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TRANSCRIPT OF PROCEEDINGS

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INDEPENDENT PLANNING COMMISSION

PUBLIC MEETING

RE: A086-18 BELLINGEN

SESSION TWO

PANEL: DR PETER WILLIAMS
PROF SNOW BARLOW
PROF CHRIS FELL

PARTICIPANTS: MATTHEW TODD-JONES
DAVID WAY
LIZ JEREMY
MATT FANNING
DANIEL BENNETT

LOCATION: IPC OFFICE
LEVEL 17, 201 ELIZABETH STREET
SYDNEY, NEW SOUTH WALES

DATE: 3.41 PM, MONDAY, 10 SEPTEMBER 2018

DR P. WILLIAMS: Good afternoon, Liz, Matt and Daniel. It's Peter Williams here. If it's all right, just to start off, I've just got a little introduction, because this – as you might have been, I think, informed – it's – we're getting a transcription. So just more a formal introduction, just more for transcription purposes - - -

5

MR D. BENNETT: Sure.

DR WILLIAMS: - - - if that's okay. So I will just go through that, and then we will get into the more detail of our questions. So I will just read from this, please:

10

Good afternoon, and welcome. Welcome to the meeting today of the review of the gateway determination for the planning proposal to amend Bellingen Local Environmental Plan 2010 in relation to the regulation of horticulture, in particular blueberries, proposed by Bellingen Shire Council.

15

My name is Peter Williams. I'm the chair of the IPC panel. Joining me are Professor Snow Barlow and Professor Chris Fell. The other attendees at the meeting are David Way and Matthew Todd Jones, from the IPC, as secretariat; and Liz Jeremy, Matt Fanning, and Daniel Bennett, from Bellingen Shire Council.

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In the interests of openness and transparency, and to ensure the full capture of information, today's meeting is being recorded, and a full transcript will be produced and made available on the Commission's website.

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This meeting is one part of the Commission's decision-making process. It is taking place at the preliminary stage of this process, and will form one of several sources of information upon which the Commission will base its decision. It is important for the Commissioners to ask questions of attendees and to clarify issues whenever we consider appropriate. If you are asked a question and are not in a position to answer, please, feel free to take the question on notice and provide any additional information in writing, which we will then put on our website.

30

35 That's just by way of formal introduction. If it's okay, could each of you just introduce yourself by name. It's more for voice recognition for our transcription, and then we will get into more of the formalities. So would you mind each introducing yourself, please.

40

MR BENNETT: Yes, Peter. Daniel Bennett, senior strategic planner.

DR WILLIAMS: Thanks, Daniel.

MR M. FANNING: Matt Fanning, deputy general manager, operations.

45

DR WILLIAMS: Thanks, Matt.

MS L. JEREMY: Liz Jeremy, general manager, Bellingen.

DR WILLIAMS: Thanks, Liz. Thank you very much. What we will do – thank you very much for that – what we will do now is, we will just do our normal process,
5 I think. We will let you commence, please, and, if it's okay – if we've got questions for you, we might ask them while you're doing the presentation as well, but also we will obviously have questions at the end. If you can remember, when you're speaking from your end, if you could just mention your name before you start, just for transcription purposes, would be very helpful.

10 MR BENNETT: Sure, okay.

DR WILLIAMS: Thank you. I will hand it over to you. Thank you.

15 MR BENNETT: All right. Thanks, Peter. So we did want to start just confirming some of the process and, you know, procedural matters regarding this. You know, until recently, we were of the understanding that this would be dealt with by the JRPP.

20 DR WILLIAMS: Yes.

MR BENNETT: And, I guess, you know, we've been looking at some of the procedural documents that you have on your website. They seem to be focused a lot on application assessment. So I think you've explained, to some extent, that this is
25 one matter that you will be considering in your deliberations. You know, is there anything else, I guess, that you can tell us about that? I guess, we're interested in whether or not there would be a separate hearing scheduled, or anything like that.

DR WILLIAMS: As far as we know, there isn't; it will be purely this. This
30 gateway determination will purely be on the basis of the information that you're providing now.

MR BENNETT: Yes.

35 DR WILLIAMS: And also, we've just had a – you know – a briefing from the Department of Planning, as well, this morning – this afternoon, as well. So it would be purely on that, and also any material that you want to submit to us.

MR BENNETT: Okay. All right. So, I guess, we just thought we would introduce
40 the planning proposal. We're not really intending to go global through every factor that we've put in the written correspondence that we've submitted here. I assume you've all had the chance to read that, so we're sort of going to focus more on what we see as the benefits of the planning proposal, and less so on some of the inadequacies of the Department's assessment. So we just thought we – we're not
45 sure how familiar you are with Bellingen Shire, but it's probably good to give you a few quick - - -

DR WILLIAMS: No, that would be very – that will be very, very helpful, actually.

