



New South Wales Government
Independent Planning Commission

TRANSCRIPT OF MEETING

RE: “ALLFARTHING” – 2 BRISBANE GROVE ROAD, GOULBURN
PLANNING PROPOSAL (PP-2024-295) – GATEWAY DETERMINATION
REVIEW

APPLICANT MEETING

PANEL: MICHAEL CHILCOTT (CHAIR)

OFFICE OF THE IPC: JANE ANDERSON
TAHLIA HUTCHINSON

APPLICANT REPRESENTATIVES: KIERAN DAVIES (Davies Nominees –
Landowner)
ZAC RICHARDS (GRC Hydro)
PAUL JOHNSON (SOWDES)
ANTHONY BOSKOVITZ (Boskovitz
Lawyers)

LOCATION: ZOOM VIDEOCONFERENCE

DATE: 1:00PM – 2:00PM
TUESDAY, 25th MARCH 2025

<THE MEETING COMMENCED

MR MICHAEL CHILCOTT: No, we'll commence. Thank you.

5 Well, thanks everybody for joining in this afternoon. Firstly, before we
commence, I just want to acknowledge that I'm speaking to you from the lands of
the Dharug and Gundungurra people, and I acknowledge the traditional owners of
the lands from which I'm joining you and acknowledge the traditional owners of
10 the lands from which you're joining us today. I pay my respects to Elders past and
present.

Welcome to this meeting today. This is the first of two meetings. I put that on the
record just so it's clear for anybody reading the transcript of this and the later
15 meeting, that we'll be discussing them separately. But this is the one to discuss the
Gateway Determination Review of the planning proposal to rezone and amend the
minimum lot size at Allfarthing, 2 Brisbane Grove Road in Goulburn. The
Commission's reference being PP-2024-295, the matter currently before the
Commission for advice.

20 My name is Michael Chilcott. I am the single member of this commission panel,
appointed by the Chair of the Commission, and so I have the pleasure of chairing
myself in this capacity as well. I am joined today by Jane Anderson and Tahlia
Hutchinson from the Office of the Independent Planning Commission. They are
assisting me both today. They were present at the site view that we held last week
25 – again, my thanks for your assistance in relation to that. And they assist me
throughout this proceeding.

To ensure that we get all the information down correctly today, and in the interests
of openness and transparency, this meeting is being recorded, and a complete
30 transcript of the meeting discussions will be produced and made available on the
Commission's website in due course.

The meeting is part of the Commission's consideration of this matter and will
form one of several sources of which the Commission draws information and upon
35 which it will be basing its advice.

During the meeting, I suspect I'll be asking some questions. If you are asked a
question and you're unable to, or not in a position to answer it today, please feel
free to take the question on notice and to provide a written response in due course,
40 and we will put any written response received on our website.

Could I ask the Applicant team to introduce yourselves just for the record please.
And perhaps, Kieran, if you would start.

45 **MR KIERAN DAVIES:** Yes. Kieran Davies. I'm the owner of 2 Brisbane Grove
Road.

MR CHILCOTT: Thank you.

MR ZAC RICHARDS: I'm Zac Richards, I'm a director at GRC Hydro and I prepared the Flood Risk Assessment Report.

5 **MR CHILCOTT:** Thank you.

MR PAUL JOHNSON: My name's Paul Johnson from the business name of SOWDES and I prepared the bushfire, water quality management and subdivision [unintelligible 00:02:51] planning proposal.

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MR CHILCOTT: Thank you, Mr Johnson.

MR ANTHONY BOSKOVITZ: And thank you, Commissioner. Anthony Boskovitz, I'm the solicitor for the Proponent.

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MR CHILCOTT: Thank you, Mr Boskovitz, welcome. So, look, thank you very much for your attendance today. We have received, and my thanks for this, the presentation prepared by GC – sorry, GRC Hydro – in relation to flooding matters which are obviously a matter to the fore in these proceedings and the considerations of the Commission in preparing advice to go back to the Department and the Minister's delegate.

20

In your hands, to a degree, but I would imagine there's probably utility in starting with that presentation and having the Applicant team run through that. Is that correct?

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MR BOSKOVITZ: Thank you, Commissioner, that would be a useful way to start. So, I might allow Zac to share his screen.

30

MR CHILCOTT: Thank you.

MR RICHARDS: Okay. Everyone can see that okay?

MR CHILCOTT: Yes. Thank you very much.

35

MR RICHARDS: Okay, so I'll just run through what I'll cover today. I'll give an overview of the development, then talk about the reference flood models that we've used as the basis for analysis. We'll present the flood risk management strategy that is proposed as part of the planning proposal, as well as for future development of the site.

40

The key issue, I guess, that was raised from the Flood Assessment Report and from the Determination was the issue of site access and isolation, so we'll describe that in detail. We'll have a look at the management of the isolation risks that we're proposing. And then we'll finish up with a discussion of the Determination as well as consistency of the proposal with the New South Wales Government policy.

45

So, the primary objective of the development or the proposal is to change the land

use zoning from RU1 Primary Production to R5 Large Lot Residential. It was advised in the Determination that it was a greenfield development type, but Council had clarified that it was actually an infill development type.

5 The proposal would result in a minimum lot size of 2 hectares, with all single lots being self-contained with ablutions, water and power. The resultant number of potential lots, should the planning proposal go ahead, was 14 lots for 2 Brisbane Grove Road. And there's the additional 137 Brisbane Grove Road, which has another 21 lots. So, there was a total of 35 lots that are proposed for this area, and that becomes important later on in this discussion.

Access to Goulburn from the site is via Braidwood Road. This is a major arterial road with approximately 3,850 people using this road per day.

15 The modelling analysis has been based off the Council flood models. For overland flooding, we've used the Goulburn Overflow Modelling Report, which is a GRC Hydro report, and I was then project director for that study.

