



TRANSCRIPT OF MEETING

505 MINMI ROAD, FLETCHER PLANNING PROPOSAL (PP-2021-2262)
– GATEWAY DETERMINATION REVIEW

PROPONENT MEETING

PANEL: RICHARD PEARSON (CHAIR)

OFFICE OF THE IPC: BRAD JAMES
GEOFF KWOK

PROPONENT/
LANDOWNER
REPRESENTATIVES: PETER DURBIN
STEPHEN BARR
KATRINA WALKER
MATT DOHERTY
EMMA COLEMAN
STEVE MANTON
JENNA WESTON
CHRIS PIPER

LOCATION: ZOOM VIDEOCONFERENCE

DATE: 11:00AM – 11:55AM
FRIDAY, 15TH NOVEMBER 2024

<THE MEETING COMMENCED

5 **MR PEARSON:** So before we begin, I would like to acknowledge I'm speaking to you from Gadigal land and I acknowledge the traditional owners of all of the country from which we virtually meet today and pay my respects to their elders past and present. Welcome to the meeting to discuss the planning proposal for 505 Minmi Road, Fletcher, the gateway determination review request currently before the Commission for advice. The planning proposal seeks to facilitate residential development and secure biodiversity conservation outcomes at 505 Minmi Road, Fletcher for 140 to 150 new dwelling lots.

15 My name is Richard Pearson. I am the chair and only member of the Commission's panel but I'm also joined by Brad James and Geoff Kwok, who are from the Office of the Independent Planning Commission. In the interests of openness and transparency and to ensure the full capture of information, today's meeting is being recorded and a complete transcript will be produced and made available on the Commission's website.

20 This meeting is one part of the Commission's consideration of the matter and will form one of several sources of information from which the Commission will base its advice. It's important for the Commission to ask questions of attendees and clarify issues whenever appropriate. If you're asked a question and not in a position to answer, please feel free to take it on notice and provide any additional information in writing, which we will then put up on our website. And I do request all members here today to introduce yourself before speaking for the first time and for all members to ensure they do not speak over the top of each other so that we can ensure accuracy of the transcript.

30 So with that opening statement, we will now begin the meeting and maybe it would be – I've introduced myself and my colleagues from the Commission, if perhaps the proponent could just run round their representatives and just let us know your position in relation to this proposal. Not your actual position, just who you represent.

35 **MR STEPHEN BARR:** So my name's Stephen Barr and I'm from Barr Planning and we've been engaged by the owner to do the work on the site. I'll just run through the people who are in the meeting with us. So I'll just run across the top of the screen as to the people that I'm coming across. Peter Durbin is the landowner. So –

MR PETER DURBIN: Hello.

40 **MR PEARSON:** Hi, Peter.

MR DURBIN: Hi.

45 **MR BARR:** Katrina Walker is from Barr Planning, she works with us. Matt Doherty is our ecologist from MJD Environmental. I have Chris Piper, he's from Northrop, he's our flooding engineer and engineer on the project. Steve Manton from Stantec. Steve does traffic. Emma Coleman from Qualtest, who is geotechnical engineer and our expert on gas. And then Jenna Weston is from Heritage Now, who did the

archaeological assessment on the site. Now, I'm not anticipating that all of these people will need to present or do – but we just thought it was better to have them here, that if questions were raised, they can answer questions.

5 **MR PEARSON:** Yes, sure. Yes, sure, no, that makes sense. Thank you for that. So the next item on the agenda is for you to run through an overview of the site and the planning proposal. Were you proposing, Stephen, to do a presentation or – yes, a PowerPoint presentation?

10 **MR BARR:** There's two presentations we've got here. The first one's just an overview of the planning proposal and I'll go through that and the other's probably got some information that's more specific to gas and if we need that later, we can do that at the time that that's addressed.

15 **MR PEARSON:** Sure. Yes, no, that's fine. So if you can take about 10 minutes to just do an overview and at some point we'll need you to share that presentation electronically with the Commission because I believe we make that publicly available on our website.

20 **MR BARR:** Yes.

MR PEARSON: So over to you, Stephen, and you can share your screen if you're able.

25 **MR BARR:** Is that – hang on. I think I'm – let me try this.

MR PEARSON: Yes, we're getting somewhere.

30 **MR BARR:** Have you got –

MR PEARSON: No, at this stage no.

35 **MR KWOK:** The screen's sharing but there's no presentation on the screen. It's a Zoom page.

MR BARR: Okay. Hang on just a minute. Let me try again.

40 **MR PEARSON:** Just while you're doing that, Steve, I'll just make clear as well that the Commission's role on this is an advisory role. We're not a determinative role as we are for state significant development applications. So our role, the Commission's role, my role is to provide advice to the Department on your gateway review request and ultimately the Department decides what they will do with that advice. So I presume you're aware of that but just to make that clear. And yes, Stephen, we can now see your presentation. So please proceed.