MR BENNETT: Okay, great. So, basically, we're a – you know – we're a small regional shire, on the mid-North Coast of New South Wales. Our population in 2016 was 12,600. We've got an ageing population, and pretty low growth rates at the moment. There was, like, a 1.2 per cent growth between 2011 and 2016. Over half our shire is non-rateable; we've got a lot of national parks and forestry corporation estate; and at the moment, we have fairly low development rates, which we are looking to try and encourage more, by virtue of some planning studies and strategy.

10 DR WILLIAMS: Yes.

MR BENNETT: The shire has got a mix of different geographical areas and communities. We've got the seaboard area, which encompasses Urunga, Mylestom, Raleigh; then we've got the valley areas, which is Bellingen and the isolated river valleys; and then the Dorrigo Plateau area.

DR WILLIAMS: Yes.

20 MR BENNETT: Now, we've got a range of different sort of points of view within the community, but I think generally we – you know – the shire values its natural assets. We've got World Heritage rainforest that, you know, we value. And, I guess, Council is looking strategically to, sort of, capitalise on those natural assets through tourism strategy things.

25 DR WILLIAMS: Yes.

MR BENNETT: In terms of some of the council's strategic directions, I just thought I would go through them. So we – you know – we adopt a community vision as part of our, you know, integrated reporting requirements. Some of the things we have in there – you know, our waterways are valued, protected and enhanced. We protect and enhance our biodiversity. Businesses within our shire are ethical and sustainable. Farming practices are financially and environmentally sustainable, and agriculture is a valued part of our economy. So it's a fairly balanced, I think, set of things that are important, in terms, to the community, and reflected in the community vision.

40 So far as our LEP is concerned, two of the main aims that we have is to identify land that's suitable for development or environmental protection purposes, and we encourage or restrict development accordingly. We believe the planning proposal is really talking to that aim. Another one is to progressively respond to changes in the natural, social and economic environment in a manner that is consistent with the principles of ecologically sustainable development. And again, we think that, you know, the planning proposal is reflective of those aims in our LEP.

45 In terms of our operational plans, the council has set its strategic planning priorities for the year, and the determination of this planning proposal is one of the adopted

priorities for Council. So that's a very, sort of, summary of the strategic direction of Council, and where we think it sits. So, I guess, we will just go into some details about the proposal, if that's all right.

5 DR WILLIAMS: Yes, please. Thank you.

MR BENNETT: Okay. So, really, we view this as a very minor tweaking of the current controls that we have on agriculture in Bellingen Shire. It's deliberately designed to insulate the vast majority of agricultural operations from any further
10 regulatory intervention by Council. Now, that's in fact one of the objectives of the planning proposal.

Without going through every clause within it, the basic intent of it is to require that blueberry farms established in the rural zones of the shire will require development
15 consent unless they meet a series of pre-determined exemption criteria. Those criteria are primarily focused around observing buffer zones to environmental features, such as riparian zones, adjoining property boundaries and adjoining dwellings. It's also aiming to divert those away from areas of koala habitat that we've mapped, by virtue of our koala management plan. And it's looking at some
20 visual impact issues associated with

So in terms of the justification for the planning proposals, one matter that we've had regard to is a survey the council conducted as part of the rural land planning policy review, that had 90-odd respondents to that, of which 65 per cent indicated that they
25 supported the greater levels of regulation of blueberry-growing in the shire. It is one aspect that we've considered as part of this; it's not central to Council's deliberations regarding this matter. The department have indicated they think that's a fairly low response rate, but in the context of our shire, and typical response rates, it's not a bad response rate, we feel. And so we've had regard to the outcomes of
30 that survey.

In terms of land use compliance, Council has been involved in a number of compliance activities regarding blueberry farms that have established in the shire. We've directed – we've issued a direction to take clean-up action under the POEO
35 Act, to install erosion and sediment controls, due to soil disturbance in a riparian zone watercourse. On the same property, we issued another clean-up action under the POEO Act, to again stabilise disturbed soil on another part of the property. We've directed – issued directions to take preventative action under the POEO Act, for the same measure – same concerns – inadequate soil and erosion controls and
40 escape of sediment into waterways – and a direction to take clean-up action for placement of demolition waste within a riparian zone.

We've undertaken a large number of site inspections, in terms of initial compliance and investigation, and follow-up inspections to determine compliance with those
45 orders. And we've also recently just referred a package of works that were undertaken on one of these properties to the Natural Resources Access Regulator, relating to dam construction, watercourse crossing, and sedimentation events. So in

developing the policy position, we've had regard to the demand that that has had on our resourcing levels. So that's another matter that we've taken into consideration.

5 In terms of studies, we've tabled to the Commission three water quality reports that have been commissioned by Coffs Harbour Council, undertaken by Southern Cross University. We note that they are not within Bellingen Shire; however, through our compliance actions, we've observed similar impacts on riparian zones to those that are discussed in the study, and we think that they are relevant to Council's intentions as part of this planning proposal.