20 For the mainstream Mulwaree River flooding, which is the Goulburn Floodplain Risk Management Study and Plan which is again a GRC Hydro study and I was the project director for that. That study was based on the Wollondilly and Mulwaree Rivers Flood Study by WMAwater and at the time I worked for WMAwater, I was actually the project manager for that project.

25 So, I've been working down with Council for flooding and developing these flood models for over 10 years now.

30 Yes, so in terms of the flood risk management strategy that's proposed. On the right here, we have the concept lot configuration that was developed to demonstrate that we could adequately manage risk at the site. And this is the site extent; it's overlaid with the PMF flood hazard, and for context the PMF is the probable maximum flood, which for a catchment this size has a probability of around about 1-in-a-million AEP, or slightly rarer than that.

35 In terms of the risk management measures, all land within the flood planning area is to be zoned as C2 Environmental Conservation. The flood planning area for mainstream flooding with the 1% AEP level plus 800 mls freeboard. And the concept lot configuration and concept building envelopes allowed for development or future development to occur outside of the probable maximum flood extent, and that's what we see here with these small red polygons situated on this PMF extent.

40 The development allowed for internal access roads to access areas external to the site onto Johnsons Lane, so that if any future upgrades of roads would occur in the distant future, the site could benefit from those upgrades. So, we're not locking people into development if the surrounding roads which sort of results in the isolation issue which we're going to talk about extensively today.

There's no civil or road works within the PMF extent as part of the future

development of the site, so there's negligible chance of impacts to adjoining properties. So, the residual risk really is that risk of isolation which was identified in the Flood Risk Assessment Report. And we're proposing to manage that through measures that we developed in consultation with New South Wales
5 Ambulance, the Rural Fire Service, and Goulburn Mulwaree Council.

MR CHILCOTT: And sorry, Mr Richards, your line just broke up a little bit there at my end.

10 **MR RICHARDS:** Okay.

MR CHILCOTT: Just so you're aware.

MR RICHARDS: Okay.

15 **MR CHILCOTT:** Just that last point.

MR RICHARDS: Just the last point? Okay. I just said we will – it's proposed to manage the risk of isolation through management measures that we developed in
20 consultation with New South Wales Ambulance, the Rural Fire Service, and Goulburn Mulwaree Council.

MR CHILCOTT: Great. Thank you.

25 **MR RICHARDS:** Okay. So, onto the site access and isolation. Here is an extract from an image or a figure in the Flood Assessment Report. It's showing as the blue line, the access route from the site into Goulburn.

30 There's two key locations or key lengths of this road that could be flood affected. The first, which is the critical one, is the Braidwood Road crossing of the Mulwaree River, particularly on the southern side. There is inundation and flooding on the northern side of the river, but generally the flood depths are shallower and less hazardous on the northern side than the southern side. So, the focus of this discussion is really going to be around this point A on the southern
35 side of the river.

40 There is flooding of Sloane Street up here, but this is due to a local catchment, it's not a mainstream catchment, so the rate of, the duration of inundation is shorter. We're not really talking about mainstream flood affectation of this area until events approaching the PMF.

45 So, here is a plan view of the Braidwood Road crossing. We've got Brisbane Grove Road on the left of the screen. The orientation here has been skewed so we could fit the image better onto the screen. So, north is the top-right of the screen. We've got chainages along the road and they correspond to the long section below the map. I'm not sure if people can see my cursor, because I am sort of pointing around it.

MR CHILCOTT: I can see it. Thank you.

MR RICHARDS: Okay, great. Yes, so it is the longer chainage section of the road. The grey polygon is the bridge deck, and this is the channel beneath the
5 bridge deck. So, you can see that the actual bridge itself is raised quite high above the surrounding roads, with the approaches sort of being lower. The bridge deck itself is actually above the 1-in-2,000 APS from the Council study.

10 So, we're going to look through at some hazard mapping. So, the top image has now got the hazard results for mainstream flooding, so these'd be a little bit different to what you've seen in the report. In the report, there was an envelope of overland flow flooding and mainstream flooding. For the purposes of today's discussion considering that the overland flow flooding is of quite short duration, it's really about the duration of the mainstream flooding, we're just looking at that
15 mainstream flooding extent.

20 So, this is the 10% AEP event and the different colours you can see are the different hazards. So, the dark blue is a H1 hazard which here it's stated as no restrictions; this is based on a FB03 guideline from the New South Wales State Government. H1 they consider to be generally safe for people, vehicles and buildings. The lighter blue is H2, which is unsafe for small vehicles. The darker green is the H3, which is unsafe for vehicles, children and the elderly. And you can see that –

25 **MR CHILCOTT:** So, that's a level above 0.5 and up to – what is it – 1.25 or thereabouts?

30 **MR RICHARDS:** That's right, yes, yes, yes. So, the delineation goes about half a metre in terms of the depth when you transition from H2 to H3. So, essentially at H3 is when they sort of say that all vehicles are potentially, or it would be hazardous. However, the analysis didn't really look at things like fire trucks and so on, they're looking at four-wheel drives, so, and not specialised four-wheel drives with snorkels and stuff. So, there would still be some vehicles that would get through. But in terms of typical, vulnerable – I think the words are – vehicle types,
35 that's that delineation.

40 **MR CHILCOTT:** I think on a previous matter that I dealt with, when I was in my previous role at the Land and Environment Court, mention was made that, I think, ambulances can get in up to 0.5 but are unlikely to get in above that. Is that correct in your view or experience?

MR RICHARDS: Yes, I'm not too sure, to be honest with you.

45 **MR CHILCOTT:** No, that's okay. If you want to check that and come back if you have a differing view, that would be of assistance. It's a matter that I recall dealing with once before in a completely unrelated matter. But it's one of those small facts one carries around from time to time.

