



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

DEPARTMENT MEETING

PANEL: MICHAEL CHILCOTT (CHAIR)

OFFICE OF THE IPC: JANE ANDERSON
TAHLIA HUTCHINSON

DEPARTMENT OF PLANNING, HOUSING
AND INFRASTRUCTURE: CHANTELE CHOW
GEORGE CURTIS

LOCATION: ZOOM VIDEOCONFERENCE

DATE: 11:00AM – 11:45AM
MONDAY, 24th MARCH 2025

<THE MEETING COMMENCED

5 **MR MICHAEL CHILCOTT:** All right, fine. Well, let's commence. Before we get into the meeting proper, I'd just like to acknowledge that I'm speaking to you from the lands of the Dharug and Gundungurra people up in the Blue Mountains. Gundungurra land extends down into the area around Goulburn as well.

[Feedback from audio 00:01:25 to 00:01:30]

10 **MR GEORGE CURITS:** Ooh.

15 **MR CHILCOTT:** I'll just wait for Tahlia to clean that up. But I just wanted to note that Gundungurra land extends down to the subject site, down around Goulburn which is also Ngunnawal land. And I just want to pay my respects to the traditional owners of the lands from which we're all virtually meeting today and I pay my respects to Elders past and present.

20 Welcome to this meeting to discuss the Gateway Determination Review of the planning proposal to rezone and amend the minimum lot size at Allfarthing at 2 Brisbane Grove Road in Goulburn. The reference within the Commission to this case is PP-2024-295, and it's before the Commission for advice.

25 My name is Michael Chilcott. I've been appointed by the Chair of the Commission to form a single-member panel commission in this matter and therefore form my own Chair on the Panel as well. I'm joined today by Jane Anderson and Tahlia Hutchinson from the Office of the Independent Planning Commission, and they'll assist me both today and in relation to the review that we're undertaking.

30 For the purposes of openness and transparency and to ensure we get the full capture of the information at today's meeting, it's being recorded, and we'll provide a complete transcript that will be made available on the Commission's website in due course.

35 The meeting is one part of the Commission's consideration of the matter, and it'll form one of several sources of information upon which the Commission will base its advice.

40 During the meeting, I may ask questions to clarify issues along the way. If you're asked a question and you're not in a position to answer, please feel free to take the question on notice and provide additional information in writing subsequently, and we'll also put that up on the website.

45 I'll just, for the record, get everybody, all the people from the Department to introduce themselves. It's up to you which order you do that.

MS CHANTELE CHOW: I might start. I am Chantelle Chow. I am the Acting Director for Southern, Western and Macarthur Region at the Department of Planning. And I'll pass it to George.

MR CHILCOTT: Thank you.

5 **MR CURTIS:** My name is George Curtis. I'm a Senior Planner in Chantelle's team.

10 **MR CHILCOTT:** Thank you. Welcome both. And as I mentioned, Jane and Tahlia are there, I think they're appropriately labelled on their screens so you can identify which of them is which when they speak.

So, look, we've got an agenda which was circulated prior to the meeting. Was there any change or additions that either you, Chantelle, or you, George, which to make to that agenda, or are you content that we move through?

15 **MS CHOW:** Yes.

MR CURTIS: No change from me.

20 **MR CHILCOTT:** All right. Thank you. Thanks also for sending through the package of materials, the presentation for us prior to the meeting. I think probably the best thing is for you to take us through your presentation. There may be points where we seek to ask questions along the way. But for the moment, in your hands.

25 And I think, George, it was suggested – and Chantelle, for your information – it was suggested that you run the presentation from your end. If you get into difficulties, we can bring it up from ours. But for clarity and control purposes as you move through it, perhaps if you bring it up and share the screen and move us through it. Thank you.

30 **MR CURTIS:** Yes, I'm just trying to work out how to share the presentation on Zoom. Are you able to help me there, Tahlia?

35 **MS TAHLIA HUTCHINSON:** Yes, there should be a green button in the middle ...

MS CHOW: I'm happy to share my screen if that helps?

MR CURTIS: Oh, thanks Chantelle.

40 **MS CHOW:** Just to note also, although it's two separate – we don't have a view request – sorry, a gateway review request, we have referenced a bit of the second proposal within this first one because there's relationships associated with the evacuation. It's just something to note.

45 **MR CHILCOTT:** No, that's fine, Chantelle. But just to note that, as you mentioned, there are two separate things, and just procedurally, we need to deal with them separately, particularly as the meetings for each of them will be put up separately on different parts of the website relating to each of the specific

proposals.

