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TRANSCRIPT OF PROCEEDINGS

TRANSCRIPT IN CONFIDENCE

O/N H-995129

INDEPENDENT PLANNING COMMISSION

MEETING WITH PENRITH CITY COUNCIL

RE: CROWN CEMETERY DEVELOPMENT WALLACIA

PANEL: **DIANNE LEESON**
 ROSS CARTER
 ADRIAN PILTON

ASSISTING PANEL: **DIANA MITCHELL**

COUNCIL: **KATHRYN SAUNDERS**
 GAVIN CHERRY
 PETER WOOD
 MATTHEW BULLIVANT
 WAYNE MITCHELL
 PAUL ANZELLOTTI
 MICHAEL MIDDLETON

LOCATION: **PENRITH CIVIC CENTRE**
 601 HIGH STREET
 PENRITH, NEW SOUTH WALES

DATE: **3.24 PM, TUESDAY, 19 FEBRUARY 2019**

MS D. LEESON: So before we begin I would like to acknowledge the traditional owners of the land on which we meet and pay my respects to their elders, past, present and emerging. Welcome to the meeting today on the development application from the Catholic Cemeteries Trust for a cemetery proposed at Wallacia in the Penrith Local Government Area. The Minister for Planning has delegated his functions to the Independent Planning Commission under section 2.4 of the Environmental Planning and Assessment Act to assess this application. The Commission is responsible for finalisation of the assessment of the application prior to directing the Sydney Western City Planning Panel who are the consent authority to determine the application.

My name is Dianne Leeson. I'm the chair of this IPC panel and joining me on the panel is Ross Carter and Adrian Pilton and Diana Mitchell is from the secretariat supporting the Commission. 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. This meeting is one part of the Commission's process of providing advice. 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 advice.

It is important for the Commissioners to ask questions of attendees and to clarify issues whenever we consider it appropriate. If you are asked a question and you are not in the position to answer please feel free to take the question on notice and provide any additional information in writing which we will then put up on our website. So we will now begin. Thanks, Diana. We have, courtesy of Diana, I think, sent out a short agenda of some of the things that we would like to cover today. It might be useful for the purpose of the transcript if perhaps you could state your name and introduce yourself and then the first time if you do speak to say that. It's just a – it just helps us with the transcription. So perhaps if we could start down the end.

MS K. SAUNDERS: Sure. I'm Kathryn Saunders, senior development planner.

MS LEESON: Thanks, Kathryn.

MR G. CHERRY: Gavin Cherry, development assessment coordinator.

MR P. WOOD: Peter Wood, development services manager.

MR M. BULLIVANT: Matthew Bullivant, legal services manager.

MR W. MITCHELL: Wayne Mitchell, executive manager, Environment and City Development.

MR P. ANZELLOTTI: Paul Anzellotti, acting principal planner.

MR M. MIDDLETON: Michael Middleton, environmental health team leader.

MS LEESON: Thank you. Thanks very much for that. It helps the Commission, I think, in having these meetings with councils and deponents if you could start – kick
5 us off perhaps by just outlining the background to the proposal from council’s perspective and then we can go through any issues that council has around the proposal or submissions from the community that council has. A lot of information has been posted up on our website already and we have been through quite a lot of that, perhaps not all of it. So bear with us if we ask questions and you think that
10 we’ve already got the information, but it is fairly early in our process. So perhaps if I could ask someone from council’s side to give a bit of an introduction from the council’s perspective.

MR WOOD: Yes. I – I can. So Peter Wood, development services manager. I
15 guess I will give a rough outline of the – the background, and I might ask others to embellish it where necessary. But the application – as you would be aware – was with council going back to the end – to, I think, the November 2017 when it was lodged. Our preliminary assessment identified a number of matters in terms of additional information we required and so the – the clock was stopped on the
20 application. It – it’s probably a relevant question, has the – the clock ever started again, because a – a number of the matters that were raised requesting additional information haven’t been responded to to date.

Nonetheless, the applicant referred the application to the minister. At the point in
25 time in January, I believe, the – there was a public meeting that the Sydney West Planning Panel convened here at council with a number of objectors attending that public meeting and addressing the Sydney West Planning Panel. Subsequently the application was referred to the IPC as requested by the – the minister in – and we were advised that the minister had delegated – delegated his functions to the IPC.

30 At that point in time the council had written to the minister seeking clarification on council’s role and how the application would progress, particularly with regard to procedural fairness and pointing out that the Sydney West Planning Panel hadn’t yet reached – reached a proposed determination and, in fact, the – the material we
35 referred to the IPC we were copied in, if you like – the Sydney West Planning Panel – at the same time. Because, I guess, that – that was an aspect that council was seeking clarification on. Who was the consent authority and the – the extent to which the Sydney West Planning Panel would be making a proposed determination based on the application before it.

40 Nonetheless, the – the Sydney West Planning Panel didn’t – didn’t proceed with any aspect of – of the application. We note the IPC referred the matter to the Department of Planning to finalise the assessment and at some stage thereafter the application was also amended to remove some components of what was proposed. And the
45 department’s - - -

MS LEESON: The principal amendment being to remove the crematorium.

MR WOOD: Remove the crematorium component. And so – and we note in the department’s recommendation that is – that the IPC accept that amendment to the application. So I guess that’s a – a brief background. Our – our assessment was, by all means, a preliminary assessment only based on the information that council
5 received. There was certainly a – a number of matters that you will see from the – the referrals which seemed to have been adopted by the Department of Planning which were council’s referrals at the time – the internal officer referrals, that – certainly publically made available on the website under the DPEs assessment.

10 So we questioned the extent to which the DPE have done their own assessment and it appears that it’s purely based on council’s assessment maybe or a review of council’s assessment. But I guess the – at the point in time where council was in a position to refer to relevant documents, it was only a preliminary assessment that was undertaken to that point. And that’s – and, I guess, since that time we’ve – haven’t
15 heard much. We’ve requested that the matter might be reported to the Sydney West Panel in August 2018. That’s in our advice request to the minister so that they ought to be able to come up with a proposed determination given that the applicant had referred the matter in the first place to the minister for the – on the grounds of the application taking too long.

20 And so that was in – that was our targeted reporting and determination or recommendation based on a – a preliminary assessment today. And then I think some time in January of this year we were made – were made aware by residents that the department’s assessment was on the IPC website. And that – from that point, I
25 guess, we did – started to see a suite of documentation become available on the IPC website.