10 So – I mean, some of the issues that were identified in those water quality reports – so one was water quality on Buffer Creek, and the potential impacts of intensive plant agriculture, noting that nitrate and nitrite levels on sites downstream of blueberry farms were between 50 and 800 times higher than any of their trigger
15 values. Another report into – investigating water quality in Coffs coastal estuaries, in the sediment, established a clear link between the sediment p-profile and recent agricultural expansion. Phosphorus enrichment increased by ninefold, and sediment fluxes by over fortyfold, during the expansion of blueberry cultivation within the catchment since 2002.

20 Other report investigating water quality in Coffs coastal estuaries observed nutrient loads in a creek 695-fold greater than the dry periods, and NO_x loads were amongst the highest recorded for catchments on the east coast of Australia, similar to loads in rivers throughout China, Europe and India with strong agricultural or urban
25 influences. They also observed nitrous oxide emissions, and their estimates were some of the highest ever described for global aquatic systems.

30 So we feel that this is contemporary, relevant research that points and validates the environmental responsible intent of our planning proposal. Another area of justification is, we think that there was – you would have noted a disparity in opinion between different parts of the Department of Planning. This was a fundamental – fundamentally different conclusions reached by the regional office, executive office in Sydney. We submit that that is not indicative of a strong, clear policy position that is preventing the approval of this planning proposal.

35 Some of the other justification that we built in the planning proposal was that it is consistent with a large number of State Government publications and legislation. So, firstly, horticulture is a use that Council can elect to nominate as either permissible without development consent or permissible with development consent in the
40 standard instrument Local Environmental Plan. This is the highest-level expression of planning policy in the state, and what we're doing is entirely acceptable with reference to that piece of legislation.

45 The State Government, the Department of Primary Industries, have developed guidelines to actually assist us with that. They have explicit guidelines on preparing development applications for sensitive plant agriculture development, and criteria that Council could look at in assessing. They have actually indicated that this is a

normal and acceptable outcome in terms of councils deciding what they do in their rural zones.

5 We've also referred to a publication called Living and Working in Rural Areas, which is a well regarded publication that looks at addressing issues of land use conflict in rural areas. The regional office of the Department of Planning noted that since 2007, the buffer distances in the handbook have been accepted best practice when considering potential land use conflicts between agricultural and non-
10 agricultural land uses. The buffers that we're nominating to adjoining dwellings and property boundaries have been derived from that publication and we think are well justified in that regard.

The other thing that we've looked at are recommended setbacks to riparian zones in the Office of Water best practice document, and, again, the exemption criteria that
15 we're nominating in the planning proposal are drawn directly from that and reflect best practice. We've had regard to a publication prepared by the Office of Environment and Heritage on climate change vulnerability for this north coast region. Some of the predictions for climate up here are that we will have increased
20 of rainfall events, increased sheet erosion, increased rill erosion. And we think that the setback that we're proposing to riparian zones are responsible – I guess a response to those climate change forecasts.

The other thing that we've identified in the planning proposal is the – in terms of
25 Aboriginal cultural heritage, there is a high likelihood – a higher likelihood of sites being nominated within riparian zones, other areas and, again, the planning proposal is looking in the first instance, blueberry farms away from establishing those areas. The other point is that buffers are a standard land use planning tool that are used in the New South Wales planning system. There are any number of examples within the that point to this. So, for example, the State Environmental Policy
30 (Exempt and Complying Development Codes) nominate developments then as earthworks that require it to be at least one metre from a lot boundary and 40 metres from a water body. If not, development consent is required.

This is exactly the approach that we are nominating in our planning proposal. Also,
35 subdivision 16, farm buildings requires that they not be constructed or installed within 50 metres of a dwelling on an adjoining property or – and be at least 50 metres away from a water body. Again, this is a similar approach that we're adopting in our planning proposal and it's not a foreign, I guess, concept in New South Wales planning legislation. The final justification factor that I would like to
40 present to you is local landscape factors. So Bellingen Shire Council has a history of concessional subdivision allotments in its rural zones, as many councils on the north coast do. These allow for small, essentially lifestyle allotments to be created within the rural fabric.

45 They inherently have a higher potential of land use conflict because the people who are on them, on the small lots, typically don't conduct agriculture. The topography of Bellingen Shire – it's quite –very close to the Great Dividing Range. We have a

lot of rainfall associated with orographic rain with the escarpment. We have lots of floods. I'm sure you've all seen news clippings and on the television of the Bellinger River in flood. And we have – because of that, we've got lots of watercourses that dissect the landscape. We're also a biodiversity hotspot. We're extremely
5 biodiverse. We've looked at koala habitat and core – and mapped core koala habitat throughout the shire, as well. So we think that there are – that this is a response to the local landscape issues in Bellingen Shire and the council is basically looking to recognise those landscape values in transitioning more towards tourist-related – I guess, economic strategies.