45 **MR BARR:** Okay, thank you. So look, I think you're aware of this, you've mentioned that at the beginning, this is just at 505 Minmi Road, Fletcher is the location of the site. It's currently zoned C4 environmental, which is a transition zone and the proposal is to

go to both residential and a conservation zone.

5 This is just to give you some context of where the site is. So Fletcher is on the western
edge of Newcastle. It's within a corridor that runs from Maryland across to Minmi. It's
been an area that's been identified for development for a long period of time in
Newcastle. Our site that's shown here, you can see it's surrounded to the east by
existing residential and a little bit to the south here and to the west. There's a very
large development that's been approved to the west here which is on this zoned land
10 that you can see in here and that's currently under construction, which is what this
cleared area here is.

15 And then immediately to the south of us on a large area that sits all through here is the
Summerhill Waste Management Centre and there's a small piece of land that just sits
between us and the boundary of the Summerhill Waste Management Centre and that's
shown down here in this image here. The site itself is just over 26 hectares and like I
said, the address is at Minmi Road, which basically connects up through to the
highway here and runs back in towards Wallsend on the edge of Newcastle.

20 This is just a quick overview of the proposal. So we're looking at residential zoned
land on the east and western side of the site, where it abuts other existing zoned
residential land or existing development. There's a large portion right through the
middle, which is where the gullies on the site that would be preserved for conservation
and another area at the bottom of the screen here that was also going to be reserved for
conservation as well.

25 **MR PEARSON:** Stephen, do you mind taking a couple of questions as we proceed
through this?

30 **MR BARR:** Sure, sure.

MR PEARSON: So the C2 land, what sort of management regime are you proposing
for that?

35 **MR BARR:** So there's probably a couple of options. So Council originally said they
didn't want the land – and it was always proposed over the length of the proposal that
this would go to community title so that that land would be owned by the community
association and that there would be management plans in place for that land that would
mean that whatever the vegetation management plan or the conservation measures that
were applied in there could be managed in perpetuity by the owners corporation and
40 then obviously funded by the community title scheme as well.

45 I think in the later parts of it, Council did nominate that they would be willing to take
the land and if that was the case, then it would be handed over to them in a state that
was remediated and fixed up as part of the development, to meet the conditions of
consent and then hand it over to Council if that was the case. Our preference at the
moment would be to do the community title development, only because that's what's
been proposed all the way along and we think that's probably the best way that we
think it gets actively managed into the future.

MR PEARSON: Is the other C2 land outside your site managed by a community title?

5 **MR BARR:** No, I don't think it is. I think this is actually – it's a bit unusual. I think it's actually attached to one of the lots here.

MR PEARSON: Right.

10 **MR BARR:** And it's their land to manage. The land on the northern side, like this conservation zone here and this strip here is managed by community title and I think some of this land here has been dedicated to Council and there's some other areas, I think this development to the east of us is also community title as well. So some of this land, which is actually zoned residential but is actually gullies and areas, that's managed through a community title scheme as well.

15 **MR PEARSON:** Okay. Thank you.

20 **MR BARR:** And to be honest, I'm not sure what's happening to the west here, this is a new development. I think that's Torrens title and this land here has been dedicated to Council but I would have to confirm that, yes.

MR PEARSON: Okay, thank you.

25 **MR BARR:** And this was just a more visual view really of what was proposed on the site when we were looking at the design.

MR PEARSON: That's useful.

30 **MR BARR:** And it's just over half the site was to be dedicated to conservation compared to residential.

MR PEARSON: Okay.

35 **MR BARR:** This is just a bit of a background of the strategic context for the site. The site has a long history of being identified for residential land at state government level. There is a corridor there called the Watagan to Stockton green corridor. The site has never been in that corridor. Yes, it's close to the corridor but it's never been part of that corridor. I think the earliest study we could find was a study done by Newcastle Council that looked at the corridors in this area.

40 I think that was around – maybe the late 1990s and it identified this land for future residential and a series of corridors through the area. I think that subsequently [unintelligible 00:12:48] into these other studies that are here that then shows the
45 Watagan to Stockton corridor quite clearly through areas here, where you can see it running through here and our land is here. So that's been a consistent theme through all of the regional studies that were there.

From a local planning context, we've just looked at both the local strategic planning

statement and also the housing strategy. The land was included in the local strategic planning statement, so that was through the normal process of the community plan that's done and then the LSPS was produced out the back of that. The land was included and you can see it here as a release area. That went on exhibition. There was no objections to that received as part of that exhibition and that plan was made, which included this land for a housing release area.