MS LEESON: So you weren’t formally notified of it coming to the IPC and the information being provided on the website?

30 MR WOOD: No.

MS LEESON: Right. Okay.

35 MR WOOD: And so I – I guess at that – and we’ve since been contacted by Matthew Todd-Jones to – with a view to – to meeting with yourselves and – and here we are.

40 MS LEESON: And I should explain, Matthew will be going on leave very shortly and so has transitioned the carriage of this project to Diana to run as the secretariat. So Diana will be the principal point of contact - - -

MR WOOD: Okay.

45 MS LEESON: - - - from this point on if it was at all unclear as to who’s – why Diana was here and not Matthew. You raised a question about the amended consent and the Commission making a determination as to whether to accept the amendment,

principally being taking out the crematorium. We've had clarification from the department and it should be in the transcript of their meeting we had – or the meeting we had with them – that, in fact, it will be the consent authority so, therefore, it will be the planning panel will actually determine that. So they will take that on for – it's a sequential – it's a sequence of issues, and I don't think timing – we understood that timing wasn't necessarily problematic insofar as that was concerned.

So that was the advice we had from the department when we met with them last week or the week before. So I don't know if that accords with council's view of how the delegation from the minister works, but that's our understanding of it. Can we then perhaps just close that out by asking if council has any procedural concerns about what has happened to date because it would be good to be clear if there are any concerns. We might not be able to address them today but at least we can understand them and look into them and then we might actually talk about the substance of council's preliminary assessment and what issues have arisen there for you.

MR BULLIVANT: Do you want me to speak to a couple of those?

MR WOOD: Sure.

MR BULLIVANT: So there's probably just some questions around - - -

MS LEESON: Sorry. I can't recall - - -

MR BULLIVANT: I'm sorry. It's Matthew Bullivant - - -

MS LEESON: Thank you.

MR BULLIVANT: - - - legal services manager.

MS LEESON: Thanks, Matthew.

MR BULLIVANT: There's some questions that we have around whether there are some conditions precedent to the IPC exercising the authority that it has been delegated by the minister. So particularly section 433 of the Act – 433 subsection (7) which says that when an application is referred – referred under this section to an applicable regional panel or the minister – so in this circumstance, the application has been referred by the applicant to the minister who has then delegated authority to the IPC. The consent authority – being the Sydney West Planning Panel – must, as soon as practicable, submit to the panel or the minister – so submit to the minister, in this case the IPC – a copy of the DA that has occurred, the details of its proposed determination of the development application.

So details of the Sydney West Planning Panel's proposed determination of the development application and the reasons for the proposed determination and any relevant reports of any other public authority. I guess the question that the council or I would have is whether in exercising the direction that the IPC will eventually

exercise, which is to direct the Sydney West Planning Panel, are those matters – those matters that I’ve just raised in 433(7) – are those matters – have they been undertaken? Are they required to be undertaken before you, the IPC, exercises its power to direct the Sydney West Planning Panel to make a decision?

5

MS LEESON: Okay. We will take that on notice and we will look into the procedural arrangements and make sure that everything is fine. I understood the referral by the applicant to the minister was simply because the panel had not made a determination within the 70 days and that being the trigger. So we will look into it.

10

MR BULLIVANT: Yes.

MS LEESON: We will make sure that we get on top of any issue that we might not have addressed to this point but as far as I’m aware it’s simply because there was no determination or no view as to how that determination might be made. Ross, have you any other experience in dealing with this section of the legislation?

15

MR R. CARTER: No. I haven’t - - -

20

MS LEESON: No. Nor have I.

MR CARTER: - - - done a referral up to this point.

MS LEESON: And, Adrian?

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MR A. PILTON: No.

MS LEESON: No. So this is – for this panel – the first time that a referral under that section has been made that we’ve dealt with. We will talk to legal counsel back at the Commission and we will make sure it’s all squared away.

30

MR BULLIVANT: I – I guess the – the next – the next procedural issue would be the public consultation and that if the matter wasn’t referred to the minister by the applicant obviously there would have been an assessment completed by the council staff which would have included its obligations under the EP&A Act and Regulations to notify residents of the proposed application and – and consider submissions as part of that assessment process. And then there’s the operational procedures of the Sydney West of the regional panels which is available on their website which sets out the guidelines for engaging with the community.

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Some of those – but in – in those guidelines there’s two aspects to engaging with the community on applications that they had consent authority for. They are obviously complying with the – the Act and the obligations to notify under the Act, but also potentially holding a – a – a – a briefing of the Sydney West Planning Panel where members of the community would be invited to attend that briefing for the purposes of them making the submission on the development application before – before the panel. Now, that hasn’t – that hasn’t occurred here because it has been – it didn’t get

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to that stage by the time that the applicant referred it to the minister. What, if any, public consultation steps will the IPC undertake before it goes and exercises the power that has been granted to the IPC by the minister?

5 MS LEESON: I think to talk to that, we will be having a public meeting on this proposal and on the other proposal that the Commission is looking at down at Varroville. So we will have separate public meetings for those and notification of that – once those dates are confirmed there will be public notification of that and people will be able to register to come and speak at the public meeting. We have
10 now, I think, managed to receive and load all of the public submissions that were submitted to Penrith and they are now on our website, and we will have regard to those when we form our advice to the planning panel. Whether the planning panel then has its own period of public consultation I'm not aware, but that's a procedural step that we will have a look at which I think is perhaps - - -

15 MR BULLIVANT: Yes.

MS LEESON: - - - what you're suggesting.

20 MR BULLIVANT: Yes. I think – and, Peter, correct me if I'm wrong – the submissions that the council received following notification of the proposal to the public was in relation to the original application that the council had received, that it – it – it wasn't notification of the proposal without the crematorium component - - -

25 MS LEESON: As amended.

MR BULLIVANT: - - - as amended. Yes.

MS LEESON: Okay. Okay.

30 MR MITCHELL: And also there were substantial additional information that - - -

MR BULLIVANT: That has – yes – subsequently been furnished by the applicant. Yes. So that wasn't – that wasn't available at the time that council undertook the
35 public consultation. The additional information was subsequently provided by the applicant which wasn't available to the public at the time. I accept that probably there's information now on the website that's available but when we wrote to residents that information wasn't available for them to consider.