10 So I just thought I would then touch on some of the alternatives that have been considered by council to going down this pathway. We gave consideration to, I guess, deferring to the code of conduct that the blueberry industry have recently developed. This code of conduct wasn't in place at the time when we originally
15 prepared the planning proposal. But our view is that it – these are essentially voluntary measures with no censure mechanisms for non-compliance. They suggest observing appropriate buffers to watercourses and properties but provide no guidance as to what is appropriate. And we feel that once the farm is established, it's quite unrealistic to expect that plans and infrastructure would be retrospectively removed if
20 a situation of conflict emerges. So we didn't think that that was an adequate outcome to achieve the intent of the planning proposal.

We also gave consideration to relying upon the State Government to enforce standards about blueberry growing in the shire, but council hasn't observed any
25 recent evidence of proactive compliance undertaken by state agencies. And I think anecdotally there has been a lack of resourcing allocated to compliance functions and a lack of will to pursue compliance in recent years. So I think we would happily cede to the State Government to regulate the blueberry industry, but in the circumstances, we felt it necessary to develop a local planning policy response. We
30 gave some consideration to requiring for all forms of horticulture. Coffs Harbour LGA considered this option recently but it was not supported by their elected council. This wasn't favoured by us due to the broader – to the impacts on agriculture more broadly that we were trying to prevent by virtue of the planning proposal.

35 We also gave consideration to continued reactive compliance responses, but reactive compliance consumes a significant amount of resources for council. In small, regional councils, compliance actions are performed by planners pretty much at the expense of time spent on servicing customers who are awaiting development
40 approvals and other transactions entered into with council. We observed the proliferation of blueberry farms in LGAs to the north and have proactively decided to implement some basic ground rules for establishment in Bellingen Shire to reduce the likelihood of similar issues emerging, such as those evident in the water quality reports that we discussed earlier. And we think that we're looking at introducing
45 some basic controls that are proportionate to our resourcing ability to deal with them.

Overall, buffers are a proxy measure that, in our view, will significantly reduce the likelihood of complaints or non-compliances, will be easy to implement by council and easy to understand by growers, which will provide them with a level of certainty. I just wanted to touch, as well, on the economic impacts issues. The department
5 have pointed to suggesting that council hasn't considered economic impact. We believe that we have. We noted in the planning proposal that the agriculture, forestry and fishing sector added \$32 million to the local economy in 2015/16, \$30-odd million attributable to agriculture alone. We recognise that that sector generates the highest number of full-time equivalent jobs in 2015/16. We brought to the attention
10 of council that the blueberry industry is documented as making the following contributions to the regional economy.

It generates more than \$250 million in revenue, more than 600 full-time employees, approximately 5000 seasonal workers and a billion dollar contribution to the regional
15 economy when a 3.4 economic multiplier is applied. We also considered a study that documented the average returns for blueberries per hectare compared to other forms of agriculture in the region and those returns were \$100,400 per hectare. It dwarfed the returns of other forms of agriculture. And that was considered particularly important for us because it points to the fact that we think the blueberry industry can
20 accommodate these very minor changes to the operating environment. But it also served to emphasise the importance that we don't burden other agricultural industries with unnecessary regulatory intervention. We looked – the other thing that I want to discuss is we still feel that the department's submission lacks specificity in terms of the non-compliances with the regional plan and the direction. They rely only on high
25 level, generalised statements of non-compliance.

We believe that we have gone – had the rigour to go through each of the clauses, as the regional office did, and document how we think it complied with those relevant plans. And we would suggest that the department has not approached it with that
30 same level of rigour. And I guess, in summary, we're of the opinion that the department's analysis of this over-emphasises economic impact, profitability and impact on agriculture to the exclusion of the clear environmental issues that we've seen emerging by virtue of our own compliance actions and the water quality reports that have been so that's really all I wanted to say, I guess, to start, in terms of
35 how we think the proposal is justified.

DR WILLIAMS: Now, thank you for that. Anything else to add?

MR BENNETT: No, but I'm happy to take questions.
40

DR WILLIAMS: Okay. That's really good. Can I just start off with one question first of all, just from something that you mentioned. The compliance action. Look, are there – the actual number of blueberry farms in Bellingen. Is there – are there
45 three farms at the moment in Bellingen?

MR BENNETT: Yeah. There's two down in the valley.

DR WILLIAMS: Yes.

MR BENNETT: And they've been the focus of the compliance actions that we've undertaken. There is another one up on the plateau that we've had no call to do – to
5 need to inspect in terms of compliance activities.

DR WILLIAMS: And those compliance actions, they've been in relation – so both the two farms in the valley have been subject to compliance action, and both have found to have been in breach.
10

MR BENNETT: Correct. We – well, we issued prevention notices and clean up notices to both of those properties that have required them to undertake works primarily focused upon stabilising disturbed earth surfaces, putting in soil and erosion controls and preventing discharges of sediment to water

15 DR WILLIAMS: So just to put that into context, I mean, how often, or how frequently does council have to take similar type of action in relation to other forms of agriculture and horticulture.