MR RICHARDS: Yes, sure, okay. Yes, we can come back to you on that.

We did have discussions with the New South Wales Ambulance and Fire and Rescue. And from memory, if the road was cut to ambulances, they said that they would sometimes ask Fire and Rescue to use their fire trucks to actually get through. So, I'll have to go back and have a look at the minutes and so on from those meetings and we can – but they're all in the Flood Assessment Report as well where we can summarise those and send them through.

MR CHILCOTT: That'll be helpful, thank you very much.

MR RICHARDS: Okay. So, yes, in the 10% – sorry, in the long section here you can see the floodwaters are contained to the Mulwaree River channel. That's that blue line here.

In the 5% AEP event, which was the second, another event assessed by the Flood Assessment Report, the water begins to breakout from the Mulwaree River on the upstream side of the bridge, on the western side of the bridge, and actually overtops the bridge before receding back into the watercourse downstream.

The maximum flood depth along the crown is, from the Flood Assessment Report, around 30 mils, and flooded for a duration of around about 3.7 hours. So, we're never really hitting that half a metre in depth threshold, and you can see that at one section the water's just starting to overtop the road here, so essentially some shallow pooling of water there.

In the 1% AEP event is when we start to see hazardous flow occurring at this location. So, again the water's breaking off, it's also breaking out to the north now and flowing around. But what's of notice is it's generally sort of H1 to H2. On the southern side, we're up to H4. So, it's right on the boundary I've marked up there roughly with the velocity and the depth where we are, so we're right on the boundary of H4 to H3.

The maximum depth along the crown's around about 57 centimetres. The total duration of inundation is 22 hours, and the duration where the depth is exceeded by half a metre is around about 8.5 hours.

In the 0.2%, so the 1-in-200, the maximum depth is 74 centimetres. The duration of inundation is 26 hours, and the duration of the depth exceeding half a metre is around about 14.5 hours. And we're starting to get into H5, so it's localised cells of H5 but predominantly H4 through that stretch. So, expanding what looks like around about a hundred, almost 200 metres, I guess, with what would the shallower depths and lower hazard on the boundary.

And this is the 1-in-500, the 0.2% AEP event. Flood levels have gone up by another 200 mil, and we're well and truly into H5 hazard on the road now, with durations of inundation of 30 hours and greater than half a metre for 20 hours, based on the Flood Assessment Report.

5 The PMF is around about, what is it, over 8 metres deeper than the 1% AEP. So, going from a probability of 1-in-100 up to 1-in-a-million AEP or rarer than that, results in a very significant increase in flood levels, you would expect, and would reach out into the entire stretch of road is up at H6 hazard. The total duration of inundation's 38 hours, about a day-and-a-half.

10 Okay, so we've described how isolation occurs at the site with the flooding of Braidwood Road. Now we'll talk about the isolation risks. So, there are two main risks associated with isolation. The first is human behaviour, and that's people intentionally entering floodwaters, which they may do so for a variety of reasons. And we've looked at some management measures to reduce that risk on some of the later slides.

15 And the second is secondary risks, so that's when there is a fire or a medical emergency that occurs when emergency services access is cut. In relation to secondary risks, what we did is we undertook a joint probability assessment and we found that the probability that the future site dwelling or occupant would experience either a fire or medical emergency whilst Braidwood Road is inundated is around about 1-in-1,000 AEP. So, that's for the combined 2 and 137 Brisbane Grove Road proposals.

20 There is a table in the Flood Assessment Report, which is reproduced on the right here, which goes through that analysis. We've made some conservative assumptions and some assumptions which perhaps potentially are not conservative. The key one would be we're assuming independence of these variables. We did discuss with Fire and Rescue New South Wales and New South Wales Ambulance and the SES, we haven't been provided, I guess, with any evidence of correlation between these two things.

30 And I think probably what's important to note is that in some situations, there probably is a correlation between a fire in a home and a flood event, and that's probably when the home is surrounded by floodwaters. We're not talking about that situation here; we're talking about buildings that are outside the PMF extent would never be flooded. So yes, there could be a fire whilst there's a flood; the chances are probably about the same as what they would be for having a fire in any other given day when there isn't a flood.

40 And similarly for medical emergency. If you're in a house completely surrounded by floodwaters, it's a lot of stress associated with that. If you're just living your life on the floodplain and there's a flood nearby, it's quite a different scenario.

45 So, we haven't assumed independence of variables and we did request sort of input from the SES and from the Department of Climate Change, Energy, Environment and Water, but there wasn't really any information that was provided, some limited anecdotal information.

In terms of the conservative assumptions we've made, we've assumed that

isolation occurs from the 5% AEP event, as we presented, the depths are incredibly shallow and basically not any risk to even small vehicles. That's really quite a conservative assumption.

5 We then calculated the daily probability of the 5% AEP event occurring, and then we looked at the average chance that there could be a medical emergency for any person in the Goulburn area. And the average chances of that ...

[Cross-talk 00:19:11]

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MR CHILCOTT: Can I ask, what is the reference you have for the source of the medical emergency information – where has that come from?

15 **MR RICHARDS:** It's from ... I think, we've got to have a look, I have to click on the link and go through it, so this was done quite some time ago, so I can't remember. But yes, I can dig that up and obviously the link's provided as well. So, it's from –

20 **MR CHILCOTT:** No, that would be handy to know what the other variable is that you're multiplying by the flood frequency risk to come up with your assessment.

25 **MR RICHARDS:** Right. So, where the numbers come from, I'd have to click on the link and go back to it, I think it's from –

MR CHILCOTT: No, that's fine, I'm happy to take it, as I said, in writing, just to note. To be honest, it's a curiosity for me where that comes from. Not that I seek to doubt its veracity, I'm just intrigued.