40 MS LEESON: And that's something that we should be mindful of in working our way through the public meeting process and what advice we give to the planning panel, understanding how much access to the most recent information the community has had to be able to make thoughtful submissions. So we will circle back on that as well and see how we take that process forward because unless they're properly
45 notified, how are they otherwise meant to know that the information is now available for them to have a look at, which I think is your point.

MR BULLIVANT: Yes.

MS LEESON: Yes. Okay. All right.

5 MR WOOD: And if I – if I can just add to that, the extent to which the application
that you referred under section 4.33 is able to be amended once referred by the
applicant. So the applicant has referred an application to the minister, delegated to
the IPC. And there is – section 4.33 provides for a series of actions that could be
10 – undertaken by the consent authority or by the IPC as delegated by the minister. And
– but that relates to the application that’s referred.

MS LEESON: Yes. Okay. They are good points for us to take on board, and we
will go back and speak with our legal counsel to make sure that we’re clear on each
of those points. And I think as well to be clear for council’s benefit but any
15 community issues that might arise, so we will do some more work around the steps
and check that issue, and particularly in terms of the amended application post
referral. Okay.

MR BULLIVANT: Just the only other issue is – and, look, I don’t – I’m giving
20 advice, but I’ve – I’ve formed the view that I think that it’s a Crown development
application for the purposes of the power that has been conferred to the IPC, but – or
first of all to the minister. But it’s just ensuring that the IPC is satisfied that it is a
Crown development application. I guess that’s the only other thing that the applicant
is characterised as a Crown authority for the purposes of the development
25 application. Otherwise – otherwise there’s no power for the minister then to – to – to
get involved.

MS LEESON: Yes. Have you had regard to the Cemeteries legislation?

30 MR BULLIVANT: Yes. I – yes. I have. So I’m – I guess the question is just
raised just to ensure that - - -

MS LEESON: Yes. No. Thank you.

35 MR BULLIVANT: Yes. So I’m – I’m satisfied but it’s just to ensure that you get
your advice - - -

MS LEESON: You’re satisfied that it is a Crown DA? Yes.

40 MR BULLIVANT: Yes, yes, yes. I think it is, but I – I think that it’s just you’re the
– you’re the body that’s exercising the directions, so - - -

MS LEESON: Well, we have to be clear on what referral we’ve had - - -

45 MR BULLIVANT: Yes.

MS LEESON: - - - from the minister and the powers under which we deal with the proposal. And that's exactly the right thing, and that's why I asked why – if council did have any concerns – excuse me – about procedural issues because we don't want to go down the whole path of providing advice and then discover that there was something that we hadn't properly considered.

MR BULLIVANT: Considered.

MS LEESON: Having said that, I think our legal counsel is very thorough so I would be surprised if there was any question about the manner in which we will take the referral. Okay.

MR MITCHELL: I'm not sure that it's relevant, but there was an earlier attempt to have the matter referred as well before – well before our – earlier in the applications. And the – there seemed to be a clear intention to take you out – this application out of the regional panel's hands almost from, you know, within a few weeks of it being lodged.

MS LEESON: Okay. No. That – I wasn't aware of that – of anything.

MR WOOD: So, I guess, my understanding is that the applicant's request was in January 2018 and the advice, I think, from the department and the minister was around June 2018. So there was a bit of a lag from that initial request until the time that the minister had advised council that the application had been referred and that he had delegated the functions to the IPC.

MS LEESON: Okay. Well, we will have a look at the chronology as we go through. It's always useful to see how a project has progressed to the point it has from inception. So we will be having a look at that as we go through the processes. So - - -

MR BULLIVANT: Sorry. One more procedural item - - -

MS LEESON: Thank you.

MR BULLIVANT: - - - which just came to mind as a result of Peter talking is the date – and I don't have the date in mind at the moment. Whether the – the period in which the applicant is empowered to then request the minister to exercise the minister's authority. My understanding is under the regs it's 70 days if a determination hasn't been made by the consent authority. So that – my understanding is that that request from the applicant was made after 70 days had lapsed, but following the lapse of those 70 days the applicant amended the DA.

And the question is whether the – whether the time – the time for those 70 days then starts again because it's – it's an – it's an – an amended application and, therefore, does that 70 days trigger again? And, therefore, does the IPC have that power available, because the 70 – the application was made within the 70 days, effectively,

or whether there needs to be a new application to the minister made by the applicant because there was an amendment to the development application.

5 MS LEESON: Okay. Well, thanks for raising it. We will have a look and - - -

MR WOOD: And – sorry – just one further to that, whether the 70 days had, in fact, been reached by virtue of the stopping the clock provisions.

10 MS LEESON: Right. Do you have a simple chronology that you could provide to the Commission that sets that out?

MR WOOD: We can provide one. It's – it won't be – we will try and make it a – a simple version of the chronology but it's – there's a fair bit of work involved there, but we can provide one.

15 MS LEESON: We would be grateful for what you could do. Thanks, Peter.

MR BULLIVANT: No more procedural - - -

20 MS LEESON: Is there any more procedural issues?

MR BULLIVANT: No. No more procedural issues.

MS LEESON: I probably should have brought a barrister with us. If that's – and, look, we do appreciate that because, you know, process and procedure is really important to get right and if there are any concerns then we would like to make sure that we can allay those in our report and our advice. And in an unfortunate circumstance that our powers weren't there, then we will have clearly caught things short. Can we then turn to council's preliminary assessment and tease out – and I'm not quite sure what time availability you have this afternoon. I think we had an hour set aside but given the juggling of time that we've had, if you are time poor then we will try and be as - - -

35 MR MITCHELL: No. I think we've got - - -

MS LEESON: - - - good as we can.

MR MITCHELL: Yes, we've got time available; yes.

40 MS LEESON: Okay. All right. Then if we can turn over to council then to take us through the key issues from your preliminary assessment.

MS SAUNDERS: I'm happy to do that.

45 MR WOOD: Yes. Perhaps if we can start with permissibility and – and the land use components and definitions and – yes – I will hand it to you, Kathryn, to speak to that.

MS SAUNDERS: Yes. I might just grab a copy of my - - -

MS LEESON: You might need to be nearer a microphone. Can you hear Kathryn from there?

