



New South Wales Government
Independent Planning Commission

TRANSCRIPT OF MEETING

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

COUNCIL MEETING

PANEL: RICHARD PEARSON (CHAIR)

OFFICE OF THE IPC: BRAD JAMES
GEOFF KWOK

CITY OF NEWCASTLE
COUNCIL: JONATHON CHRISTIE
SAM CROSS
SHANE CAHILL
MICHELLE BISSON
DAVID WITHERDIN

LOCATION: ZOOM VIDEOCONFERENCE

DATE: 12:00PM – 12:55PM
FRIDAY, 15TH NOVEMBER 2024

<THE MEETING COMMENCED

5 **MR PEARSON:** Before we begin, I would like to acknowledge that 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 this meeting to discuss the gateway determination review for 505 Minmi Road, Fletcher, a gateway review request currently before the Commission for advice.

10 The planning proposal, as you know, seeks to facilitate residential development and secure biodiversity outcomes at 505 Minmi Road, Fletcher for 150 to 150 new dwelling lots.

15 My name is Richard Pearson. I am the chair of this Commission panel and in fact the only commissioner on this panel, joined also by Brad James and Geoff Kwok from the Office of the Independent Planning Commission. In the interests of openness and transparency and to ensure 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 this matter and will form one of several sources of information from which the Commission will base its advice. It is important for the Commission to ask questions of attendees and clarify issues whenever it is considered appropriate. If you're asked a question and not able 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 please introduce yourself before speaking for the first time and for all members to ensure they do not speak over the top of each other to ensure accuracy of the transcript.

30 So with those opening words, we can now begin the meeting. So yes, if you could – I've introduced the Commission attendees, if you could just run through who's attending from Council and then give us an overview of where Council sits in relation to this planning proposal. So over to Council.

35 **MS CAHILL:** Thank you, Richard. Would you like to introduce yourself first, Michelle?

40 **MS BISSON:** Sure. Hi, my name's Michelle Bisson, I'm the executive director of planning and environment at City of Newcastle. I'll hand over to Shane as the manager of the team and she will be leading the discussion with the remaining others within City of Newcastle. Over to you, Shane. Thank you.

45 **MS CAHILL:** Thanks, Michelle. Thank you, Richard. So my name is Shane Cahill and I'm the manager of city significant and strategic planning for the City of Newcastle. I'll hand it over to Sam who will introduce herself.

MS SAM CROSS: Yes, Samantha Cross. I'm the section manager of strategic

planning. I'll hand over to Jonathon.

MR CHRISTIE: Jonathon Christie, senior strategic planner, the City of Newcastle. I have been a case officer on this planning proposal for about a year and half.

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MR PEARSON: Okay. David, you're on – yes.

MR DAVID WITHERDIN: Hi, David Witherdin, managing director of waste services with City of Newcastle and the Summerhill Waste Management Centre falls under my responsibility.

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MR PEARSON: Okay, perfect. Thank you. So great, thanks for those introductions. If you could just maybe – next item on the agenda, just give us an overview of where Council sits in relation to this planning proposal, that would be appreciated.

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MS CAHILL: We do have some slides. Should we go through those –

MR PEARSON: Yes, absolutely. Sure.

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MS CAHILL: Yes. Okay, so I might do a little introduction to the project and then hand it over to our case manager, Jono, who is very familiar with the technical detail. So will we share that slide or –

MR CHRISTIE: Yes, I'm just trying to find the –

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MS CAHILL: We have sent them to Margaret.

MR PEARSON: Yes, and I've got a hard copy in front of me.

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MS CAHILL: Okay.

MR PEARSON: But if you are able to share your screen, which you should be able to.

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MS CAHILL: Do you want to do that, Jono?

MR CHRISTIE: Yes, I'm trying to find where the share button is. I haven't used Zoom in a while.

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MS CAHILL: No, me either. I think it's –

MR JAMES: I might be able to share.