In 2020, as part of when we put the proposal to Council, so it went up to Council with a recommendation for support from the Council officers, the councillors didn't support the application. Basically that resolution was made up of three things. One was not to support the rezoning. One was to amend the LSPS to take out this site as an urban release area and the third was to write to National Parks to ask them if they would take the site. The National Parks haven't been able to take the site. They can only take the site ultimately if the landowner chooses to pass that on to them. We've had a conversation some time ago with National Parks about that. And Council then amended the LSPS. The amendment wasn't – there was no consultation or no process undertaken as part of that amendment. I think we provided some advice that we'd received from a solicitor as part of our package around how that was done.

MR PEARSON: Yes, you did. Yes.

MR BARR: The housing strategy also included the site as a release area for Council and that was endorsed. The amendment to the housing strategy wasn't part of the resolution from Council. It only referenced the LSPS, which is probably more by chance but we found out that the housing strategy was also amended. We don't actually know when the housing strategy was amended. There's no reference to the amendment in the document of when that was done.

MR PEARSON: Was that done subsequent to adoption? Is that what you're saying or –

MR BARR: Yes, so it was adopted. So Council adopted it on 24 November 2020 and I think the resolution to not support the rezoning was only two weeks after that, where they then wanted to change the LSPS and then the housing strategy was amended and you can see this is basically the before and after, so this was the version that was adopted by Council and this is the version that is current now and it's taken the red part here out and replaced it with green.

But there's no reference to any amendment in the document, so we don't actually know when that was done, but nevertheless it's now not in the document. We did receive a letter from the Department at one stage, which I think we included in the package of information, that basically said despite the fact that it's been removed from the LSPS and the housing strategy, there was still endorsement from the panel and it was still provided a gateway. So in effect, we've sort of moved past that.

MR PEARSON: Yes, fair enough. Yes, [unintelligible 00:17:14].

MR BARR: There is a contributions plan in the area and the site is still in that

contributions plan. So it's still able to make contributions towards infrastructure, particularly roads and open space in the area. And it estimated about 110 dwellings, 300 residents as part of that contributions plan from 2013.

5 This is just a bit of a long history. Look, there's probably no point in going through all of this. I won't read all that out to you. It just shows the dates, some of which I've already referred to there. So and what's happened through that process since 2020, when it was lodged and accepted and it's gone through that process. It's probably more the later parts of this that are relevant, so probably around some of the timing in particular, so the Department of Planning originally – sorry, the City of Newcastle wrote to the Department of Planning originally at the beginning of 2024 requesting that the planning proposal didn't proceed on the basis that the conditions hadn't been met and timeframes weren't going to be met. The Department of Planning did reply to that.

15 The reply was basically to say, "No, we won't remove it and we'll actually extend the timeframe to complete the planning proposal in." In addition and following that again in March – sorry, in March of 2024, the Department wrote to City of Newcastle requesting that the planning proposal be put on public exhibition and they gave them a date to do that of 30 April and basically said, "If you don't do it, we'll be making a recommendation that an alternate planning proposal authority be appointed for the proposal." So as a result of that, it was put on public exhibition and it was put on public exhibition at the same time as the certification, the biodiversity certification.

25 We understand at the back end of that exhibition period, the EPA made contact with the Council and asked for an extension of time to make a late submission. They did put that submission in. That information was emailed to us from Newcastle Council on 14 June 2024. On 8 July the Council again wrote to the EPA requesting that the planning proposal not proceed, based on the EPA submission. So I think we'd had at that point something like 20 or 21 working days to respond to that. We had written back to the Council and on 11 July, so three days later after receiving that letter, I think the report from the Department of Planning was signed off to make a recommendation to terminate the process and then on 28 July, the Department of Planning determined to end the gateway process and that then led to us requesting an appeal, which has brought us to this point here. So that's probably just some of the more recent background to it.

35 **MR PEARSON:** Yes. Thank you.

40 **MR BARR:** In terms of just what's here, we believe the site can achieve in the order of 150 lots, so 150 dwellings. We believe they could be delivered within four years, primarily because the site is adjacent to existing residential land. So it has all the services, it has access, it has the opportunity to deliver that. We have as part of the proposal we asked for a minimum lot size of 300 square metres. We originally asked for 300 square metres across all of the residential land. That was reduced through the process but we still have the only piece of land in Fletcher that would allow a minimum lot size of 300 square metres here and that was really around making sure we were meeting the density provisions that were required under the regional plan.

And there's just that statement that I talked to you about before which was really around that broader Watagan to Stockton corridor. We sit outside of that but we have obviously maintained the local biodiversity corridors through there and the connections that our ecological advice has provided to say that give us the best outcome in that area.

MR PEARSON: So, sorry, Stephen, why is it the only site that can provide 300 square metres?

MR BARR: It's the only site in Fletcher that would have a minimum lot size under the LEP map for 300 square metre lots. So I think if I – I'll just go to the next slide very briefly. I think some of this land in here doesn't have a minimum lot size on it and I think that's controlled through a DCP that was adopted by the Department of Planning. So I think some of this land in here does have the ability to do smaller lots but all the other land through here that's still being developed here and I think some of these areas here and over here don't have the ability to deliver a 300 square metre lot without putting a dwelling on it.

