question. Just in relation to some evidence that I think Ms Moorhouse gave—but I might be wrong—could you clarify for me the question of

the bond money which, as I understood from previous evidence, was \$1.2 million in relation to the number of areas. When I asked Mr Williams a question on that point, he indicated to me \$400,000 in relation to potential damage from the boat ramp and \$500,000 in relation to the dredging of the outer channel. If I have that wrong, could you clarify it for me please?

Ms Moorhouse—No, that is for completion of works. What I am talking about is a bond set aside for the eventuality where a developer goes broke, like at Nelly Bay or somewhere, disappears and leaves a mess.

Senator PAYNE—Like the previous situation?

Ms Moorhouse—Yes, where you need a large sum of money as a cash bond in some readily accessible form, not as a promise. It could possibly be an insurance bond.

Senator PAYNE—You are advising that that is not the case here?

Ms Moorhouse—No, that is not the case. There has been nothing there to do anything at all about the environment. If he walked away tomorrow, those bonds would not cover it. They would only cover completion of certain works. They do not provide for the rehabilitation of the site. They are specific amounts for specific works.

Senator BARTLETT—I just wanted to ask about the role of local government. We heard a bit before from the Hinchinbrook and Cardwell shires, and yesterday we had the Redland Shire. They spoke about the need for more proper recognition of the role of local government as an environmental manager because of their being the level of government closest to the action, I suppose, with most local knowledge. If there were processes, legislation or whatever put in place, such as what you are suggesting at a national level, that provided the Commonwealth with that overall supervisory role and intervention requirement ability when certain triggers occurred so that you were confident that those sorts of safeguards were there, would you agree that encouraging, assisting and resourcing local government to be the best level for environmental management would be an avenue to explore?

Mr Tager—I think if you are talking at an ecological system level you are not talking at a local government level. In fact, you are talking at a regional level far more than you are talking at a local government level. For instance, you have got three shires involved in the planning for the Hinchinbrook regional plan. Herbert, Cardwell and Hinchinbrook shires are all part of that. You can imagine that if you had authority under the Integrated Planning Act for instance, you could get very different results from one shire to another, which would result in, essentially, a regional plan being disabled because of local government politics. If you are going to plan at an ecological level it really needs to be the regional level, not the local government level.

Senator BARTLETT—Do any of you know whether there are any claims for recognition of native title over any of the Hinchinbrook Channel or Island areas at the moment?

Ms Moorhouse—We believe there are. I am not sure of exactly which parts of it. I think there are some that are close to Oyster Point.

Mr Tager—There is a permit on USL directly south of Stony Creek over which Mr Williams has the CPA.

Senator PAYNE—What was that? The USO, did you say?

Mr Tager—Sorry, unallocated state land—the mahogany glider habitat there.

Senator BARTLETT—Just pursuing the aspect of local knowledge and local involvement of the community, as I understand it, Mrs Thorsborne, you are a long-term resident in the Cardwell area. Is that right?

Mrs Thorsborne—Yes.

Senator BARTLETT—You have a lot of involvement in and knowledge of that local environment there. How long have you been living there?

Mrs Thorsborne—I have been living there since 1972.

Senator BARTLETT—In terms of the ongoing, long-term planning for the region—whether it is the local council or state government, or federal government for that matter—do you feel that protecting the area for the long term is being given greater attention now than it was 25 years ago?

Mrs Thorsborne—No, I do not think so. I think there is resentment that so much of the land is protected as world heritage or national park, instead of being on your knees thanking God that we have those beautiful places. I think that feeling has been worked up in the community. I know that a lot of people want the area protected, but I do not think that feeling is represented in the council very much, in the local authorities.

Ms Moorhouse—Can I make an additional comment? There was an accusation that the break in the wall of the spoil pond was sabotage. I just happen to have some photos here which fairly clearly indicate that it was not. I will explain why before I pass them around. The top of this photo here was where the break occurred. It has been filled. This grey sludge here is the spoil, which is supposed to be on the other side of that wall. This photograph is taken from this melaleuca forest—the mahogany glider habitat looking towards the property. As you can see, the vegetation is all damaged here and this grey stuff has all come out at the other side of that wall. It came out there, but here is some over the top that has spilled over like icing. So the pond was actually rather too full. You can see a closer shot of that part there. I will just pass that around.

CHAIR—Thank you very much for appearing before the committee today. We are very grateful for the efforts that you have made. I remind you that you will receive a transcript of the evidence today. If there is anything further you wish to add or anything you wish to answer in terms of what has been said by other witnesses, you are welcome to do so. I thank the members of the public and those other witnesses who have been with us for the whole day today. You have been very patient. It has been a long day and thank you again for coming.

Committee adjourned at 3.15 p.m.