30 **MR RICHARDS:** Yes, sure, okay, yes, sorry, it has been quite some time, so I'll brush up on it myself and we'll send through some information.

MR CHILCOTT: Thank you.

35 **MR RICHARDS:** So, we go through this process and we wind up with a around about a 0.1%, a 1-in-1,000 AEP chance that you would have the flooding of the road and a medical or fire emergency.

40 Okay, in terms of the management of isolation risks. We undertook consultation with the New South Wales SES, the Fire and Rescue New South Wales, Ambulance New South Wales, and Council, and we developed risk management measures during those discussions. So, the minutes from those meetings are in the back of the Flood Assessment Report.

45 In terms of fire emergency, Fire and Rescue –

MR CHILCOTT: Sorry, can I just ask one before you go onto that. What was the timing in which you did that consultation? I'm just ... We have before us

information on the submission, for example, of the SES concerning their perspective on the proposal. Was this work undertaken post or pre the timing of that documentation?

5 **MR RICHARDS:** We had had comments back from the SES and the BCD teams. They were not as focused on the isolation issue as what they were in the Determination. But there had already been feedback and we'd responded to that feedback and we went through and had a meeting and during that meeting thought we'd sort of closed out most of the issues.

10 **MR CHILCOTT:** All right. So, if I understand it, what you're saying is that these discussions and these suggestions were developed prior to the assessment being delivered by the Department that included the current SES comments. Is that correct?

15 **MR RICHARDS:** Yes, yes. I think the date on this minutes, which is the minutes from the meeting with New South Wales Ambulance and Fire and Rescue was August 2023, and the meeting with the SES would have been around the same time. So, we'd received comments –

20 **MR CHILCOTT:** Sorry, again your audio just dropped out. I heard it was August 2020 something or other, I didn't get the full date.

25 **MR RICHARDS:** Yes, 2023.

MR CHILCOTT: 2023. Thank you.

MR RICHARDS: About three or four months before we finalised the Flood Assessment Report.

30 **MR CHILCOTT:** Thank you.

35 **MR RICHARDS:** Yes, so to manage the risk of fire emergency, it's proposed that provision and maintenance of a home fire safety kit would manage that risk. Fire and Rescue noted that they would help with house fires and there was actually a negative correlation between bushfires and rainfall events, which you'd expect.

40 And in terms of medical emergencies, New South Wales Ambulance advised that provision and maintenance of an automated external defibrillator and first aid kit would reduce the risk to people during medical events or allow for them to manage that risk whilst emergency services couldn't access the site.

45 These measures are proposed to be implemented or agreed with Council to be implemented through requirements in the Development Control Plan and the Section 88b provisions.

Okay. In terms of the management of human behaviour risks. One of the key things is, and it's mentioned in the Emergency Management Guidelines EM01, is

that provision of adequate services would reduce the risk, was people wouldn't go out looking for services which they need when they're in an isolated situation. So, the future development will provide adequate ablutions, water, power and basic first aid equipment, and that's sort of in line with this requirement that's mentioned in Section D4.2.4.

The other thing proposed is that the Council would install flood warning signs and depth markers to warn of the flood risk associated with crossing Braidwood Road during flood. This would reduce the ... Yes, this would also, I guess, provide a reduction in risk to the existing community using this road. There are currently no warning signs on this road to notify of the existing risk. So that would manage not only the risk to the site but also for the 3,850 people who use that road, on average.

Another management issue is to notify the community of the flood isolation risk. So, the site would be nominated as an area of special flood considerations due to isolation risks, and that will be defined in Council's DCP under Section 10.7(2) and 88b certificates. So, property owners would be informed of the isolation risk, which would increase the community awareness so people could plan accordingly and so on, for the potential of being isolated.

Okay. In terms of consistency with New South Wales government policy. The Gateway Determination stated, "The proposal resulted in unacceptable risk due to the risk associated with isolation of site for approximately 23 hours during the 1% AEP flood event. This time period is in excess and far exceeds the isolation period maximum in State flood policy."

So, we weren't clear on what the State flood policy was reference in the Determination response. I suspect it was a shelter-in-place guideline which at the time was a draft policy and has now been finalised. But I'd just like to draw attention to, I guess, the shelter-in-place guidelines – the definition of shelter in place in the shelter-in-place guidelines.

It says, "Shelter in place is the internal movement of a building's occupants to an area within the building above the probable maximum flood level before their property becomes inundated by floodwaters." So, that's, I guess, clearly not the situation which is – that's present at the site. All of the development will be outside of the PMF extent and wouldn't be inundated by floodwaters during any event.

And I guess that follows that the flood risk to buildings outside of the floodplain must be lower than those for buildings surrounded by floodwaters. So, this is a sketch from the EM01, which is showing that high trapped isolated area. The buildings here are sort of a representation of what would happen at the site, but the shelter-in-place guidelines don't apply, it applies to the buildings that aren't surrounded by floodwaters but people have evacuated vertically to get above the PMF flood level. And obviously –

5 **MR RICHARDS:** Thanks, Mr Richards. And just for completeness, I mentioned to Council in the meeting earlier today that we had, or meetings earlier today that we had with them, following the meetings we had with the Department, that in relation to this proposal where the proposed building footprints are located outside the PMF, we were able to confirm yesterday with the Department that they accept that particular point in relation to the shelter-in-place policy, notwithstanding that to a degree they wish to have it, that be mindful of it, but I don't think – I think they agree that from a formal point of view, it has exactly the interpretation you've provided to us.

10 So, I thank you for that clarification. I just thought I'd bring that to your attention along the way. You'll see that probably in the transcript we have with them when it's lodged with the Department. But similarly, I think there may be some written confirmation from the Department coming in relation to that.