MR CHRISTIE: Yes, here we go.

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MR JAMES: If you're already there, sorry.

MR CHRISTIE: Sorry, yes. I've got it now. Can we all see that?

MR PEARSON: No.

MS CAHILL: Not yet.

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MR PEARSON: No.

MS BISSON: Yes, it's coming up now.

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MR PEARSON: Yes. Got it, thank you.

MS CAHILL: Thanks, Jono. So we can go to the next slide there. I'll give our acknowledgment of country. The City of Newcastle acknowledges its local government area sits within the country of the Awabakal and Worimi peoples. We acknowledge that country for Aboriginal peoples is an interconnected set of ancient relationships and acknowledge the custodianship of the Awabakal and Worimi peoples and the care and stewardship that they have performed in this space since time immemorial.

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It's a fairly short set of slides. I think we've got 10 including the introductory slides. So please feel free to interrupt with any questions you might have and inevitably if they're technical I'll be putting Jono in the spotlight.

MR PEARSON: Yes, thank you.

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MS CAHILL: But yes, we'll go through with a background, gateway determination timeframe, the Environmental Planning Authority's recommendations to us, our response to the – no, I think that would be the proponent's response to the EPA and then additional outstanding matters. Did you want to step in there, Jono?

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MR CHRISTIE: Yes, sure. So the assessment of the planning proposal has been ongoing since 2023, when the gateway determination was issued in January of that year. Since then we've spent significant time working with the proponent on addressing the conditions of the gateway. Those conditions related a lot to sort of land use efficiencies and biodiversity matters and environmental constraints. In May last year –

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MR PEARSON: Sorry, Jono, what do you mean by land use efficiency?

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MR CHRISTIE: Sorry, so as part of the Hunter Central Coast Regional Planning Panel, when it went to review, LEP review, they were not satisfied that the proposed footprint had considered the environmental constraints of the site, ecological values of the site. And so part of the gateway determination was that they revisit or they undertake a revised urban design study to look at how they could increase sort of housing density and reduce the building footprints or the zoning. So the idea was to try and get up to four storeys sort of and a mix of housing typologies on the site instead of looking at the sort of status quo 450 subdivision that we see a lot in greenfield development areas.

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MR PEARSON: Yes, got it. Thank you.

5 **MR CHRISTIE:** And so on 26 May last year we had issued a request for further
information to satisfy the conditions of gateway and really looking for them to show
how they'd avoided areas of high environmental value. CN requested – in late 2023 it
was understood from the lack of material that was supplied to CN that we weren't
going to meet the required finalisation date, which was January of 24. There were still
10 matters outstanding, one of them being the Aboriginal and cultural heritage study and
we had not proceeded to exhibition. We had also not received a revised urban design
study that had appropriately considered sort of land use efficiencies.

15 So under that we had requested to the Department in January, early January, that the
planning proposal not proceed and the Department had issued a gateway alteration
advising Council that we should proceed to exhibition. And subsequently the
proponent had supplied sort of Aboriginal cultural heritage but not the revised urban
design study. So we did proceed to exhibition during which time I think we received
around 365 submissions, majority of which related to biodiversity and infrastructure
20 issues regarding biodiversity and infrastructure.

25 One of those submissions that we did receive was the EPA. Now, the EPA did reach
out to Council proactively. We hadn't sought their advice to date. They hadn't been a
referral authority as part of the gateway determination and this planning proposal,
because it had been submitted back in 2021, I believe, it was prior to the guidelines
coming out, which would've identified the EPA as a referral authority. However, yes,
so it had been missed but the EPA had picked it up in some of their work.

30 So they had requested that we give them an extension to the exhibition time period and
I think we gave them a seven day extension. I'd reached out to the proponent to let
them know that we were allowing them to have a seven day extension on the
submission period and the proponent seemed a bit perplexed as to why we'd gotten the
EPA involved. So the EPA's recommendation brought up a range of contamination
issues, subsurface gas associated with Summerhill and old coal mine workings and it
recommended further assessments on noise, vibration, air quality, odour and
35 contamination. That required detailed investigation for subsurface gas monitoring.