5

MS SAUNDERS: Of course. Yes. Okay. So Kathryn Saunders, senior development assessment planner. At the time when council was informed to hand over their documents to the IPC I put together this assessment summary which accompanied those documents which effectively summarised council's position as a result of the assessment to that date based on the documents that we had before us at that point in time and also based on the internal advice given from our various departments – environment and engineering, stormwater and the like – on those – on the information that we had from the applicant at that point in time. So I grouped the assessment summary under relevant headings and I can step through those, but I think it's important then to start with permissibility if that's okay to work through that way.

MS LEESON: Absolutely. As I think I tried to say at the outset, we're really here to try and hear you and understand what council's issues and concerns are. So we will ask questions along the way if we think there's something that we haven't delved into but other than that, we're here to listen to you.

MS SAUNDERS: Okay. Rather than go into, I guess, the finer detail of perhaps missing information on every aspect of it, I think overall the lack of information to allow us to complete our assessment on many aspects of the proposal was evident at this point. And we did write to the applicant and request additional information and some was received to clarify the proposal and others weren't received. I think importantly permissibility, I guess, has been in part amended in the documents provided to the department during their assessment with the proposal to remove the crematorium from the overall development.

The function centre component of it I don't think has been addressed, having read the department's assessment or explanation of that component. The development proposal is for 88,000 burial lots to be, I guess, rolled out in three stages, although it's not a staged development. It's – it's the nature of a cemetery to, sort of, fill up and move along in an orderly fashion. The stage 3 of the application proposed works to an existing golf clubhouse which will remain in use, although varied throughout the progression of the development toward closing down the use of the site as a golf course. So it does have functions at the moment and the proposal, I guess, would be to continue to do that in – in conjunction with the use as a – as a golf clubhouse.

What the application is, in fact, seeking is approval to use it purely as a function centre once the golfing has ceased at the end of stage 3. A function centre itself is prohibited land use in that zoning and my concerns which are in the assessment summary is that what the applicant is then seeking is for the consent authority to – to consent to the use as a function centre. I think it's more than 60 years into the future by the time you get to stage 3, even though it's a prohibited use in that zone and does

the consent authority have enough information at this stage to – in terms of its impact to then grant that?

5 I think that what they're actually proposing is a mixed use development at the time when we had it which involved a chapel, crematorium, cemetery and change of use of the existing golf course into a function centre rather than its continued use as a function centre into the future because at some stage this piece of land will cease to be a golfing facility. It won't have a golf club on it and it will then be purely a function centre. I don't think that was addressed in the department's assessment.

10 MR WOOD: And I thought I would just add, Kathy, that the department's assessment refers to legal advice obtained by the applicant and by council.

15 MS LEESON: You might just need to speak up a little, Peter.

MR WOOD: Sorry. So I'm – I'm – on page 10 of the department's assessment they talked of permissibility and referred to legal advice obtained by the applicant and by council and stating that that legal advice disagrees with council's preliminary assessment, but that's not the case. Did you want to clarify that?

20 MS LEESON: Was that in regard to the function centre rather than the crematorium being ancillary to a cemetery?

25 MR WOOD: Yes.

MS SAUNDERS: Yes. So the legal advice that council initially sought was more targeted on the ability for the crematorium to be considered as ancillary to the primary use of the site as a cemetery. We, in our request to legal, also asked our solicitors to look at the permissibility of the function centre. In the correspondence that we received the explanation of whether the function centre could – could continue at the golf course I don't think had – I don't think the question that we asked the solicitors necessarily could be translated to close out permissibility for the function centre into the future, if I've explained that - - -

35 MS LEESON: Okay. No. I think I understand.

MS SAUNDERS: Yes, yes.

40 MS LEESON: Yes. Okay. Well, we will be looking at permissibility. Yes.

MS SAUNDERS: Yes. I think – I think it's – the legal advice that we received has been referred to incorrectly in the – in the department's summary.

45 MS LEESON: Thank you. Thank you.

MS SAUNDERS: Yes. If I just move on past the - - -

MS LEESON: I think so, if – please.

MS SAUNDERS: - - - permissibility issue. There were internal referrals obviously to our Environmental Health Unit just with regard to things like connecting to services such as sewer. On that particular aspect of it, that – the site isn't connected to – like, they will need to have onsite sewer management, which is a bit of an issue, I guess, in terms of how they – the applicant proposes to dispose of it depending on what system that they use and also - - -

10 MS LEESON: What happens now with the golf club, do you know?

MS SAUNDERS: It's connected. The golf club itself - - -

MS LEESON: The golf club is connected.
15

MS SAUNDERS: - - - is on a reticulated system, but the greater portion of the site, I guess, heading out into the golf – the golf grounds - - -

MR MIDDLETON: Heading east.
20

MS SAUNDERS: Yes. East.

MR MIDDLETON: East into - - -

25 MS LEESON: So up at the chapel, for example.

MR WOOD: Yes.

MS SAUNDERS: Yes. The chapel end.
30

MS LEESON: The site that's proposed for the chapel which is up the top of the - - -

MS SAUNDERS: Yes. So stages 1 and 2 – yes – wouldn't – wouldn't have a – a readily available connection. Rural subdivisions to the south of Park Road are also on onsite sewer management. They're not connected to reticulated systems there so they – each – each lot disposes of its own sewer with aerated systems and the like. So - - -
35

MR WOOD: And then just a – a little bit of background, the Mulgoa and Wallacia villages were previously on old pump out systems. Sydney Water through their backlog scheme came and put a sewer scheme in probably about a – a decade ago but it had very limited capacity, mainly for the system residents of the village. It didn't have a lot of this additional capacity for the future growth being that they were, sort of, fairly restricted rural – rural villages.
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45 MS LEESON: All right. Okay. I don't know. I think the question then will be to understand what sorts of activities are likely to be happening at – in that stage 1 and

stage 2 which is where the chapel is proposed and how much extra load it will be. But you're concerned that they haven't adequately addressed sewage and the management of that given it's not on a reticulated service up on that end of the site

5

MS SAUNDERS: That's correct.

MS LEESON: --- if I understand the issue.

10 MS SAUNDERS: That's correct. Yes.

MS LEESON: Thanks. Okay.

15 MS SAUNDERS: So we – we requested a wastewater management plan which wasn't submitted. And the – the – the idea in receiving that is we know the – and now we've learned that that would be required to be provided on the site. That would, you know, facilitate the disposal of it or an aerated system or something, and then you – you obviously have to keep grave sites out of those areas. It can't be in the direct line of trees. You need to respect the watercourses and riparian zones
20 because it is a bit of a constrained site in terms of those impacts and the useable amount of land that us and – an OSSM system with the capacity that may be required on those point load functions for services related to the funerals.