15 **MR BOSKOVITZ:** So, Zac, on that basis, can I ask you go back to the previous screen, sorry, I'll just butt in here because it's a relevant point. Notice that one there. So, on that basis, do they then move away from this statement at the top in dot-point one?

20 **MR CHILCOTT:** I think you've made – oh sorry, that statement is not attached to the shelter-in-place guideline, as I understand it. I haven't seen that explicitly stated and they haven't moved away from that position. I think they maintain – the perspective is they've communicated in the document. And I don't think that, my reading of it is that they rely on that necessarily.

25 **MR BOSKOVITZ:** Did they indicate [cross-talk 00:28:37].

30 **MR CHILCOTT:** I'm happy to seek – sorry.

MR BOSKOVITZ: Did they indicate what the State flood policy is that they refer to then?

35 **MR CHILCOTT:** No, but we can seek some clarification from them on that. I'll just ask my colleagues to note that for a question back to the Department.

40 **MR BOSKOVITZ:** Thank you, because that was the next point. We didn't know what this flood policy was, we couldn't identify it, we assumed there were the shelter-in-place guideline.

45 The Department's now saying that the guideline, they accept our position that the guideline's not relevant, so then we need to get back to, well, on what basis do they come up with this unacceptable risk of their purported 23 hours, which I think Zac's comment might have some more comments on, and with respect to what policy do they refer. So, we're happy to respond to –

[Cross-talk 00:29:22]

MR CHILCOTT: I'm happy to seek that clarification, Mr Boskovitz. What I would say is, I think you used the term which ... I can't remember the exact word you just said, but there was a word there which I'm not sure reflected exactly the sentiment of the Department.

5

But certainly, in terms of the formal application of the policy, they recognise that it formally applies in circumstances where a dwelling may sit within a PMF area and refers to the movement up within a building to escape floodwaters, as defined in the policy. And that, you know, from a formal point, it's not triggered in relation to this particular proposal. But we'll ask the question, Mr Boskovitz, back to them, in relation to that clarification.

10

MR BOSKOVITZ: Yes. I'm just saying on that basis if it's not formally triggered, then one would need to walk back that statement. That's all I'm saying. I make the proposition to you that if you don't read the policy or if it doesn't get triggered for the purpose of this development, that you can't make an assessment that there's unreasonable risk pursuant to this policy.

15

[Cross-talk 00:30:31]

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MR CHILCOTT: If that policy statement is made, I would agree with you. I'm not sure that that's the way – I'm not clear, put it this way, but we'll seek clarification as to whether that is the way the Department expresses it.

25

MR BOSKOVITZ: Thank you, Commissioner.

MR RICHARDS: Okay. Well, noting the shelter-in-place guidelines don't apply, the guideline recommends the duration of shelter in place is due to the isolation by floodwaters is less than 12 hours. Yes, so essentially what the Flood Assessment Report found was that it was estimated for emergency vehicle services during the 1% AEP to be around about 8.5 hours. But it sounds like this discussion here is – that's redundant.

30

I think then the fallback document would be the Emergency Management Planning (EM01) document. And that doesn't provide a duration of isolation that's acceptable; there is no specific duration. But what it does do is it states that, "The primary strategy for the New South Wales SES is the evacuation of people to an area outside of the effects of flooding that has adequate facilities to maintain the safety of the community."

35

The proposal meets these requirements through implementation of risk management measures as well as by locating future development outside of the PMF extent. The –

40

MR CHILCOTT: Sorry, can you just go back to that, Mr Richards, for a moment. I just wanted to quickly read that again. So, what I take from this is that last paragraph is your submission?

45

MR RICHARDS: Yes, yes.

MR CHILCOTT: Thank you, thank you.

5 **MR RICHARDS:** The third point of the Gateway Determination states that, “The planning proposal has potential to significantly increase the need for government investment on emergency management services, flood mitigation and emergency response measures.”

10 So, in relation to the expenditure on flood mitigation, it’s worth nothing that Braidwood Road has an average of 3,850 people using that road per day, with the proposal, cumulatively with the 137 Brisbane Grove Road, resulting in an approximate 12% increase in the number of people who would use that road.

15 So, I would state that if the risk of Braidwood Road flooding does not currently require flood mitigation, then the proposal will not result in the need for significant expenditure for flood mitigation works. If there’s not currently a problem based on those using that road, it’s hard to see how an additional 12% would sort of tip the scales and result in the need for those works.

20 In terms of emergency management response, as I noted earlier, the probability of a secondary risk occurring whilst the site is located is around about 1-in-1,000 AEP. The need for additional expenditure to manage such a low probability event is unlikely and therefore does not meet the Ministerial Direction requirements of
25 “likely to result in a significant increased requirement for government spending.” I guess that’s also probably worth noting that the Determination said it had the potential to significantly increase, it didn’t say it was likely to increase the need for government spending.

30 So, that’s the end of the presentation.

MR CHILCOTT: Right. And I thank you very much for that. Can I ask whether in relation to either this or other matters, other of your team members wish to make further comment?

35 **MR BOSKOVITZ:** I do, thank you, Commissioner.

MR CHILCOTT: Mr Boskovitz.

40 **MR BOSKOVITZ:** Thank you. Mine’s not a formal presentation as such, I thought we’d leave that to Zac and then we’re open to questions as well. But obviously I just want to go through some of the points that the Department have raised both in the Gateway Determination but as well as their submission to you by way of report.

45 And primarily too I do want to deal with site-specific and strategic merit. The overarching response both in the original Gateway Report and the report to you that was entitled “Gateway Review Justification Assessment”, and I don’t know if

it's dated. But –

[Cross-talk 00:34:53]

5 **MR CHILCOTT:** I know the document and I have it. I have a copy of it actually in my hand.