40 The proponent's response to the EPA submission was that they did not consider further
studies were required and that – so they had provided an initial response to our – sorry.
Yes, they had provided an initial response just prior to when we'd requested, I believe,
that the determination not proceed and they had stated basically that because there's
existing residential development around Summerhill that was closer, that additional
assessments were unreasonable and unnecessary.

45 So from Council's perspective, we did not believe that they were going to engage a
consultant to address the recommendations by the EPA and conversations happened
with our environmental health team who would have been referred the detailed
assessments and to get an idea of the timeframes that would be required to undertake
these sort of assessments and they had provided sort of information from the guidelines

that outlined it would be between two to 24 months of assessment – for the assessment to be complete. And that they would require an auditor to be involved.

5 So they noted that out of the guidelines that the period would be more likely to be minimum 12 months because they had to capture the worst case meteorological scenarios and then pointed to parts of the guideline, for example, where it states the guidelines note that because of New South Wales' relatively infrequent, slow moving weather systems compared with the UK, longer period of monitoring for each risk setting is needed to capture worst case scenario.

10 So our environmental health officers recommended that the applicant also engage an auditor to review the PSI and DSI to ensure that they adhere to the appropriate standards, procedures and guidelines. However, because we were under the impression from the proponent's response to the EPA's original recommendations that they weren't actually engaging anyone and because of the timeframes and because we had already extended the gateway, we thought it was most appropriate to request again it be withdrawn and that was also after discussions with the Department where they had recommended that we consider submitting an application that they withdraw the planning proposal.

15 **MR PEARSON:** So at what point did you become aware that the applicant was proposing to address the issue?

20 **MR CHRISTIE:** Not until we received the justification for gateway review.

25 **MR PEARSON:** Okay. So – okay.

MR CHRISTIE: yes.

30 **MR PEARSON:** Right. So not until after the Department had discontinued the proposal.

35 **MR CHRISTIE:** Correct. So the first I knew that they had engaged, it was in that letter that we had to respond to. Up until that point, bar planning, the proponents had been basically standoffish. They had asked us as – they had stated in an email that we were operating outside the scope of the planning proposal and were going to submit a complaint to the Department with regards to our conduct. But again, CN didn't seek the EPA's advice, however it's not to say that we don't value what the EPA – their advice. So yes, I don't know, it was a bit confusing. Yes, right up until that point we had no idea that they were going to actually address it.

40 **MR PEARSON:** Okay.

45 **MS CAHILL:** We could say that they gave every indication that they would not be doing that work.

MR CHRISTIE: Correct.

MR PEARSON: Okay. So all right, yes, that's interesting. Thank you. Okay, so please continue.

5 **MR CHRISTIE:** So the original gateway timeframes were 20 January. Obviously that got extended out until November of this year and still to date there are unresolved matters from the original gateway. So one of them being flooding. They were required to submit hydrological assessments showing the maximum flood impact. They have not done that to date and there's still issues regarding biodiversity.

10 I understand there's a concurrent biocertification application in with the Biodiversity, Conservation and Science Division of the Department, however they did go on exhibition noting that further work would be required. So it's not really just a matter of them resubmitting contamination reports, finalisation – there's still a significant amount of work that would need to be undertaken before we could come close to an
15 appropriate footprint on the site and something that Council would be satisfied would meet the conditions of the original gateway. So they're the outstanding matters, flooding, biodiversity.

20 **MR PEARSON:** Sorry, you go on.

MR CHRISTIE: Yes, I've just got one more slide.

25 **MR PEARSON:** Sorry, just before we go off this slide because you've also mentioned proximity to the waste centre, so what I'm trying to get at is there a strategic opposition to this given its proximity to the waste facility or is it to do with the contamination work that's required?