5 So, while there may be some crossover, when we have a meeting in relation to the second proposal, we'll again need to move through things in a complete form. So, you shouldn't assume that just because something gets mentioned in this one, that it will be mentioned in the other – it need not be mentioned in the other, it should be dealt with separately a second time.

10 **MS CHOW:** Can everyone see my screen?

MR CURTIS: Okay, perfect, yes.

MR CHILCOTT: I can see it. Thank you.

15 **MR CURTIS:** Okay. So, I was going to do the presentation.

20 So, the site, it's 34.8-hectare rural site, comprises 12 existing lots and has current capacity for three to four dwellings under the current planning controls. It's located south of the Hume Highway, 3 kilometres south of the Goulburn Urban Area, and 800 metres south of the Mulwaree River. And there are some aerial photos there. The aerial photo on the right shows the site's bounded by Braidwood Road, Johnson's Lane and Brisbane Grove Road.

25 It contains a locally listed heritage item or "Allfarthing" which is the farmhouse for the property. It's located in the middle of the site.

30 **MR CHILCOTT:** Thanks, George. And just for point of clarification, you'll be aware that we went down and did a site view of the properties last Thursday. Were you and your team, sorry, you and Chantelle, able to undertake a site view during your assessment of the gateway application?

MR CURTIS: Yes. I went down and had a look at the site.

35 **MR CHILCOTT:** All right. Thank you. Was that with – by yourself or with others?

MR CURTIS: No, it was by myself, and it was actually on my way back from a trip out to Goulburn, so I popped round and had a look at it on the weekend.

40 **MR CHILCOTT:** Thank you. Thank you. Sorry, was that on the weekend just gone or the weekend during the ...

MR CURTIS: Oh no, this is during when we were considering the gateway determination.

45 **MR CHILCOTT:** Great. Thank you. Thanks for that clarification.

MR CURTIS: Okay. So, the planning proposal sought to rezone the site from

RU6 Transition to R5 Large Lot Residential and C2 Environmental Conservation Zone under the Goulburn Mulwaree LEP 2009. And also sought to amend the minimum lot size from 10 hectares to 2 hectares for the land zone R5 and zero minimum lot size for the land to be zoned C2.

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The proposal also sought to apply clause 5.22 – “The Special Flood Consideration” clause, which applies to land between the flood planning area and the probable maximum flood. And the proposal sought 14 potential dwellings.

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Next slide please. So, this the history or the timeline of the proposal. There was a previous planning proposal which was lodged back in November 2021. That proposal sought 16 dwellings. So, Council resolved to support that planning proposal, they consulted with agencies as required by the relevant local planning directions, and they submitted the proposal to the Department in October 2022.

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The Department issued a gateway determination in November 2022, which required the proposal to be completed by a year, November 2023.

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So, Council undertook the pre-agency consultation as required by the gateway determination. The Biodiversity and Conservation Division, they objected to the proposal due to concerns about inadequacy of the flood assessment information inconsistency with the flood direction. The Biodiversity and Conservation Division requested Council prepare a flood impact and risk assessment, to provide that flood assessment and to justify inconsistencies with the flood direction.

25

The preparation of the flood impact and risk assessment had commenced, but due to the fact that the gateway determination date was due to expire, the Department issued an alteration to the gateway that the proposal not proceed. But the Department did indicate in its letter to Council that it would consider a new proposal if it was accompanied by the FIRA.

30

So, Council – the Proponent lodged a new proposal in February 2024, and that was slightly revised down to 14 dwellings. It also was supported by the completed FIRA. So, as part of the Department’s assessment of the gateway and the planning proposal, the Department sought comment from DCCEEW and SES on the proposal, particularly to obtain their input on the FIRA.

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The Department received submissions from the SES later in April 2024 and by DCCEEW later in June. Those comments raised significant concerns about the proposal, particularly regarding flooding and evacuation. The Department met with Council and the agencies to discuss those concerns. And then the Department then met with Council and that proceeded the issue of a gateway determination for the proposal not to proceed.

45

Next slide please. So, the Department’s gateway determination decision was heavily informed by comments provided by the agencies. So, just to run through some of the comments quickly. So, DCCEEW, they raised concern that the FIRA had not demonstrated that new residential sites can be evacuated prior to becoming isolated. Raised concerns about the increased number of planning proposals in the

area south of the Hume Highway at Goulburn, and the need to consider the cumulative impact associated with the increased occupation of land for residential use and issues linked to flood isolation.

5 Concern raised that although the FIRA indicates that new houses may be above the probable maximum flood, the flood isolation issue has not been addressed and is likely to result in an increase in government spending on emergency management services, flood mitigation, and emergency response measures, particularly flood-free road access.