MR BOSKOVITZ: Oh, I assume you have it right, front and centre, indeed.

10 **MR CHILCOTT:** Indeed.

MR BOSKOVITZ: And the justification or the reasoning for the Department finding that there wasn't a site-specific and strategy merit seemed to be associated entirely with flooding. There were some areas that they needed to concern themselves with, but determined it wasn't, it was justified, but overwhelmingly, this was an issue of flood.

And the original Gateway Determination was prepared based on the information in front of the Department at that point in time, making some assumptions with respect to this flood study that we've potentially identified is this, the old shelter-in-place guideline and now it's subsequently been amended as of January 2025, but we can't be certain.

But it's also taking up –

25 **MR CHILCOTT:** Mr Boskovitz, when you say the “flood study”, do you mean the FIRA or do you mean the broader regional study?

MR BOSKOVITZ: I'm going back to that point that Zac raised about the 23-hour isolation issue associated with what appeared to be isolation issues and the reference to a flood study or a flood report. Zac, if you share your screen again, I'll use the words from your screen.

MR CHILCOTT: That's fine, and just to remind us, I think we said we would seek clarification from the Department in relation, just to clarify what exactly that particular documentation is.

MR BOSKOVITZ: And we appreciate that so that we can respond in full. Obviously, we were making assumptions on that basis. But it doesn't change the point that the issue of the site-specific merit really turned on the issue of flooding. And it turned on an unacceptable risk associated with maximum periods in the State flood policy. Sorry, I should – I will use those words.

And so now that we're trying to ascertain what that State flood policy is, the basis upon which they've come to a point where they've determined that there might not be a site-specific merit is, in my view, open to question. And they based upon the FIRA at the very first point in their original Gateway, and now they seem to continue to do it on the basis of the FIRA, notwithstanding the additional

information prepared by GRC Hydro and submitted as part of this review process.

And I'm just wondering –

5 **MR CHILCOTT:** Mr Boskovitz, just to confirm again. The FIRA was prepared by GRC Hydro.

MR BOSKOVITZ: It was.

10 **MR CHILCOTT:** Yes.

MR BOSKOVITZ: It was.

MR CHILCOTT: Thank you.

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MR BOSKOVITZ: And it's been supplemented subsequently. It's important to note that there's been a long and arduous history of this, Commissioner, this is a matter that started, and the client could give you a background, it started some five years ago. And Kieran, you might just go through the chronology of events and where we've got to.

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MR CHILCOTT: Mr Boskovitz, again, if I could just say to you, yesterday when we met with the Department, they gave us indeed that chronology and detail. You'll see it in their presentation.

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MR BOSKOVITZ: I appreciate it.

MR CHILCOTT: What I would suggest is if you have quibbles with that chronology when you see it, when it's uploaded, please feel free to submit and make corrections or additions.

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MR BOSKOVITZ: I don't, I didn't know that you had had a substantive – and I've got some notes in front of me. I didn't know that you had a substantive period of time with them and understanding of it, so I wanted to give you a fulsome understanding of it if it was necessary to you.

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MR CHILCOTT: I'm grateful for the –

MR BOSKOVITZ: But I'm happy to – Sometimes I don't know the extent to which you might have had the opportunity to review all the documents, Commissioner, before this meeting as opposed to after this meeting or during the meeting. So, I do give you the benefit of our explanation, if necessary, but if you don't need it then I'm quite happy to move on.

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45 So, I'll go back –

MR CHILCOTT: I'm just trying to save you as well.

MR BOSKOVITZ: That's okay. So, it takes me back to this issue of site-specific merit. Where it seems to be contingent upon an understanding of a report that's been supplemented and based on a State flood policy that is now accepted to be not relevant to the current matter. So, I'm just wondering whether you –

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MR CHILCOTT: Mr Boskovitz, you just broke up there. Sorry, you just broke up there. You said a State flood policy that ... and then you went into static.

MR BOSKOVITZ: That the Department considers or supports, the proposition that we make that's not a relevant consideration or a mandatory relevant consideration.

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So, I'm just wondering whether, and I don't want to give you a spiel about site-specific merit, but I'm just wondering whether you – because this is your ultimate goal, your ultimate task is to determine site-specific and strategic merit of the proposal. So, I'm just wondering whether you have any questions about these issues of site-specific merit that have come up in this Justification Report or the previous Gateway Report?

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You know, we're about answering some of the queries here, but a lot of the queries go away on the basis of this isolation issue going away. And then I would like to query some of the commentary that have been raised in this Justification Report about the Ministerial Direction and the way he would give those types of documents in your assessment of site-specific merit.

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Now, I don't know if you would like me to go through that or whether you've got questions that might be more suitable.

MR CHILCOTT: No, thank you. Look, a few things, and just to be a bit of repetend in some way in terms of language. My role here is not a matter of determination, it's a matter of providing advice back to the Department. I'm grateful for the assistance you can provide and the insights you can provide from the Applicant's perspective that may assist me in providing advice.

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But my role is an advice role than a determinative role. You may have been in use of the word "determination", not use it in the specific way one might otherwise use it in relation to a particular development application, for example. But I just want to be clear about the role that I fill here.

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In relation to your second point. Oh sorry, one other point. I'm not sure that isolation goes away even if the shelter in place issue may be put to one side in some form. I think isolation and shelter in place are two different matters, from my understanding currently. Happy for you to provide me with more information on that.

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And in relation to the Ministerial Directions, I would indeed welcome a further narrative from you and your team in relation to that, and your perspectives in that. Particularly in relation to the Ministerial Directions concerning 4.1(4) (e) and (f)

which are specifically identified in the various reports as a basis for at least a significant part of the assessment of the Department. Those are triggered by the – their consideration is triggered by the, as I understand it, inclusion of clause 5.22 of the LEP brings those into play.