MS LEESON: Okay.

25

MR WOOD: And I – I guess that's important under the Penrith LEP 2010 clause 7.7 servicing. The consent authority shall not grant consent unless it's satisfied that can be – can be connected if required by the – the authority. Now, we're not saying council necessarily requires the development to be connected. Certainly the
30 application doesn't, as – doesn't propose connection. That we – we would say that that's not an aspect that could be conditioned. There needs to be some certainty around the servicing of this development to meet the test of clause point – 7.7 and without that information on how the onsite sewage management is acceptable it – it's – it's an aspect which prevents granting consent unless there's additional information
35 provided. We don't – we say that that information requested by council in the initial stop the clock period related to this aspect hasn't been provided to the satisfaction of – of council.

MS LEESON: Okay. Thanks.

40

MS SAUNDERS: The related matters on that aspect, I guess, are the impacts of the use as a cemetery and the provision on onsite sewer management in relation to the groundwater table – the height of the groundwater and the flood affectation of parts of the land, the biodiversity on the land, the riparian corridors, and the inability, I
45 guess, of proposing conditions without having – knowing the full impact of the development on those things and the ability of those conditions to have effect after a consent is issued or council to – if – if the condition required that council could be

satisfied at a later date as to onsite sewer management, if – if in providing an onsite sewer management solution the development is modified then how – how is that dealt with. I - - -

5 MS LEESON: Do you have concerns – sorry to interrupt. Do you have concerns about both what they're proposing – not enough information around how they're going to manage sewage, and is there also a question there about what's currently put forward as draft conditions?

10 MS SAUNDERS: Yes.

MS LEESON: We've clarified this this morning with Campbelltown Council as well in regard to the Varroville development. When we interviewed the Department of Planning last week or the week before, they indicated that what's here is not
15 necessarily what they would propose as the definitive wording of any conditions, that they were more a guide to a determining authority or a consent authority to actually have regard to. So I don't think the department intended those to be the be all and end all in terms of conditions. You might like to have a look at the transcript of that
20 interview with the department last week just to see how that conversation went and that might or might not help you in terms of the – your level of concern around how some of these conditions are currently worded.

MR WOOD: I guess the extent to which council has assessed the adequacy of the conditions, we probably haven't put time to that given we suggest that the consent
25 authority doesn't get to granting consent in the first place to then consider a condition, but some of the statutory requirements are prerequisites to granting consent, the servicing being an – an example. But then also, I guess, clarifying council's role when commenting on conditions or providing advice around conditions - - -

30 MS LEESON: I think the Commission would - - -

MR WOOD: - - - so that council is no longer being the assessing authority.

35 MS LEESON: Sorry to interrupt again. I think the Commission would welcome council's thoughts on both the adequacy of information received to this point and what you've seen on the Commission's website but also commentary you might have in regard to the conditions that they're – whether they're covering all the right issues, whether you would seek additional conditions. I think that's something that we
40 would welcome your contribution on so that in our advice – assuming we get through all the procedural issues – the – for our advice to the consent authority. So - - -

MR WOOD: I - - -

45 MS LEESON: - - - if you want to provide more information - - -

MR WOOD: I can appreciate that. I guess it's the extent to which council is making submissions as an objector to the recommendation on – on the recommended conditions in terms of what's – what's council's role now. We're certainly not assessing the application.

5

MS LEESON: I think that's something that council has to work through in its own right to form its view about what its role is now.

MR WOOD: So - - -

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MS LEESON: I mean, not to push it back, but - - -

MR WOOD: No, no.

15

MS LEESON: - - - I think generally it is council's - - -

MR WOOD: And I agree. Well, I mean – and so based on what we know we – we would be saying that the conditions are inadequate and what are – what's recommended – for a whole host of reasons and that the – the conditions talk about mitigating some of the assessment issues that council has identified in its preliminary assessment, and we say that – that the – the department's assessment appears to be more of a review of council's preliminary assessment as much as it doesn't appear to have been a complete and proper assessment that it has undertaken itself.

20

25

And there's some – some of the wording in – in the report indicate that it is much – as much a review of council's preliminary assessment as it is an assessment in its own right and it's based on council's own referrals – in-house referrals by council specialists and those referrals by council's specialists have concluded that the application ought not to be supported and not provide recommended conditions of consent until such time as there is adequate information. And they – all of that information is on – on the IPC website. It – it's all there, all of those referrals.

30

So there – there is one other aspect of the amended application which we don't necessarily say is an – an issue because the RMS, we understand, have granted a – whether it's a concurrent or an integrated approval around amending the driveway of the access requirements to remove an access that was proposed out on to Mulgoa Road. So I didn't mention that earlier, but that is an aspect of the application that was amended and it was an aspect that raised some community concern in – in terms of objections initially. That forms part of the amended application now. So that goes back to the – I guess, the public consultation aspect of the proposal and what is the current application.

40

MS LEESON: Yes, yes. Okay.

45

MS SAUNDERS: On that particular aspect of the amendment to the application that the department assessed, that access point was over lands owned by another party which hadn't provided owner's consent which, I think, was owned by the RMS.

Removing that portion of it or the proposal over that land from the development does resolve the issue of owner's consent over that piece of land; however, I note in the layout of the amended documentation that's available on the – the IPC website is that the internal roads still support access out over on to Mulgoa Road and the site is a
5 bushfire prone zone, as I understand. And there were requirements initially in the preliminary assessment about egress and things like that, and I – I just wondered if that had been addressed in the report about whether they did require a secondary exit point, whether that was for flooding or fire reasons. I'm not sure.

10 MS LEESON: I'm not sure if this will answer your question but when we were on site today with the applicant, the applicant did raise that road and said it wasn't intended as a regular road, that they were going to take it out, but there was a question mark over whether it should be retained for a possible emergency egress. So they're aware of the issue and a bushfire situation. I personally haven't looked at
15 all of the documents on the website to see RFSs response and whether they require that. So I think we would be guided in our consideration of the matter as to what the RFS and RMS were saying in that regard. So we would have to have, you know, consideration of what they're telling us.

20 MR WOOD: And they will – I guess, to Kathy's point around owner's consent wasn't provided at the time the application was referred, so – and has owner's consent subsequently been provided if that land is to be relied upon for the purpose of the application that's before the IPC.