30 **MR CHRISTIE:** So there is a strategic opposition due to its proximity to Summerhill. We have in our development control plan buffers around Summerhill. From the non-putrescible cells to the north, which is where the EPA had gauged those subsurface gas migration results, there's a 500 metre buffer in our DCP and 1,000 metres from the putrescible cells. So the 500 metre buffer from the non-putrescible cells does encroach and so this image here just shows –

35 **MS BISSON:** And just on that –

MR CHRISTIE: Sorry.

40 **MS BISSON:** Sorry, Jono. David just may want to sort of indicate just the size, like the strategic I guess size of Summerhill. Like, it's a regional centre, our waste strategy, it's key to being able to manage waste, not just for our region but also down to Sydney because they've run out of room. So David, I don't know whether you want to contribute a little bit from the strategic I guess vision of the site?

45 **MR WITHERDIN:** Yes, certainly, Michelle. And it is a regionally significant asset in terms of Summerhill. It is like the second largest approved landfill site in New South Wales and whilst it's critically important to City of Newcastle, when we look into the future, it becomes more and more important to neighbouring LGAs around the Hunter

and even down to Northern Sydney.

5 So looking at the life expectancy of that site, as it currently sits we're looking at in the order of 70 to 80 years and when we look at sort of longer term diversions from landfill, we expect that it could well be beyond that. So it is quite significant. Development there, the site's in the order of around 240 hectares. There's about 80 hectares under development there currently but that's sort of a – we're continually moving through that site and I think given its strategic importance, we don't want to be in a position there where we're constraining into the future.

10 And I think the environment minister only two weeks ago today come out and made a statement around Sydney running out of landfill space. We're in discussion with a number of LGAs in Sydney around strategic opportunities there for the site.

15 **MR PEARSON:** Yes. Okay. So how do we reconcile all that current development – it appears some of it is close or even closer than this proposal and quite recent development. We did have a look on site yesterday. Yes, can you talk to is this a new policy, the DCP, or how has all that other existing development encroached within the footprint or in the buffer zone?

20 **MS BISSON:** Thank you. I think Jono and Shane will be able to talk a little bit about that but I think just simply that there was a concept approval from back in 2013, I think. I'm not – yes, Jono's nodding. That enabled that all to happen and so whilst City of Newcastle was very much against the urban encroachment, there was sort of no real ability to minimise that. We've tried to minimise it as much as we can by putting conditions of consent on certain developments to sort of put in restrictions that you can't develop there while there's an active cell. But that I guess is not concrete. It is just trying to manage it via a condition of consent. But a lot of that development either was already done or the development that's approved in and around there [backs date(?) 00:23:30] to a very unfortunate concept approval from over 10 years ago.

MR PEARSON: Okay, thank you.

35 **MR CHRISTIE:** It's also worth noting that concept approval, when that was going through, the EPA's guidelines were only for a landfill of the size of Summerhill, the recommended buffer was only 400 metres. That has since changed in the 2016 guidelines where it increased to 1,000 metres. And David, correct me if I'm wrong, but conversations with Summerhill previous was that there was still available airspace in the construction and demolition cell just to the south of the site?

40 **MR WITHERDIN:** Yes, absolutely there is. It's not being used currently but there is every likelihood we may in the future, yes.

45 **MR PEARSON:** Okay. Have you got that on a map, the cell that you're talking about? I think I might've seen it on an earlier presentation but that's just immediately to the south of this site?

MR WITHERDIN: Yes, that's correct. Yes, I think on the – yes, you'll pick it up.

Yes, just to the –

MR CHRISTIE: So this is a non-putrescible cell area. I believe that's a leachate pond and then 505.

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MR PEARSON: So are you saying that that pit behind the leachate pond, it's inactive now but it might reactivate, is that what you were saying, David?