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So, to the degree you have perspectives and wish to offer insights, I'd be grateful for them.

MR BOSKOVITZ: In respect to determination, if I used that word, it wasn't my intention, so thank you for noting that. Part 3, however, when we deal, of the act, when we're dealing with reviews, does require your consideration and advice as to strategic and site-specific merits, and so that's where I was getting to where –

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[Cross-talk 00:43:02]

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MR CHILCOTT: No, I accept that.

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MR BOSKOVITZ: ... is necessary to give advice. And from our perspective, there are some major defects with respect to the site-specific and strategic merit determinations both in the original Gateway Report and the subsequent report.

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Before getting to those, I will talk to isolation. My instructions are from the site visit, and I'm sorry I wasn't able to attend but I was in court that day, was that you did have some concerns about the potential for isolation. Noting of course that I don't think it's in contest that none of these potential, well, the outlines or the floor plates of the potential properties are located above PMF so there's a place for shelter in place should the need occur.

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Do you have any specific questions about the isolation that Zac hasn't responded to in his presentation?

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MR CHILCOTT: The principal ones, and he has addressed it in his presentation, to a degree, is the mitigation of the isolation factor. I don't think it's in dispute in any of the documentation that isolation in an event from the 1% AEP and above is a consideration in what we're doing here.

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My questions would have gone to the Applicant's views in relation to how the isolation and risks associated with that are addressed or mitigated and to what extent. And I've received some specific information through Mr Richards' presentation that goes to those points, so I'm grateful for that. But if you have further submissions and information you wish to bring forward in relation to those matters, indeed I'd welcome it.

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MR BOSKOVITZ: Oh look, I don't, I just wanted to make sure, I'm just wondering if the client or Mr Johnson have any other commentary about isolation and I can move on. I just wanted to make sure we are covering all bases for your consideration.

MR CHILCOTT: Thank you. I'll leave it to your colleagues to respond.

MR PAUL JOHNSON: If I just may. It's not directly related to the actual flooding proposals that you have in front of you or that you are viewing for advice. But irrespective of any development of these particular sites, the isolation issue wasn't just limited to those inhabitants of those lots. And as the numbers dictate, only 3,800 vehicles or people use that road each day anyway, isolation is a bigger issue at a broader scale rather than a localised one, if I can put it that way.

And I just further ask the Commissioner to, upon reflection, these submissions were lodged to Council originally in 2022, well before the draft shelter-in-place guidelines in the final documents were released to the public domain. And I just question how it is that by comparison, if this was a development application for a subdivision, the general rule of thumb is you assess that development based on guidelines and principles that were in place at the date of the lodgement.

So, I just put it to the Commissioner that we've been asked to look at retrospective policy in addressing these issues. We feel that that's probably not the fairest approach for the Proponents because had they've had this information in hindsight, they may not have gone down the path they've gone down.

So, the isolation issue has been a longstanding issue for many, many years, and it's not just attributed to a rezone of these lands which are part of the review.

MR CHILCOTT: And I thank you. And I think we've dealt with the shelter in place matter and the evolving nature from draft to final guideline, and I say this in relation to this proposal.

In relation to the question about what is the framework within which this matter is considered, I think we are in a – and Mr Boskovitz, I'd welcome any comments from you in relation to this – but my current internal advice is that it's unlike a development application where one lodges the application, the framework in place at that point is then the one that then applies, notwithstanding savings provisions that may push you back in time. But in this instance, we sort of aren't in exactly that realm in the way of a DA. But we deal with matters as they proceed from time to time along the pathway to both the determination as it then was, the review as it now is, and anything subsequently that happens.

So, it's a slightly different world to the one where often most of us are dealing with a determination matter of a specific application. It's not quite that, is my understanding. Mr Boskovitz, you may wish to make comment on that. I'm happy to take any comment that you have.

MR BOSKOVITZ: Except that any of the government policies are mandatory relevant considerations under the act. So, you give them the weight that they should have, and in a site-specific and strategic merit case, maybe some of them wouldn't have any application at all.

MR CHILCOTT: Thank you.

MR BOSKOVITZ: And so, they're relevant why the policies are need to be considered that are considerations for those two matters, as and when these strategies come in or as and when these policies come in, they're not necessarily something that is given weight. But it's something for consideration and asking questions.

MR CHILCOTT: Exactly. No, I agree with that assessment.

MR BOSKOVITZ: And that's why we're trying to respond to those questions, to go, okay, well, Commissioner, and I'll use layman terms because I'm a layman when it comes to flooding. But if there is an event of some type of 1, 2, 5%, whatever it might be, 0.2% in the case that Zac's actually brought up a 1-in-500 year. If an event occurs that causes an event of isolation, what is the risk factor to life.

And that's why we're raising isolation, we've come to those things to say, "Well, the risk factor to life are, well, because we're above the PMF, a fire's just as likely to occur just as often as it would ordinarily. And will there be an extension of any risk factors associated with health issues for persons who are living in these properties, in any of these flood events where ambulance or other emergency vehicles can't get to them as of today."

And we've given you some feedback as to this occurring in a 1-in-1,000 AEP. So, we've got to put some weight to that, noting that the isolation times are eight-and-a-half hours. And Zac can respond to that and give you more detail, but I suspect you've got that, so.

MR CHILCOTT: I think I've got that already, and I'm grateful for the insights that have been provided today. I think we're not unaligned in a sense in our perspectives on this. So, but I'm grateful for your thoughts, Mr Boskovitz, thank you.

MR BOSKOVITZ: Thank you.

MR CHILCOTT: I'm just noting time at the moment, I don't wish to overly constrain and we do have some leeway between this meeting and a future meeting that we need to hold on an adjoining matter. And we need to go through these matters in completeness for the second separate matter because they are separate matters. I'll just put on the record that we will deal with those separately.