25 MS LEESON: So there was another procedural issue.

MR WOOD: Apparently.

30 MS LEESON: Okay.

MR WOOD: But I'm not a lawyer, so - - -

MS LEESON: Okay. No. That's a good point. Thank you for that. We will have a
35 look.

MS SAUNDERS: Sorry. I wasn't prepared to go through each individual - - -

MS LEESON: No, no. But that - - -

40 MS SAUNDERS: - - - aspect of my letter today.

MS LEESON: You are raising some issues that we've seen some references to, but understanding it, now the council is explaining it, puts a bit of a different light on some of them. So we welcome that. Thank you.

45 MS SAUNDERS: One other important aspects of the proposal which was raised a lot of times by the submitters of the application – I actually met with a group of

submitters as part of the assessment on the site – was how the development drains in different portions through council’s easement to the south under Park Road and then re-joins the waterway back into Nepean. So the most eastern portion of the site drains to the council’s culvert, which is attached to an easement which allows the water to pass under Park Road, and that then joins privately-owned land and goes down through a system of privately-owned dams and back into the river. The residents, obviously, in that catchment have raised concerns about chemicals and contaminants entering the water system in times of flood due to the high water table and, also, if onsite sewer management is located in that area, the impacts to the livelihood, I guess, of their dams, and waterways and also council’s internal referrals with regard to stormwater weren’t happy at that point in time with the proposal and had requested further information.

MS LEESON: So if I can rephrase that or – it’s just so that I know I’m clear, at the moment the site falls a couple of ways and the eastern portion of the site is draining towards council’s infrastructure which runs under Park Road. So you are draining part of the site at the moment and that will just have normal golf course type runoff.

MS SAUNDERS: Yes.

MS LEESON: The concern is that, with a cemetery there, if there is elevated groundwater of any potential contaminants, be they chemical or whatever else, then getting into that drainage system and getting on to private property on the other side of Park Road?

MS SAUNDERS: Yes.

MS LEESON: Okay.

MS SAUNDERS: And just how, if it were – the development would go ahead, how ongoing monitoring of any impacts would be undertaken - - -

MS LEESON: Okay.

MS SAUNDERS: - - - especially in the light of renewable tenure the cemetery is allowed to do, so it may – the proposal may currently be for 88,000 plots, but, under the legislation now, you can re-use the same plot after 25 years under a lease agreement. So they were concerned that, although stage 1 might be completed and that that belongs in that catchment, that it’s not completed in the sense of there won’t be more burials there that will continue, and then how do you monitor or how do you look at water impacts and - - -

MS LEESON: Yes. Okay. Ross, did you have any more queries on the groundwater issue, while we’re talking about water at the moment? Does that address some of your - - -

MR CARTER: No. I think council's point goes beyond just the groundwater issue. It's also - - -

MS LEESON: No. It does, definitely.

5

MR CARTER: - - - the onsite effluent disposal issue on the site and the implications or interaction of all of that in terms of runoff that might go through on to privately-owned dams and ultimately to - - -

10 MS SAUNDERS: Back into the Nepean.

MR CARTER: - - - natural watercourses. So, yes.

MS LEESON: Okay.

15

MS SAUNDERS: That's probably – unless you wanted me to go into more detail on any other headings in my preliminary review, they're the essential - - -

MS LEESON: Okay.

20

MS SAUNDERS: - - - I guess, missing information, and the missing information related to those aspects of it inform other things, such as riparian corridors and the overall layout that the applicant is proposing in terms of what areas of the site are useful, what aspects of the development would be impacted on by the receipt of that additional information.

25

MR CARTER: So that that's the – if they were to propose onsite disposal, that would have a footprint that would then have a knock-on to the entire layout.

30 MS SAUNDERS: I think it needs to be – council's preference would be that it's known upfront.

MR CARTER: Yes.

35 MS SAUNDERS: So that the full impact could be known, and I think that's where the submitters have also raised the unknown of it as a matter of concern.

MR WOOD: And that also goes to the biodiversity – the ecological communities on site. You will note some objectors have made submissions around the native orchid that is endemic to that locality, and so I guess there are some aspects of the assessment that council had asked for additional information on in terms of that vegetation assessment.

40

MS LEESON: I've seen reference to, quote, an unnamed orchid, unquote.

45

MR PILTON: Supposedly rare, I thought was said.

MS LEESON: Do you know – does council have information on what species of orchid it is and its rarity?

MS SAUNDERS: Yes. So Mr Matthew Fowler had spoken at a council meeting.
5 He has also provided a lot of information on his – I think it was his uncle, who had seen, or photographed the unknown, or unnamed species. He provided information as to what portion of the site, where he saw it, at what time of year, and he is an expert, as I understand, in orchids and has previously had one named after him was the information provided to council. I did forward on the information to the
10 applicant – to the applicant on the application form, and provided them details of the submitter, and spoke to him – the submitter to, you know, request permission for the applicant to contact him, and I have had a review of the applicant's – Travers – bushfire and ecology response which was provided to the department on that matter. However, it doesn't appear that Travers has been given all of the information that
15 council had with regard to its location and has not contacted the submitter on that matter.

MR ANZELLOTTI: To add – sorry. Paul Anzellotti. I have a copy of the email, which says:

20

The endemic Wallachia golf course terrestrial orchid is as yet undescribed, thus unnamed, hence my concern and desire for an EIS dust-clearing – dust clear up management plan –

25 and identified that it was:

...plants were on a well-drained south facing slope on the 13th hole facing Park Road.

30 So that's where they were discovered.

MS LEESON: Does council know if there's any there at the moment? I guess, what I'm thinking is, there were lawnmowers run over golf courses all the time.

35 MR ANZELLOTTI: That would be the concern, I suppose, that the fairways are mown regularly.

MS LEESON: Yes.

40 MR WOOD: So if I can just respond. Our biodiversity officer had recommended, in light of this information, and this is in their referral that's on – that the IPC have, he has recommended a targeted survey and assessment be undertaken by a qualified botanist with experience in orchids for the presence of the undescribed species and the surveys to be undertaken during likely flowering time, and he suggested that the
45 botanist be provided the contact details regarding the submission so that information can be provided regarding the locations, and that's what has been put to the

applicant's ecologist to follow up through. So it's a – I guess the significance is yet to be assessed, in a sense.