MR WITHERDIN: Yes, certainly. Yes, so within our licence we've still got airspace there to utilise into the future. We're not currently doing that. It's a non-putrescible cell there, so inert materials. But as we look for sort of greater and greater separation of waste streams into the future, yes, there's absolutely the possibility we'll reactivate that site and look to utilise that airspace. And that may be decades into the future, it's certainly not on our immediate horizon, but yes, we wouldn't – not like to rule that out at all.

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MR PEARSON: Okay. But not for putrescible?

MR WITHERDIN: No.

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MR PEARSON: Yes, okay. Got it. Thank you. Okay, yes. I understand that. Anything else on your presentation, Jono, that you wanted to talk about?

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MR CHRISTIE: There was just one more slide which talked to sort of highlighted the sort of high biodiversity value of the site, which is probably – while it might be a little outside the scope of what the IPC are considering, it's just worth noting that so the light sort of pinky colour there is all threatened ecological community and the proposed footprint sits pretty much entirely on top of just TEC. And that's where our main argument has been that they need to undertake a revised urban design study to try and create greater land use efficiency on the site and really take that development away from that south southern part.

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MR PEARSON: Okay. So are you saying that only that eastern bit should be developed?

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MR CHRISTIE: I'm not saying – I'm saying that we need a revised urban design study that can identify what an appropriate footprint would be. I'm not going to comment on what that is. I'd really like to see a revised study as per the original gateway.

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MR PEARSON: Yes. Yes, I mean you sort of did comment because you said they should take development from that southern footprint. So are you talking about that sort of – the [handball(?) 00:27:20] piece?

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MR CHRISTIE: I say that because that's within what our DCP buffer states as we don't want residential development. So that specifically lies up to here where that buffer is. So we would like to see –

MS CAHILL: It has the combined issues, doesn't it, Jono?

MR CHRISTIE: Sorry?

5 **MS CAHILL:** It has the combined issues of biodiversity and –

MR CHRISTIE: Correct.

MS CAHILL: – proximity to the Summerhill.

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MR CHRISTIE: Correct.

MR PEARSON: Okay.

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MS BISSON: Yes, so that all that sort of area down south [cross-talk 00:27:55].

MR PEARSON: So having driven around that area yesterday, it is fairly low density, isn't it? It's not – I don't recall seeing any medium density but are you saying that the Council could be open to up to four storeys on that site?

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MR CHRISTIE: Correct. I think you have to take into consideration the Winten development that is under construction at the moment. So the concept approval, stage 1B, which is now being developed, does include higher density development including a smaller town centre. And we're looking at housing into the future for 20 years and we'd like to get the housing densities on the site better from the start.

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MR PEARSON: Okay. Thank you. So that completes your presentation?

MR CHRISTIE: Yes.

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MR PEARSON: Yes. Through the course of that, we've talked through the matters for discussion, the EPA advice, contamination, gas, timeframe we've spoken about. I mean, looking, in essence, I think the Commission's advice is very much around that issue of should the gateway reactivate, how long would it take to complete the assessment. You've discussed also biodiversity and flooding issues and urban design issues in that respect. There's quite a difference between Council's assessment of how long the contamination assessment will take and the applicant's but that's fine, we accept those differing views and need to consider that. Anything else you want to say on that?

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MR CHRISTIE: Yes, so just on that, the differing views, I suppose I don't believe the proponent has actually engaged a site auditor to validate the contamination – the assessment methodology and that's been a requirement from our environmental health team. They did recommend that they engage an auditor if this was to proceed. And so engagement of the auditor, making sure all that happened, it's very unlikely that that could ever occur within four months. Where our environmental health team have undertaken similar assessments and they have recently and that was for the organics material facility, I believe, with Summerhill, it took I think seven months and that was

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a non-sensitive land use that that was undertaken for.

5 **MR PEARSON:** Okay, thank you. In relation to the planning proposal authority, my understanding was Council was saying whatever happens Council should remain the planning proposal authority. Is that your position?