I mean, the opportunity around that's obviously just to be able to deliver the lot without building the house and there's a whole lot of financial benefits of doing that in that you pay a lot less stamp duty, it makes housing more affordable and you also have the opportunity for a landowner to buy a smaller lot as opposed to having to buy a 450 square metre lot or larger, which is what the minimum lot size is out here currently.

MR PEARSON: Right. So is that minimum lot size part of your planning proposal, the 300 square metre?

MR BARR: Yes, yes.

MR PEARSON: Okay.

MR BARR: Yes, yes. So just so 300 square metres sits on this side, the residential side, if you can see that on the eastern side.

MR PEARSON: Yes.

MR BARR: And then this area here is the minimum lot size that's equivalent to here. I think that's 400 square metres, I think it is, that side, which is the standard minimum lot size.

MR PEARSON: Okay, got it. Thank you.

MR BARR: Yes, yes. And look, this is just a final slide that just gives you the context of where that site sits in relation to all of the zoned land and you can see the current development that's there as well. And this yellow area down here is the area that is the Summerhill Waste Management Centre.

MR PEARSON: Yes.

5 **MR BARR:** And we can show you slides on that if need be. There's probably two key parts to that, the active cells are up here, up the eastern end. They're just over a kilometre away from our site. I think they're about 1.2 km away from the edge of our residential here. And there's also an old remediated site here which is this area up here is putrescible, this area down here is non-putrescible, this is old building waste, things like that, which is sitting in a remediated cell that sits down here. This is the leachate dam you can just see here. That's the cell that is closest to our development but they're
10 probably the two main things that get referred to in any advice. This particular site that's remediated and then this is the active stuff up here.

15 **MR PEARSON:** So that remediated cell immediately to the south, that was non-putrescible, did you say?

MR BARR: That's right. Yes. Yes.

MR PEARSON: And what was the other one slightly above it?

20 **MR BARR:** Sorry, say that again?

MR PEARSON: That's the smaller one slightly, did - -

25 **MR BARR:** This [cross-talk 00:26:02].

MR PEARSON: No, not the leachate.

MR BARR: No, leachate pond. Yes, yes.

30 **MR PEARSON:** Sorry, to the left of the leachate pond. To the west of that.

MR BARR: This area?

35 **MR PEARSON:** Yes. What was that again?

MR BARR: I'm not sure what that's used for. The only mapping that we have just shows that cell in this area here. I don't know why that's - what that has on it there.

40 **MR PEARSON:** Okay, that's fine. Okay, so that completes your presentation, Stephen.

MR BARR: Yes, look, you can see all the parks and shops and things on there but anyway, I think you get the message. It's in a good spot and it's well serviced -

45 **MR PEARSON:** Yes, look, I should say that myself and Geoff Kwok from the Commission did do a drive through site inspection yesterday. Well, more than drive through, we got out and had a walk around and viewed the site from Minmi Road and also Waterside Drive, I think, Geoff. So yes, we've got a good understanding, I've got

a good understanding of the context and existing development in the location. So we should move on to key matters for discussion, some of which you've touched on, and look, it largely comes down to the EPA advice.

5 So my reading of that is in two parts. Number one, there is some suggestion there that they're challenging the strategic justification for the residential release in this area because they do refer to buffer zones to the landfill. But principally they are concerned with the contamination – the need for a contamination assessment with the gases. And I've also read your submission, Stephen, and also Emma Coleman's letter regarding
10 studies that are required going forward. So if we touch on the EPA, I think you've also mentioned that you're proposing to address the other issues raised by the EPA, just not the contamination issue because there were three or four points in their letter. Do you want to just talk through how you're proposing to respond to the EPA submission?

15 **MR BARR:** So I think the key one in there is obviously the gas issue. There were some other matters I think they raised around noise or dust, things like that. There is ongoing monitoring for the facility here and because of – and it might be helpful, we might just put up this other presentation because it shows some mapping and things like that.

20 **MR PEARSON:** Yes.

MR BARR: Which might just help have something to talk to. Geez, I'm a dedicated Teams user, so hopefully –

25 **MR PEARSON:** That's all right, [cross-talk 00:29:14].

MR BARR: – you can see what's there, is that –

30 **MR PEARSON:** Yes, just the opening slide we can see.

MR BARR: Yes. So what I'll just do, can you see that there?

35 **MR PEARSON:** Yes.

MR BARR: And I'll just go to the next slide. So this is a map of the actual waste facility and it starts to show where certain cells are and where information is. So this is this remediated cell I was talking about down here and this area up here is where the active cells are currently and this is obviously our site here. There are a number of
40 monitoring wells that were put in around here as well. So gas is the primary issue. I think in terms of noise and dust that were raised by the EPA, look, it's not going to be very hard, I suppose. If we need to go and do an assessment of those things, they could be done very, very quickly.