5 MS LEESON: Okay. Does council have any concerns around – sorry, Kath, were there more issues that you wanted to - - -

MS SAUNDERS: Not at this time.

10 MS LEESON: - - - bring to our attention?

MS SAUNDERS: No.

MS LEESON: No.

15 MS SAUNDERS: I think it's stepped out in the assessment summary.

MS LEESON: Traffic? Is traffic a concern for council with this application?

20 MR WOOD: I guess with the – we're mindful that the RMS have raised no objection to what's proposed in terms of the Park Road connection. The extent to which there is a Mulgoa Road connection is something we would need to confirm the nature of the use of that road. I think we initially requested more detail around the vehicle movements as they relate to there. It was certainly a matter of objection from residents, particularly that Mulgoa Road connection.

25 MS LEESON: Okay.

30 MR MITCHELL: We do – there is – as background, we do receive ongoing concern from residents on the – particularly the heavy vehicle traffic on that road. We are constantly passing on representations from our community to Roads and Maritime Services about safety – safety concerns, and noise and other concerns related. There's a couple of major extractive industries in that locality that attract a significant number of heavy vehicles down that road. So there has been a number of measures to try and slow traffic down and try and manage the safety of the residents
35 along the opposite side to the golf course.

MS LEESON: Where are those extractive sites?

40 MR MITCHELL: It's over on the other side of the river, Basin Road.

MR WOOD: Well, Warragamba, Silverdale.

MR MITCHELL: Yes.

45 MR WOOD: Warragamba. Up that way.

MS LEESON: Okay. I know.

MR WOOD: I guess that probably goes to conditions in 1 in the sense that we note the RMS have recommended conditions around a treatment on Park Road in terms of a – I think it's a seagull treatment or something similar in terms of the ingress/egress movements from the site, the extent to which that has been modelled and assessed as
5 being acceptable as part of the application as opposed to conditioning the requirement. Council hasn't been privy, I don't think, to any traffic modelling or what-have-you to demonstrate that that intersection is satisfactory from a safety, or more efficiency point of view, but that's largely a matter for the RMS, being a
10 classified road.

MS LEESON: Okay. Thanks. Are there any issues from council's perspective regarding hours of operation and night-time activity? We've talked about the function centre.

15 MS SAUNDERS: Yes. I would say, just going from my summary of how I perceive that to be a prohibited use, the function centre, both at the time when the golfing ceased to be happening on the stage 3 of the site and the golf club becomes pure function centre, it's not, I guess, fully understood how events relate to the use of
20 the site as the cemetery, so will it be weddings as well, or other functions, who will be the operator of that, and then the impacts of that, when it's operating as a function centre, on noise and the residents in the locality and also does it have the capacity to deal with carparking and those sorts of things.

MS LEESON: Okay.
25

MR MITCHELL: We have also received advice from the local community about that portion of the site already being sold to the local bowling club for the purpose of relocating the bowling club to that site. We haven't, I don't think, pursued whether that has progressed formally or not, but there seems to be a clear intention to relocate
30 a bowling club to that function centre site.

MS LEESON: That was advice we received today. Yes.

MS SAUNDERS: It appeared from the staging of the development that, even
35 though that cemetery – the gravesites or the plots would be rolled out in stage 1, 2 and 3, the proposal is to construct the - - -

MS LEESON: The chapel.

40 MS SAUNDERS: - - - administration building, chapel and do the function centre all as part of stage 1. That was my understanding of what was proposed. And then the actual landscaping and gravesites would be stage 1, 2 and 3.

MS LEESON: Yes. And, in terms of visual impact, we were advised by the
45 proponent that no gravestones would be visible from Park Road. Has council looked at the visual impact assessment and have any concerns around visual impact?

MS SAUNDERS: We had initially raised concerns about the higher headstones impacting - - -

5 MS LEESON: And they say now they're going to be moved further into the site and away from the road. So they won't be visible from the road was the advice we were given.

10 MS SAUNDERS: Yes. Council – I guess, since council has handed over its documents as requested, we haven't continued the assessment past that point.

MS LEESON: Okay. Are there any other things you want to raise, otherwise I will ask - - -

15 MR MITCHELL: Just from a strategic context, there's a little bit of history as well in terms of, I suppose, the permissibility of a cemetery on the site. We had a similar proposal nearby from Rookwood Cemetery Trust. They were looking at – hadn't pursued to a formal application but it came to council's attention that they were initially under some sort of preliminary contract to purchase the historic Fernhill site for the purpose of a cemetery, and that's just down the road. That subsequently has
20 been purchased by government to be preserved as a heritage site now. But through – and council became aware that there was initially – under the Mulgoa Valley REP, cemeteries were prohibited in the Mulgoa Valley, but, through the transition from the REP13 to the standard template, the private recreational use for this site became –
25 cemeteries became permissible through that process of transition to the new template format. Council has made submission – has made a – submitted a planning proposal for cemeteries and crematorium to be made a prohibited use, as they were previously under the REP.

30 MS LEESON: Across the LGA?

MR MITCHELL: Across that Mulgoa Valley area.

MR WOOD: In the E3 zone.

35 MR MITCHELL: Given the, you know, historic significance of that Mulgoa Valley, that planning proposal hasn't proceeded through the gateway, as the department's advice was that they were undertaking a study of cemetery needs before our planning proposal could be considered further.

40 MS LEESON: There was an analysis of cemetery needs across metropolitan Sydney. I think that was released late last year.

MR MITCHELL: Yes.

45 MS LEESON: Has council had the benefit of seeing that?

MR WOOD: So our Sydney planning manager has advised that – and I think that’s the Crematoria of New South Wales report?

MS LEESON: Yes, that’s right.

5

MR WOOD: That’s referred to in the assessment, that we understand the Minister has asked for that to be reviewed, or has asked to review that report and has called for a second review to be considered by government, which would then inform the status of council’s planning proposal, and so I guess that goes to the – probably the
10 broader question in relation to the DA around orderly and economic development and the objects of the Act and site suitability in the context of council is currently undertaking, as it has been asked to by government, the LEP review process, which includes a review of all rural lands, which is currently being undertaken, and preparation of a local planning statement, and so the extent to which that body of
15 work, with regard to the recommendations of the reports – but I think there’s the Crematoria of New South Wales report but there’s also a report that the New South Wales government has requested or is preparing as well. So we probably need to seek some clarification around that.