20 MR BENNETT: Nearly never.

DR WILLIAMS: Right.

MR BENNETT: In recent history, there – I can't recall a similar complaint
25 regarding horticulture in the shire. On occasion, we may get complaints regarding cattle in rivers. That's probably the – or, you know, cattle crossing roads and leaving cow manure on council roads. They're the only recent other compliance actions that I can recall in terms of agriculture.

30 DR WILLIAMS: Just one more other question. Then I might hand over to Chris and Snow, if that's all right. The approach of basically moving all horticulture out of development without consent currently in the fall zones in which, you know, the – what we're talking about. They – it's classified as development without consent. So even if it needs another form of approval outside the Environmental Planning
35 Assessment Act, it still potentially would require an assessment under the Environmental Planning Assessment Act under, well, part 5. By moving all horticulture into exempt development, you're removing any form of assessment under the Act, even if it may require – it still might not need approvals under other environmental legislation, but it won't require any environmental assessment, and so
40 you're basically exempting all forms of horticulture from any form of environmental assessment to capture some blueberry farms. I mean, could you respond to that sort of observation?

MR BENNETT: I can't say that I've ever seen a council request like a review of
45 environmental factors for agriculture. I'd have to look into that in more detail. It's certainly not practice that I've seen observed at any council

DR WILLIAMS: Well, I – but – no. There wouldn't – no. It wouldn't actually be the council, but the fact that it might require approvals under other environmental legislation and to get that approval from a State Government agency, that may trigger the need for a part 5 assessment before that approval could be given. I mean, that's a whole – one of the characteristics of development without consent. Now, by moving it into an exempt development, exempt development by its very nature doesn't require any form of assessment under the Environmental Planning Assessment Act which means you've suddenly lost all form of regulation that you may have had for horticulture.

10 MR BENNETT: I guess in practice, I've never seen a farmer undertake any form of sort of environmental assessment for agriculture that's permissible without I can see there may be a technical argument there, but I've never seen it – the results of a land owner undertaking that sort of process.

15 DR WILLIAMS: For approvals

MR BENNETT: Yes.

20 DR WILLIAMS: Like – I don't know – the Water Management Act, or something like that.

MR BENNETT: Correct.

25 DR WILLIAMS: Okay. Look, I might hand it over to Snow and Chris for questions.

MR BENNETT: Okay.

30 PROF S. BARLOW: Snow here, Daniel and Liz and Matt. Just to get us a little more familiar with what we're talking about, is the two blueberry farms that are in the valley, are they in the valleys or is that on the upslopes, or are they on sloping ground or flat ground close to the river?

35 MR BENNETT: It's Daniel here, Snow. They're on undulating terrain within the Bellingen Valley area. They're not on – a lot of the horticulture and blueberry farms that you see in Coffs Harbour Shire by way of contrast are on very steep land that was formally used for growing bananas. We don't have that same, I guess, land use pattern that's historically in Bellingen Shire. So they're parcels of land that have never been used for, I guess, the agricultural development of this intensity before, but they are – like I alluded to before, our landscape has a lot of drainage lines and water courses on it. It's not – they're not – these particular ones don't immediately adjoin, for example, the Bellinger River, but they drain to a watercourse called Pine Creek, which does join the Bellinger River done at Mylestom.

45 PROF BARLOW: Okay. And you've – basically the terrain is such that you've really never had any bananas or very few bananas in the Bellingen Shire.

MR BENNETT: That's correct. A lot of the bananas were established on higher land to be out of the frost zone. There is probably – I'm aware of three sites to the south of Bellingen Township that were historically used for bananas, but it's certainly not the same, I guess, legacy as Coffs Harbour has. That's – a lot of their –
5 the northern parts of Coffs Harbour and southern parts were used for banana growing.

PROF BARLOW: Thank you.

10 PROF C. FELL: Chris here. The documents you submitted in support are very much about fertiliser runoff, and it strikes me you get fertiliser runoff from any intensive agriculture or horticulture. So why are blueberries being picked out specifically? I mean, the steps you've suggested that blueberry farmers take with riparian corridors, etcetera, would be those that would be taken generally for any
15 intensive agriculture fertilisers.

MR BENNETT: So I guess we've suggested buffers as a land use planning measure here, because we think that they serve multiple purposes. We think that they're going to reduce the likelihood of clearing of the riparian zone. We think that they're,
20 I guess, a good proxy measure to – to also limit the likelihood of sediment being introduced into the watercourses. But the water quality reports do look a lot at runoff of nitrate and nitrite, but they also do look at a 40-fold increase in sediment flushes in that coastal estuary, and we've observed sediment being introduced into the watercourses in Bellingen Shire and feel that the riparian setbacks that we're
25 proposing would help to reduce that introduction of sediment.