45 The reason they can primarily be done so quickly is that the site is – it's well over a kilometre from the actual active part of the site, the part that would generate any noise, the part that would generate any dust is well over a kilometre from our site. If we needed to demonstrate that those impacts aren't relevant to us more than the distance,

the monitoring, the conditions of the consent and the licensing that are affected by the facility there, that say they can't be having an impact on us in that regard and their assessments say they won't be having an impact on us in that regard. If we needed to do some monitoring out there, it's very simple to do that.

5

I think in relation to the gas there, there's probably a few parts to that. The first part is well part of what this slide is made up of is Newcastle Council did a risk analysis of the gas on the site and this was first undertaken in 2021. They did a full assessment of the whole facility, including this area down here to the south. Basically what that found was – so the initial report said there'd been no evidence of any exceedances of either methane or carbon dioxide over 15 years from this cell down here near our site. But it also came with a caveat that said when they actually looked at the wells that had been placed, that they didn't believe the data was valuable because they weren't convinced the wells ever worked from when they were put in and that had never really monitored gas levels.

10

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So as a result of that, their recommendation was to insert some new wells around the facility and start actually monitoring the gas in particular as well as some of the other impacts and start monitoring that. Those wells were put in and a new report was written in 2023 that actually looked at what had been done and took some monitoring from that and look, this is some of the monitoring results here. You can see where they do have information that came out of that report and it shows these are the wells that are near us, 22, 24 and 25 and it shows that they're in the lowest assessment level. So they're at the very lowest level you can assess that against for a gas assessment and certainly Emma can talk more to this if need be or could answer any questions on that. So that's the data that's been available there and this is all signed off by the EPA as well.

20

25

The recommendations that came out of that initial report, the 22 report, was to put these wells in but it also raised an issue around saying, well we don't believe that the data that's being collected from the wells is working, so we should actually be looking to see whether there are buildings here we should be monitoring to see if there are elevated levels of gas in these areas. There was 10 buildings identified around the site. They basically said no monitoring was required in any of the residential properties around the facility because the risks were so low that it didn't warrant any further work on those sites and really they just needed to put the monitoring wells in. So that's what this represents.

30

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MR PEARSON: So what's the document you're referring to there, Stephen?

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MR BARR: It's called Landfill Gas Risk Assessment 2021. There was a subsequent – and then the updated version that basically put in place the recommendations of that report was delivered in 2023 and then there was an addendum to that.

45

MS EMMA COLEMAN: So I think 2022.

MR BARR: Sorry, Emma.

5 **MS COLEMAN:** So Construction Earth Sciences did the original one in 2021 and said you need to put wells in. So then they put wells in. Then they did the assessment. Another report was delivered in 2022 and then in 2023 there is another risk assessment but it actually focuses on two wells that are down in the putrescible landfill. Doesn't really relate to the cell that's near us. Sorry to interrupt.

MR PEARSON: No, that's good. Thank you.

10 **MR BARR:** No, thank you, Emma. Yes, by all means.

MR PEARSON: Okay. So the 2022 report, can you explain that one, Emma or Stephen? What's the 2022 –

15 **MR BARR:** I might hand that over to Emma. I think she'll do a better job of that than me.

MR PEARSON: Sure.

20 **MS COLEMAN:** So the 2022 report – essentially in 2021, sort of they did do various monitoring in different wells at different times but they inserted continuous gas monitors in several wells, including the ones closest to our site and they were left in there for a period of either four weeks or eight weeks and they took data from those. And then they also did some spot monitoring, essentially they went to site at a specific time and took some readings.

25 And then they used the data from both the continuous monitoring and the spot monitoring and calculated what's called the gas screening value and they showed that the gas screening value was less than 0.07 for each of the wells closest to our site, which essentially indicates that it's classed as a CS1, very low risk, which requires no further action.

30 **MR PEARSON:** Right. And how close to your site was the closest monitoring?

35 **MS COLEMAN:** I think it's about 200 metres. So the leachate pond is about 190 metres south of our southern boundary and their closest gas well is a little bit southwest of that.

MR PEARSON: Yes.

40 **MS COLEMAN:** But yes, essentially the leachate pond in terms of once you take into account the C2 proposed zoned area, it's all greater than 270 metres away from any proposed housing.

45 **MR PEARSON:** Okay. So as you're aware, much of this hinges around the timeframe to complete the additional assessment required by the EPA and we've got on the one hand Council saying it's going to take at least 12 months and then your advice that – well, to do the equivalent stage because I think Council's saying 12 months just for the preliminary contamination assessment and you're saying that can be done in – I'm

trying to find –

5 **MS COLEMAN:** Yes, so we say four weeks for the preliminary site investigation and eight to 16 weeks for the detailed. So I guess a little bit of clarification. So a preliminary site investigation is typically a desktop assessment and a site walkover and then the detailed investigation is where you would go to site and you would do intrusive works, whether that's drilling boreholes, collecting soil samples, gas samples, et cetera. And you can definitely carry them out concurrently and essentially we have done a large proportion of the preliminary investigation already as part of to provide
10 our original advice we had to do quite a bit of work to get to that point.