MR CHRISTIE: Yes, it is. I don't see – I mean, we've performed our duties under the Act, I don't see what reasoning there would be for us to be removed as PPA.

10 **MR PEARSON:** Okay. Turning to a slightly different matter, the land that's going to be – is it C2?

MR CHRISTIE: Yes.

15 **MR PEARSON:** How would you see that would be managed?

20 **MR CHRISTIE:** We had – it was within the RFI that we'd issued in May last year, discussions with our asset team that were provided they could – the assets in terms of – sorry, sort of APZs and the like were outside the C2 that that land would be dedicated to Council.

MR PEARSON: Okay, so Council is open to having that land dedicated?

25 **MR CHRISTIE:** Yes, it would be our preference. In other examples, our assets team have highlighted issues where the C2 land has been held within community title and it's been hard and where that sort of land is upstream, it's hard to get into the site and manage where upgrades need to be done to stormwater and the like.

30 **MR PEARSON:** Thank you. So Council's preference is dedication of that. Anything other that we should pick up on, Brad or Geoff, in relation to this or other issues?

MR JAMES: Nothing from me, Richard.

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

MR PEARSON: Yes. Look, I think we've covered the range of issues. Was there anything else that Council wanted to add in relation to the EPA issue or other issues?

40 **MS CAHILL:** I think only just to briefly reiterate Jono's comment that there were over, what, 350 submissions generally in opposition to the rezoning of the area.

MR PEARSON: were those submissions largely from the local area or was it broader than that?

45 **MR CHRISTIE:** It was local area. It's mostly around Minmi, Fletcher. They're seeing a lot of development and clearing happening out there at the moment, so they're quite active in that space, I suppose.

MR PEARSON: Yes.

MS CAHILL: And currently the land can only be subdivided to 40 hectare size lots.

5 **MR PEARSON:** Yes.

MR CHRISTIE: I suppose just on the sort of timing aspect as well, I think it's just worth highlighting that the response from the proponents to date have not been timely. It's been quite difficult to get reasonable or satisfactory responses in terms of
10 Council's RFIs and so while they say four months, that's just for them to undertake the assessments presumably and then we have to have our time for assessment and then – so I'd just like to highlight the history of I suppose them not getting things through to Council when we've needed them.

15 **MR PEARSON:** Okay. So your view is that they should do the work and restart the process if that's what they want to –

MR CHRISTIE: Correct, yes.

20 **MR PEARSON:** Okay. Yes, I don't think there's anything more. I understand all that you've put to us. The 2013 concept approval, was that a state significant concept approval I assume we're talking about, yes?

MR CHRISTIE: Part 3A, yes.

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MS CAHILL: The old – yes.

MR PEARSON: Part 3A. Well, yes, it would've been – okay, all right, that's understood. Look, if there's anything further that we want from you, we will come
30 back to you, Brad. But at this stage I don't think we – there's nothing you've taken on notice that you need to respond to us on. Our timeframe for this – my timeframe for this is we have 35 days. Our advice is advice, we're not determinative on this. So the Department will consider any advice that we provide in relation to this but they're not bound by it. Our aim is to complete it certainly before Christmas, as early as the first
35 week in December I think is our current KPI.

So unless we stop the clock for any reason, which we haven't done at this stage, that's what we'll be aiming to do. Then it's over to the Department, who I'm sure will communicate with you and anything – our advice will be made public on our website.
40 We'll let you know when we've finalised our advice so that you're aware what it is and you don't find out second-hand. We will do that. So thank you very much for your participation and clear presentation. You've provided a copy of the presentation to the Commission? Yes, you must have because I've got a hard copy.

45 **MR CHRISTIE:** Yes.

MR PEARSON: All right. Well, thank you all. Have a good afternoon.

MR CHRISTIE: Thank you.

MS CROSS: Thank you.

5 **MS CAHILL:** Thank you, everyone.

MS BISSON: Thank you.

>THE MEETING CONCLUDED