PROF BARLOW: So do you have any evidence that the buffer zones significantly reduce nutrient movement into the watercourses?

30 MR BENNETT: We don't have evidence to hand that we could present to you, no. We are just, I guess, referring to the findings of those reports that have linked the introduction of sediments and nutrients to the blueberry industry.

DR WILLIAMS: So it's Peter here again, Daniel, Matt and Liz. So I'm just trying
35 to get my head around that point a bit more. The Southern Cross University Report, from what I could see, tested water quality runoff in relation to blueberry farms and non-blueberry farm areas, and it's not clear whether those non-blueberry farm areas were areas subject to other farming or no farming whatsoever. Is there any evidence about the water impacts of other forms of intensive horticulture? And what I'm
40 getting at is are blueberries any worse or no worse than other forms of intensive horticulture, it's just that it hasn't been examined?

MR BENNETT: I'm not sure to what extent they looked at the other – I don't believe that there was a lot of other examples of horticulture to compare. I think the
45 fact is that the vast majority of impacts in those catchments were related to and associated with blueberry growing. So I can't point to the existence of a study that shows that blueberries are significantly different to any other form of horticulture.

PROF FELL: Well, Chris here. It appears that potatoes and garlic are two other crops that appear in the area, and both of those use at least as much if not more fertilisers. Are you worried about those as well?

5 MR BENNETT: At this point in time, we haven't had any, I guess, concerns brought to our attention regarding the use of chemicals associated with those crops. A lot of the garlic that is grown in Bellingen Shire I think is organic, and that is a defining feature of Bellingen Shire, probably, you know, relative to other shires. We have a lot of organic interest in the shire, so in terms of potatoes, again, we don't
10 have a great amount of potatoes currently under cultivation. There was time in the past where it was a significant land use on the Dorrigo Plateau, but there's – we haven't had any complaints or anything brought to our attention that they are significant issues at the moment.

15 PROF BARLOW: Are there – you know, are there any measurements of stream quality in the potato growing areas that still exist on the Dorrigo Plateau?

MR BENNETT: Not that I'm aware of. I could check with Local Land Services, if you like, to see whether they have any documentation on that. But I'm not
20 personally aware of any studies into that.

PROF BARLOW: Yes. That would be good, thank you.

MR BENNETT: Sure.
25

PROF FELL: So can you summarise why blueberries are such a featured bit of horticulture in your area? I mean, we know that it's growing, but why are you worried about it particularly?

30 MR BENNETT: I guess we're worried about it because of what we've observed on the compliance actions that we've taken to date. There was evidence that – of inadequate erosion and sediment controls in place, and we're concerned that that is going to have an adverse impact on our waterways. We think that blueberries are a bit different to the historical agricultural land uses that have been made in the shire.
35 They have a lot of, I guess – aesthetically they're different in impact. They have a lot of supporting structures, netting and so on and so forth, and I guess it's just – there is a concern that if left without any basic controls in place, that there's going to be adverse impacts on water quality and local systems.

40 PROF BARLOW: Is the – under your current planning regs, you know, we know horticulture is sort of exempt, but what about the structures that, you know, go along with the bird protection or, as you just mentioned, the aesthetics of blueberry farms? Do they have to have planning approval for those structures that lead to, you know, the netting?
45

MR BENNETT: I think that's a matter of different interpretations depending upon where you go. There's an argument that they don't require approval because they're

ancillary to the agricultural operation, but on – I believe that another counsel has taken an alternative view that they do require approval. I don't – it's not – I think it's a universally accepted position. I'm of the understanding there's some authority in the Coffs Harbour LGA did not development consent for the establishment of the netting structures.

5
10 PROF BARLOW: And with regard to the – you know, your proposed amendment to the planning schedule did specify that the netting had to be black. Is that for purely aesthetic reasons? Is it equally effective and equally friendly to wildlife?

15 MR BENNETT: Yes. We did propose it originally for aesthetic reasons. The regional office of the department when they refused the planning proposal made some inquiries with DPI regarding the different – you know, whether black netting was effective as white netting, and what sort impacts it might have had on wildlife, and they recommended that that part not be supported. We'd be – we're happy to take their advice on that and to not require that they be black, if that's the industry advice, that it's a more effective form. We feel that, I guess, if the other parts of the planning proposal are supported, that that is a relatively minor concern to council compared to the other aspects of it.

20 PROF BARLOW: None the – so – would dramatically – so the aesthetic part of what you're trying to regulate against is probably not the major part. It's more the environmental issues that you're worried about.

25 MR BENNETT: Correct.

30 DR WILLIAMS: Sorry. Peter here again, Daniel. The – in terms of if the planning proposal is accepted, future actions in relation to other forms of agriculture that's – horticulture, sorry, that now would be exempt – what you'd envisage if there's any problems you'd have to go through the normal compliance route in terms of, you know, regulation through the EPR Act or similar to what you've done with – you've had to do with the two blueberry farms.