15 And then you would go into the detailed investigation, which in regards to gas for this site would mean installing – drilling boreholes, installing wells and but due to the timing constraints we'd put in continuous gas monitors into those wells so that we can get a large dataset for a period of let's say eight to 10 weeks. And that dataset would cover all the different atmospheric conditions that would occur over that period of time rather than relying on trying to use the Bureau of Meteorology's dataset, "Oh, we're about to get a storm, let's head to site and do our monitoring." It would capture all of
20 it.

MR PEARSON: For that period of time?

MS COLEMAN: For that period of time.

25 **MR PEARSON:** Yes. So is the EPA and/or Council questioning whether that period would capture all of the potential range of atmospheric and meteorological conditions?

30 **MS COLEMAN:** So they've taken it from the New South Wales EPA guidelines on ground gas assessment. So those guidelines refer back to the CIRIA 2007 guidelines, which recommends six to 12 monitoring events over two to 24 months and CIRIA indicates that the key requirement should be to capture the worst case meteorological scenario. And then they give you some criteria about how you decide whether something is a worst case or not a worst case.

35 They do also refer to the British standard guidance on investigations for ground gas, which says, "Gas monitoring does not necessarily need to be carried out under worst case conditions. It does not necessarily need to be at low or falling atmospheric pressure, but rather should be continued until it is unlikely that additional data would change the interpretation of data, the outcome of the risk assessment and the proposed
40 remedial actions."

45 And so I guess from that what we're saying is we'll have monitoring that covers a period of time that would give us quite a lot of data and I guess in the even that say we don't happen to get what we would consider to be the worst case scenario, we would still have a lot of data to work from. We would also have the data that Summerhill have collected for around their cell and we can also adopt a slightly higher level, so instead of being what they class as CS1 very low risk, you could adopt say CS2, which is low risk and says that you'll carry out some remedial actions, which for the

development would mean something like putting in gas proof membranes for the buildings or that sort of thing.

MR PEARSON: Okay. Use that as part of the slab construction, you would do that?

5

MS COLEMAN: Yes, so I guess it's relatively common in the UK, which these guidelines are largely based on the UK. Over there they often don't assess data until they reach a CS1 scenario. They'll often stop while they're still in CS2 because the cost of carrying out assessments until they can prove that they've got CS1 isn't sort of supported. So it's actually cheaper and easier to then just adopt CS2 and put in some measures rather than continue to monitor for years to try and prove that you've got the CS1.

10

MR PEARSON: So this is a layperson's question, if you do your monitoring and the atmospheric conditions during that period of time are relatively stable or not varied, is it not possible to just assume different meteorological and/or atmospheric conditions and say if this occurred then the level of gas monitoring would increase –

15

MS COLEMAN: Yes.

20

MR PEARSON: – from X to Y? Is that a valid –

MS COLEMAN: Yes, you could do that. Yes, you could definitely do that. You could sort of say, well, what's most likely to change is the flow rate and let's say so far in our atmospheric questions we haven't managed to achieve a flow rate past 0.1 litres per hour, maybe we'll just say okay, let's say we adopted something more worst case, then that's what it might be. And we do have some – obviously I can't provide it on a confidential basis but we have worked with Winten on the adjoining developments and so we do have some data from those.

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So the immediately adjoining ones, there was never any request or requirement for any gas monitoring, even though they're also within proximity of Summerhill. And then the broader Winten sites, which are further to the west of this site, we have done some limited gas monitoring but essentially it's been adopted that further assessment will be done in the future but the data that we have is enough to show that it's not going to pose an enormous risk.

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MR PEARSON: Yes.

MS COLEMAN: I should also clarify that based on the assessments that we have completed, I don't think the landfill cell poses a risk to the site. One, they themselves have come up with a very low risk or CS1 category for their wells. Two, the distance is over 250 metres away and generally it would be considered that you're no longer really within a zone of risk from the landfill. But there is a potential risk due to the old coal mine workings. So they encroach on our site sort of on the southeastern side but are also planned to be remediated by the Mine Subsidence Board.

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MR PEARSON: Yes, okay.

MS COLEMAN: Not by them but they would require them to be remediated.

MR PEARSON: So by the developer?

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MS COLEMAN: Yes, yes.

MR PEARSON: Right.

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MS COLEMAN: So typically when you have mine subsidence – sorry, mine voids, then usually they’ll be grouted up or something similar. I’m not a mine subsidence remediation expert but that’s what I understand typically happens is that they grout the workings and then that essentially removes that pathway. It’s now full of grout instead of allowing gases to flow through.