But is there anything further on this particular point you wish to bring to my attention? I'm satisfied that I've received the advice I was seeking from the Applicant in the input that you've offered. I don't seek to press any further questions in that regard.

MR BOSKOVITZ: No, just from our perspective, I might ask Zac this question

openly in front of you. But you've identified periods of isolation, durations of isolation of flood events in your FIRA, which are located at page – summarised at page 21 of the Council's Justification Assessment Report, the most recent report, and your current understanding of the operation of isolation on the site. They differ, the Council's – sorry, the Department, sorry, Commissioner, old habits die hard.

The Department and the Council, the Department and your numbers are slightly different insofar as they talk about approximately a 23-hour inundation in 1% AEP and 38 hours in PMF. Do you have anything to say about that just to clear that up as to the accuracy of that?

MR RICHARDS: Yes, sure. I think, look, there's a few numbers in terms of the isolation are being thrown around in some of the Determination as well as some of the responses from the SES.

I think the 23 hours is in relation to the duration when water is overtopping Braidwood Road. So, that doesn't really take into account the hazard profile and the depth. So, even if there's 1 centimetre of water, that that's sort of the period that they're talking about, even though the road would actually be accessible for a portion of that time.

I think there's another 36 hours which is in relation to the comment, I think, in the Floodplain Risk Management Study and Plan that talks about the isolation of some of the roads in this area, not specifically related to Braidwood Road or not specifically related to the location that we're talking about, which is being referenced perhaps inaccurately in relation to the site.

So, they're the two numbers that I've seen – 36 hours and 21 hours, but they're, I guess, different to what we're sort of seeing in the analysis in the FIRA.

MR BOSKOVITZ: But the basis upon which then, Commissioner, the responses to and the support for the original Determination in respect to site-specific merit associated with flooding under the East, Southeast and Tablelands Regional Plan seems to be based on information that's outdated or information that they've interpreted differently to how we interpret it.

And I don't know what, how you deal with that, or whether you ask them a question of whether that position changes. But that's where I get back to that we had a FIRA and now we've supplemented that with additional information and modelling, and there's certainly additional information in the report or the presentation today to give you a better understanding of those potential isolation events and how that might affect emergency services and access.

MR CHILCOTT: Yes, thanks, Mr Boskovitz, but perhaps could I suggest when you provide a communication back to us following this meeting, if you could be specific as to the question you'd like us to put back to the Department. That would be of assistance, and we'll be in communication with the Department. There's at

least a couple of questions we need to go back to them on, and we'll seek to consolidate questions that come from your team back, so that we can then see the responses and take those into consideration in making final advice.

5 **MR BOSKOVITZ:** Thank you.

MR CHILCOTT: Thank you. Gentlemen, is there anything further in relation to the matter at Allfarthing at 2 Brisbane Grove Road you want to bring to my attention?

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I note that we did have down heritage impacts. I'm not aware that they're significant heritage impacts at play in relation to this matter. I think the Allfarthing property clearly sits at the top of the hill there and that in particular is unaffected by the PMF. And I think matters of Aboriginal cultural heritage are satisfactorily dealt with and not in dispute in relation to the matter.

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Is there anything, however, you wish to bring forward in addition?

MR DAVIES: Not from me.

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MR BOSKOVITZ: Not from me. Thank you, Commissioner.

MR JOHNSON: Just one last comment, I guess, that's probably a nice way to finish off in the sense that of all the external agencies that have been consulted in the planning proposal process, all other agencies have given their clearance or approval in principle to the development.

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MR CHILCOTT: Sorry, which other agencies are you – I'm just aware that in the justification, sorry, in the Assessment Report, there was input from BCS or its predecessor, and SES, which don't necessarily completely align with that perspective.

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MR JOHNSON: We've also had referrals through to New South Wales Rural Fire Service for their review. Also to WaterNSW [unintelligible 00:56:33] Sydney drinking water catchment, for compliance with the mutual beneficial effect criteria for developments in the Sydney drinking water catchment. So those two agencies have also reviewed the planning proposal and come back with no adverse findings and naturally have issued their in-principle support for them.

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MR CHILCOTT: Thank you, I'm aware of those as well. Thank you. Anything further, gentlemen?

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I'll just check with my team, Jane and Tahlia, who have been diligently taking notes on things that we need to follow up both in terms of material that's coming forward from you as well as in terms of questions that we might put back to the Department. Jane and Tahlia, are you satisfied in terms of where you're at, at the moment? Do you have any questions for clarification for the Applicant team?

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MS JANE ANDERSON: No, nothing from us, Michael, not so far.

MR CHILCOTT: All right. Thank you.

5 In which case, gentlemen, thank you very much. I've made reference along the
way that we have other meetings to attend to. There will be a second matter in
relation to a property not far from this, and we will need to address matters at a
similar level of detail. If there's anything by way of your presentation, having
10 gone through this presentation that you can pre-emptively bring forward to us,
anticipating questions we may have that may be similar to what we've dealt with
here, that may make that second meeting more efficient.

I mention it really for the record so that anybody reading this transcript and the
other transcript might be able to make sense of these cross references that we may
15 have. But for the moment, I'll thank you very much for your time. And I think
we're due to meet on the second meeting at 2:30.

MR BOSKOVITZ: Thank you, Commissioner, we'll see you at 2:30.

20 **MR CHILCOTT:** Thank you. We'll see you then. Thank you very much.

[All say thank you]

25 **MR CHILCOTT:** And Mr Davies, thank you for your attendance at this one. I
would anticipate you won't be at the second one. Thank you.

MR DAVIES: Thanks, Commissioner, thank you.

>THE MEETING CONCLUDED