35 MR BENNETT: Yes, Peter. That's how we would expect it to pan out. It would be – we would – our – if there's not a consent requirement that has been breached, we would be looking at it in terms of potential pollution incidents. We would also look at whether or not there have been impacts on water courses that would trigger the need for compliance action by the Office of Water, and we would be – or – and/or fisheries, and we would make appropriate for those agencies.

40 DR WILLIAMS: For them to try and take the – for them to take the compliance action at first instance.

45 MR BENNETT: Yes. We would - - -

DR WILLIAMS: Yes, yes.

MR BENNETT: - - - saying – we’ve inspected the site. We haven’t identified a breach in terms of land use planning. We may have said – we’ve identified a potential pollution issue that we’re considering, but we have referred it to you for consideration as to whether it’s breached any of your legislation. And we often work
5 in conjunction with those agencies.

PROF FELL: The Byron studies suggested probably 15 per cent of the fertiliser put on would actually end up in local waterways. Blueberries are irrigated. So that gives some opportunity for the fertilisers to be flushed, if the irrigation isn’t done well, but
10 you lie on a fairly high rainfall area in Bellingen. I’m just wondering what your best guess would be for how much of the fertilisers might get into local waterways. I mean, you’ve said at – at least in the Valley, it’s fairly flat land so you don’t have the scarring effect that you would on much hillier land. I’m just wanting to get a feel for how bad the situation could be.

15 MR BENNETT: I – as I recall the water quality report that the Southern Cross Uni did, I think estimated that around 20 per cent of - - -

PROF FELL: Well, I won’t contest 15 or 20, right.
20

MR BENNETT: Yes. I think the – yeah. As I said, the Southern Cross Uni report, I think, estimated around 20 per cent run off of the nitrogen fertilisers. I’m not entirely sure what we would expect here. I would imagine it would be comparable. I know – I note your comment regarding the slope of the land compared to some of
25 those sites in Coffs Harbour. So it may be slightly less. I guess the other thing with blueberry cultivation is the – they direct the mounds running downhill. And that has an impact, I think, in terms of concentrating flow of water to the riverine systems. One of the reasons they do that, I’m told, is that they don’t like wet feet. So they like to get the water away. But there’s always a WHS issue in terms of driving tractors
30 across slopes across the land where they’re established. So I think that’s just another aspect of blueberry cultivation techniques that potentially, you know, increases the likelihood of sediments and nutrients leaving the site.

DR WILLIAMS: The compliance problems you’ve had already as the two existing
35 blueberry farms in the Valley, the sediment problems for that – those earthworks, are those earthworks predominantly the mounding or predominantly the construction of dams, or what’s – you know, what’s the case of those – not so much erosion, but sediment problems you’ve got with those farms?

MR BENNETT: I think the ones that we’ve had were predominantly at site
40 establishment phase. So it’s literally the mounding of the soil into the mounds in proximity to the watercourses. That would be the main issue that we’ve observed on compliance. Some of the farms that we’ve had here have actually established and done the major earthworks within the summer season, which, you know, is I guess
45 the least desirable time to do it in terms of the likelihood of significant rainfall events, and some of the sediment discharges have been associated with some pretty intense downfalls that have happened at the time. So it’s primarily in site

establishment phase. As I've said, we've reviewed – referred some other matters to the Natural Resources Access Regulator regarding dam construction. The crossing of watercourses, so I guess on farm infrastructure to – to cross minor watercourses, just for the purpose of accessing different parts of the farm – yeah. They are the
5 main soil disturbance activities that we've seen onsite.

PROF BARLOW: Daniel, would you expect – you know, given that you've said that the current and indeed the land sources of the Bellinger Valley are probably not as steeply sloping as they are in Coffs Harbour Shire and perhaps even in Macksville
10 Shire to the south – would you expect when these, you know, farms – the development state was stabilised, would you expect less or more sediment from those farms on the gentler slopes?

MR BENNETT: I think once the site is stabilised, there would be less likelihood of
15 new sediment being discharged into the system post site stabilisation if they – yeah. But in general terms, that would probably be fair. I think in terms of comparing it to Nambucca Shire, I don't think Bellingen is too dissimilar in terms of Nambucca Shire demographically, and Coffs Harbour Shire, yeah. As I said, a lot of the steep land that's under cultivation with blueberries has been, I guess, changed from
20 previous banana growing.

PROF BARLOW: Yeah. So – and – just – sorry to be so detailed here, but in these current farms, are the mounds mulched with woodchips?

25 MR BENNETT: In the current farms in Bellingen?

PROF BARLOW: Yes.

MR BENNETT: I don't believe. The normal practice is they mulch them with, like,
30 a plastic sheeting.

PROF BARLOW: Okay. Okay. Yeah. In other areas it's done with woodchips, but it can be plastic sheeting, yeah.