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MR PEARSON: Sure. So just to summarise because I’m being a bit mindful of the time, you’re saying about a month, four weeks, to do a PSI?

MS COLEMAN: Yes.

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MR PEARSON: And then a further eight to 16 weeks to do a detailed site investigation?

MS COLEMAN: Yes.

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MR PEARSON: So we’re up to let’s say five months by that stage, 14 to 20 weeks?

MS COLEMAN: We could probably do the preliminary and the detailed concurrently. So you could then say it’s say the 16 weeks, which would be –

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MR PEARSON: Former –

MS COLEMAN: Well, I guess the eight to 16 weeks, which could be two months to four months.

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MR PEARSON: Right. And by which date you’d have a detailed site investigation?

MS COLEMAN: Yes.

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MR PEARSON: And then the stuff you were talking about, if you decided that you had to do gas proof membranes or other ameliorative measures, would they be in the RAP, the remedial action plan? Is that where you would insert that?

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MS COLEMAN: It’d either be in the remedial action plan or within another type of plan for the site.

MR PEARSON: Yes. Ultimately, who signs off on this contamination work? I mean, the EPA is not a [unintelligible 00:45:52] –

5 **MS COLEMAN:** No, they don't sign off. So I guess in a typical scenario, the regulatory authority, so it might be Council or the Department, they would sign off. I did read in one of the documents that they talked about a site auditor. So if councils or the regulatory authority don't feel comfortable with assessing the data, they don't think they've got enough experience or they're not sure about the approach that's been taken, then they normally put it on to a New South Wales EPA accredited site auditor.

10 **MR PEARSON:** Okay. So you don't engage the site auditor, that's the –

MS COLEMAN: No.

MR PEARSON: – council or –

15 **MS COLEMAN:** No, the landowners or the developer has to – the consultant is never allowed to engage the auditor because then you could have a risk of collusion.

MR PEARSON: Yes, sorry, I mean – by you I mean your total entity.

20 **MS COLEMAN:** Yes.

MR PEARSON: So you're saying the developer engaging the site auditor?

25 **MS COLEMAN:** Yes.

MR BARR: So usually what happens is that yes, so the Council – and Emma's right, the Council's put in their submission that they believe a site auditor would be used on the site. So typically what happens, where we've used a site auditor is we engage a geotechnical engineer or an expert –

30 **MS COLEMAN:** Contaminated land expert.

MR BARR: – as our consultant and a contamination expert and they give us advice. That advice is given to the site auditor. The site auditor is registered, I think is the word, through the EPA to undertake that work. They review, "Yes, I think this is a satisfactory remediation" and then the expert would ensure that work is done in accordance with that and the auditor would oversee that and sign that off to say, "Yes, I'm happy that that's the outcome that's there."

40 **MR PEARSON:** Okay.

45 **MS COLEMAN:** It can also provide interim advice as well. So we have been involved in another site where coal seam sort of gases was considered to be a risk and the auditor provided interim advice that they considered future assessment of the gas would be suitable based on their understanding of the site conditions. So they can provide interim advice as well as providing a final sign off after everything has been completed.

MR PEARSON: All right. So just mindful of the time because we have another meeting at midday. So we're clear on what you're saying in terms of timeframes. Geoff or Brad, do we need to clarify anything else on the contamination issue?

5 **MR JAMES:** No, other than, Emma, what happens after that site does get audited? What's the next step after that?

MS COLEMAN: So I guess normally you might do your preliminary site investigation, the auditor reviews that and if you've done them sort of the preliminary and the detailed together, the auditor reviews them, she normally provides a letter or he provides a letter of an interim audit advice that says, "Yes, I agree with this assessment and that's fine." If there's a remediation action plan prepared, they review that as well and then another interim audit advice that says if you comply with this remediation action plan, I believe the development will be suitable.

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20 And then normally at that point I guess you might get your DA and then down the track the works actually happen and then once the remediation's completed, then there's a validation report prepared. Depending on site conditions, there might be other types of management plans and the auditor provides a site audit statement and a site audit report that states, "This site is suitable for this proposed use," potentially with conditions like, I don't know, if there's a management plan, they might say this site is suitable as long as this management plan is implemented.

25 **MR JAMES:** Sure.

MR PEARSON: All right. Well, thank you. The other thing on our list to talk about is the planning proposal authority. Your request is that someone other than Newcastle Council be appointed to that role, Stephen?

30 **MR BARR:** Yes, that's right. Yes, and I suppose that's around a few things. Primarily the Department of Planning changed their guidelines around that. So their guidelines now say that if you lodge a planning proposal that gets rejected by the council, as it did in this instance, and the panel overturns that, then automatically the proposal goes to the Department of Planning. So we're really just asking that it follows the current guideline. So I think that's written into the LEP amendment guideline.