20 MS LEESON: Subsequent review of that report?

MR WOOD: Yes. Well, I believe so, but I’m not 100 per cent. And so, until such time as that work is done to inform our – you know, the district plan, the local
25 planning statement, the LEP review process, the permissibility of these land uses in the zone, which we have the current planning proposal for, we understand that that’s – it hasn’t progressed through gateway until such time as the outcome of these studies is complete.

30 MS LEESON: But is that a broader issue than this site specifically? Because this one, we do have cemetery as a permissible use under the LEP.

MR WOOD: Yes. Understand. I guess – and that’s why I say it goes – it is a broader issue in that it goes to the – in terms of the village of Wallacia, and the Commission will know this through the objections, the extent of land which is
35 available for outdoor recreation purposes is fairly limited and a lot of that is comprised by the golf course currently. The extent to which there will be any provision of open space, whether it be public or private open space for the village – serving the village of Wallacia, is a question that, I guess, council will be looking at as part of that broader review process.

40

MS LEESON: Okay. Thank you for that.

MR MITCHELL: Yes. So, I suppose, just in summary, the strategic intent of our council was never to permit the cemeteries in that Mulgoa area. It was more of a –
45 perhaps an anomaly of that transition to a template.

MS LEESON: Okay. Thanks. Okay. Ross? Adrian, any - - -

MR PILTON: No.

MS LEESON: - - - issues or questions you would like to follow through with?

5 MR CARTER: Not at this point.

MS LEESON: No. Okay. Is there anything that you would like to tell us or talk to us about that you haven't yet?

10 MR WOOD: I just wanted to clarify when Kathryn before mentioned one of the residents, Matthew Fowler, addressing council. That was actually addressing the - - -

MS SAUNDERS: Sorry. Yes.

15 MR WOOD: - - - meeting that the Sydney West Planning Panel held here at council as a public meeting.

MS LEESON: Right. Yes.

20 MR WOOD: Just for the record.

MS LEESON: Yes.

25 MS SAUNDERS: That's all right. On the issue of the proximity, I guess, of the development site to Wallacia Town Centre, it would be important for the ICP to take into consideration the regional and district plans that the Greater Sydney Commission has, and specifically related to the Mulgoa Valley and Wallacia, and the importance of the biodiversity and riparian corridors, as well as the scenic character of these areas in their consideration of the proposal. There are particular aspects of
30 those plans which I have pulled out for clarity in my preliminary assessment report, but there are others that also apply to Mulgoa Valley and Wallacia.

MS LEESON: Okay. Thank you.

35 MR WOOD: One other aspect is heritage and, I guess, the extent to - - -

MS LEESON: Sorry. Was that heritage?

MR WOOD: Heritage.

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MS LEESON: Yes.

45 MR WOOD: The extent to which there has been submissions from residents around the heritage significance of the golf club and links to its establishment in, I guess, what some residents are indicating is that it may be the first – or one of the first golf clubs in Australian that women were able to become members and are pursuing the potential heritage significance of the club, that being one of the bases, and that's

something we haven't had a full assessment of at this stage, because it has only been raised recently, but it's something that our heritage adviser will be reviewing in the next couple of weeks to seek a position on that. So the submissions are around the historical associations of the club.

5

MR MITCHELL: I suppose, just in conclusion, our elected council has received significant objection and concern from the community in Wallacia and surrounding areas and their elected councillor has been very, very concerned about this proposal being out of character with that area, with the village but the broader Mulgoa Valley as well. We've always held very, very strongly that the principles of the old REP and the need to protect the heritage of Mulgoa Valley.

10

MS LEESON: Okay.

MS SAUNDERS: The scale of the development in relation to the Wallacia Town Centre is apparent, you would have seen, when you visited the site, that that existing golf club is quite – golf range is quite large compared to the small village. Once the, I guess, stage 3 is completed, the scale of that cemetery in relation to the actual village goes to, I guess, a test of character in terms of where it's located in proximity to the village and also, in a sense, the sterilization of that land, in particular, stage 3, in the sense of the town centre can't grow any more to the west because of the location of Nepean River or to the south because of the other – because the river comes around and Warragamba is there, and then you've got the cemetery to the east. So there are concerns from the residents that, economically, there could be greater or better use of land, in particular with the regard to the - - -

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MS LEESON: Stage 3.

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MS SAUNDERS: - - - parts that front Park Road and closer to the village centre in stage 3.

35

MS LEESON: Does council's strategic plan – I mean, you talk about Mulgoa Valley. Does it call up Wallacia for some expanded development at the moment? I mean, what is it saying about Wallacia for the future?

MR MITCHELL: We're only just starting some very preliminary work.

MS LEESON: As part of the - - -

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MR MITCHELL: Previously, our policy position for many years has been to very limited expansion of those villages. We will be revisiting that policy position again shortly as part of our broader - - -

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MS LEESON: As part of this local planning statement process.

MR MITCHELL: Yes.

MS LEESON: Okay.

MR MITCHELL: But it has been a long-held position that there should be no, or very little, expansion of those. That was partly as a result of the lack of
5 infrastructure. The sewerage has allowed some minor – minor expansion but it has been very limited and there has been no consideration by council to date of any expansion of that.

MS LEESON: Okay. Would you be expecting community submissions to your
10 local planning statement process? Yes.

MR MITCHELL: Generally, there's a very active community association in that area who have been very – very protective of the current environment and certainly not lobbying for any expansion. It has very much been the opposite, protective in the
15 Valley as it is.

MS LEESON: Okay. All right. Thank you. Well, we appear to not have any more questions at the moment, so if we do have more queries or issues, will our secretary come via Peter in the first instance as the - - -
20

MR WOOD: Sure. Yes.

MS LEESON: - - - point of contact? Okay. All right. We will be trying, as I said earlier, to finalise the dates and logistics for the public meeting process. We would
25 welcome any further submission that council would like to make to the Commission, and that will be posted on our website. So, if there's any further information from today that you would like to give us, then we will take that into account and put it on the website. Other than that, I suppose we would just like to thank you for your time this afternoon, and we will consider all the matters that you have put before us.
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MR WOOD: Thank you.

MS SAUNDERS: Thank you.

MR MITCHELL: Thank you.
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MS LEESON: So thank you very much. Thank you.

40 **RECORDING CONCLUDED**

[4.37 pm]