35 MR BENNETT: Yeah. That would be the main form of mulch that we observe here. I believe that they – I think that they do something differently on the one in Dorrigo. I believe that they adopt some different techniques, which I could find out for you if you're interested.

40 PROF BARLOW: Yes, I am.

MR BENNETT: Okay.

PROF FELL: I'm interested in those blueberry farms that meet your requirements
45 under these regulations, if you like, and the fact they just can go ahead, because nothing in the requirements, as I see, that actually mitigates against causing stream

pollution, possibly helping sedimentation a bit, but nothing will cut back the amount of nitrogen or phosphorous that leaves the land.

5 MR BENNETT: I think that's a fair observation of the planning proposal that we have put here. If we really wanted to be absolutely certain that they weren't going to discharge the sediments and the nutrients, we'd be requiring them to construct retention features on the property to – to intercept and polish the water quality before it's released in natural systems. So I think that's a – that is what would need to occur, I think, in order to have absolute - - -

10 PROF FELL: I was a little puzzled why you didn't go that far and in fact clear the problem with blueberries if you felt it was a big one.

15 MR BENNETT: I guess council was mindful of trying to introduce something that we thought would deal with the majority of our concerns without being too onerous a control on the industry. We were really trying to balance the – I guess the interests of potential blueberry farmers and not prove too much of a disincentive to establishing within the shire and felt - - -

20 PROF FELL: Okay. Thanks for that. That gives me a better understanding.

MR BENNETT: Okay.

25 DR WILLIAMS: Any other questions? Snow?

PROF BARLOW: No.

DR WILLIAMS: No?

30 PROF BARLOW: I'm fine.

DR WILLIAMS: Chris? Gentlemen?

35 PROF FELL: No, no questions.

DR WILLIAMS: I think we're about done, Daniel and Matt and Liz. Are there any other comments you would like to make?

40 MR BENNETT: No, I think we've pretty much addressed them all. So, I guess, just in terms of where to from here - - -

DR WILLIAMS: Yes.

45 MR BENNETT: Yes, that would be the main thing we just want to confirm.

DR WILLIAMS: Sure.

MS JEREMY: my question as well.

DR WILLIAMS: Yes. I might defer to one of the secretariat, just because – bit about process, right here.

5

MR D. WAY: Just in terms of process, I think, Daniel, as I mentioned to you earlier, with the supplementary reports which you provided for water quality – so we have forwarded those on to the department for comment. So we've requested by Thursday, I guess, as kind of a – trying to complete consideration as soon as reasonably possible. And so we will, of course, wait for those comments, and then those will be forwarded on to the panel for consideration, and then, with that – and I think there was a couple of other aspects, such as – you potentially mentioned some studies from local land services that you were going to investigate regarding potatoes

15

MR BENNETT: Yes.

MR WAY: - - - so if anything like that gets tabled, obviously, the panel will want to consider that. So – a longer way of saying, I think, we will take the information which has been provided, which will be the – inclusive of the department's comment on the water quality report, and any tabled information, and, as set out in the request from the department, commence our review of the – well, no; sorry. The panel will commence the review of the decision and the merits of the project, so that would link to the justification aspect.

25

MR BENNETT: Okay.

MS JEREMY: And could you give me any idea how long that might take?

MR WAY: It was requested in the letter from the department seeking the review by 17 September, from memory. That's the – or within 28 days of the date of the letter. Obviously, that's what we will intend to do. But, having said that, there has been – that would be pre-empting any information which may come out of the department's comments. So the short answer is, we will do our best – well, the intent is to meet that timeframe, but we will have to wait and see what the department's comments on that report will be, so we can have time to consider those.

35

MS JEREMY: Okay. Thank you.

DR WILLIAMS: Yes, we just need that report, which I think was sent through on Friday.

MR WAY: Yes.

DR WILLIAMS: But the department will need time to digest that.

45

MR BENNETT: Yes.

DR WILLIAMS: And then, once we get some feedback on that, then we will, obviously, then complete our report and our recommendation – our decision – yes.

MR BENNETT: Okay..

5

MS JEREMY: Thank you.

MR BENNETT: Great, thanks.

10 DR WILLIAMS: Anything else? Okay. Look, I think that's everything. So, look, we very much appreciate making the time available, Daniel, Liz and Matt. Thank you very much. And, as I said, we will endeavour to get this finalised as quickly as we possibly can.

15 MS JEREMY: That would be great. Thank you very much.

DR WILLIAMS: Good. Thank you very much - - -

MR BENNETT: Thank you very much.

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DR WILLIAMS: - - - for your time. Thanks very much. Very much appreciated.

MR BENNETT: Thank you.

25 DR WILLIAMS: Thank you. Goodbye, then.

PROF BARLOW: Goodbye.

30 **RECORDING CONCLUDED**

[4.36 pm]