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40 So I think we're probably – I think it would be a good way to manage perhaps a perceived conflict where Council is both the commercial operator of the adjoining facility as well as the proponent for the rezoning. I think it would help to resolve that and obviously we've already got the issue that the Department of Planning has already threatened to take away their powers once because it was going very slowly and they asked to put it on exhibition. But ultimately we're asking them to follow their own guidelines at the moment.

45 **MR PEARSON:** Yes. Okay, so the final question I wanted to ask on this particular issue is what's the downside to you of just doing this work and then re-entering the system rather than going through this review process and hoping to get reinstated into the system? Why don't you just go and do the work, come back in and start the process

again?

5 **MR BARR:** I suppose I've been working on this job for six years. It was going before that. Our concern is that really there seems to be an opportunity to get housing on a site that's been identified for housing for a very long time. It's got services on the doorstep, it's an area that's well serviced. I think we could have that housing on the site within four years because of its location. If we go back through the process and we start from scratch, then I think we're – if we get the site even rezoned in four years, given previous experience, I think we've probably done pretty well, at which point you're
10 looking at maybe eight years, nine years, to get housing on the site.

15 **MR PEARSON:** Okay, thanks. So look, just to finish, there's a couple of other issues that I think Council raised, one was biodiversity, the other was flooding, they said those issues still remain to be addressed. Comment on that?

MR BARR: So in regard to biodiversity, so we've asked for the site to be biocertified, so that's going through the Department of Biodiversity and Science or whatever they're called, BCS.

20 **MR PEARSON:** Yes.

MR BARR: That process we've been through multiple iterations of that with BCS and we've got to a point that they've accepted that to a satisfactory level to put that out on public exhibition. That's been through public exhibition. That occurred at the same
25 time as the rezoning. There are some submissions there that we've responded to to BCS and BCS have currently got that process on hold, subject to whether or not it gets reinstated. So I think we've made significant advances, I suppose, with BCS on finalising that to the point that it has gone out on community consultation and that's obviously a separate process to Council. That's run through that state agency. So that's
30 where that's at.

In terms of flooding, the amount of flooding on the site, I couldn't tell you the exact amount, it might be 1% of the site perhaps. As part of the Winten property next door, they did a detailed flood study. The detailed flood study included our site and it shows
35 the extent of flooding. There's a very small area of flooding on Minmi Road, where we adjoin Minmi Road. Our catchment is really only just that C2 conservation area we're proposing, so it's a very small area and I think Chris is just sharing something there. This is the flood study from the adjoining property that's been done here.

40 **MR PEARSON:** Okay.

MR BARR: This is our property. Chris, if you can show the property and you can see the area there that is affected by flooding. And this – Chris, that's the PMF model too, is it?
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MR CHRIS PIPER: That's correct. That's the PMF and you can see it takes out that small little triangle there and then if you look at the development extent, it's actually completely outside of the development extent.

MR PEARSON: Okay, thank you.

5 **MR BARR:** If you just zoom out from that, Chris, you can see too – see the blue watercourse that runs down through our site there and it ends just there? That’s because the catchment is literally just in that small bowl. It’s a very, very small catchment and that’s why it’s really not have any impact. I think Chris has already provided advice to Council that says we can manage our pre and post development flows so that it won’t impact that flooding down there.

10 **MR PIPER:** That’s correct, yes.

15 **MR BARR:** We have [cross-talk 00:55:42] to do that. So we think there is a flood study, there is what Council wants done on that site but it’s a very, very small part of the site, very low risk and it doesn’t affect the development footprint of the site.

20 **MR PEARSON:** Okay, thank you. So anything else that you wanted to raise? The only thing I’ll say is our aim – my aim is to finalise the advice within the KPI that we work to and I think that’s the first week of December, approximately. So it’s a short 35 day period, I think, Geoff, am I correct?

MR KWOK: Yes, that’s correct.

25 **MR PEARSON:** Yes. So that’s what we’re working towards and unless we request any additional information from yourselves or Council or anyone else that would stop the clock. But certainly looking to finalise our advice before Christmas and then it’s back to the Department of Planning. So unless there’s anything else to add, I do appreciate everything that you’ve presented to us today and clearly and answering the questions. So thank you, Stephen and team. Anything else, Brad or Geoff, that we need?

30 **MR JAMES:** Nothing from me, Richard.

35 **MR KWOK:** Nothing from me as well, Richard. Thanks.

MR PEARSON: Okay.

40 **MR BARR:** If you did want copies of those reports, those gas studies, we can send those through.

MR PEARSON: Yes, and just you will need to share your presentation with us just from a probity point of view but we’ll come back to you if we request any additional information.

45 **MR BARR:** Sure. Katrina’s emailed those presentations through to Margaret.

MR JAMES: Yes, confirming they’ve come through.

MR PEARSON: Thank you. Thank you very much. Okay, thanks everyone. Have a good weekend.

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MR BARR: Thank you for your time. Much appreciated.

UNKNOWN SPEAKER: Thank you.

>THE MEETING CONCLUDED