10 The key issues raised by the SES. Concern that several lots are affected by the PMF and will be impacted by high hazard floodwaters. Concern the entirety of the site becomes frequently isolated from vehicular access and egress in at least the 10% annual exceedance probability event. The development would expose the
15 number of people and property exposed to the effects of flooding and other secondary emergencies.

The SES stressed that development strategies of relying on deliberate isolation or sheltering in buildings surrounded by floodwaters are not supported and are not
20 equivalent to evacuation, and that it opposes transfer of residual risk in terms of management response activities to the SES.

Next slide please. So, the key gateway determination issues for the Department are strategic merit and site-specific merit. So, in terms of strategic merit, the
25 Department considered the proposal is not consistent with current and draft Southeast and Tablelands regional plans, particularly the actions and directions that relate to increasing resilience for communities and providing suitable locations for housing.

30 The Department also considered the proposal inconsistent with the local planning directions, particularly the direction that relates to implementing regional plans. And also, the direction that relates to flooding, particularly in relation to the requirement for safe occupation and efficient evacuation of sites, and not to
35 increase government expenditure on flood mitigation, emergency management measures. The Department considered that the inconsistencies with these directions have not been adequately justified, despite the fact that a FIRA had been prepared.

The Department rec –

40 **MR CHILCOTT:** George, just before you go on there.

MR CURTIS: Yes.

45 **MR CHILCOTT:** In terms of “not adequately justified,” that suggests there is a way of justifying it, that would be distinct from saying it’s not just justified. So, your sense is there should have been some further information provided. Is that correct, that may have satisfied you?

5 **MR CURTIS:** No, no. So, inconsistencies with the flood direction can be justified by a preparation of a FIRA as well as a number of other strategic documents, including a flood risk management plan. So, the Council had prepared a FIRA but the Department and SES and DCCEEW didn't consider – didn't agree with the conclusions of the FIRA, that the risk was manageable.

10 **MS CHOW:** It's probably more about the mitigation measures identified. So, we didn't find them satisfactory enough to meet all the dwellings, the increased dwellings to proceed in that location. Sometimes mitigation measures cope with stormwater basins or road improvements to ensure that evacuation can be manageable in the area.

15 The FIRA and the proposal identified for this site, it just didn't have enough or sufficient mitigation measures to enable us to be satisfied that the inconsistency with this direction was suitable, and that the risk to life was acceptable in this location. So, that's what we mean by we were not satisfied that their justification was there.

20 **MR CHILCOTT:** Okay, now, look, that's helpful just to dig down on it a little bit and it helps me in terms of the things I need to think about in terms of the relationship between the detail of the FIRA and your assessment. Thank you.

25 **MR CURTIS:** So, the Department acknowledged that the site is identified as an opportunity in Council's local housing strategy, but also that the strategy identified that flood was an issue that needed to be further addressed. The Department's letter of endorsement actually acknowledged that more detailed assessment would need to be done through the planning proposal process.

30 **MR CHILCOTT:** Thank you.

35 **MR CURTIS:** And in the Department's cover letter for the gateway, the Department advised Council that it was unlikely to support other similar proposals with long isolation periods, associated risks to future residents and emergency services workers, and the need and proposals that required significant government investment on emergency management service and flood mitigation measures.

40 But the Department advised that the Council should consider reviewing the suitability of the Brisbane Grove Precinct for large lot residential development in its housing strategy. And that this matter was also discussed at the meeting the Department had with Council that I mentioned in the previous slide.

45 In terms of site-specific merit. So, the key issue, the key concern is about flooding and safe occupation and efficient evacuation of the site.

So, the next slide just shows the flood behaviour of the site. So, the site is not affected by the Flood Planning Area, which is the 1% annual exceedance probability plus a freeboard, which is shown in light blue. But the northern corner

is affected the probable maximum flood. But it's proposed that the subdivision layout would mean that no dwelling pad would actually be located in the probable maximum flood. But parts of the lot will actually be affected by floodwaters.

5 So, next slide please. However, the key concern is evacuation and safe occupation. So, the only vehicle evacuation route is via Braidwood Road, which connects the site with the Goulburn Urban Area. So, site access is lost during events rarer than a 5% annual exceedance probability. And Braidwood Road is expected to be
10 inundated for 22–23 hours during a 1% AEP event and up to 38 hours during the probable maximum flood.

And the table at the bottom-right shows the depth. So, the catchment fills up very quickly, within 6 hours, as identified in the FIRA. But because it's very flat land, the floodwaters recede very slowly. So, you've got these quite high depths of half
15 a metre at the 1% flood, which fill rapidly, and the water doesn't recede for long periods of time.

MR CHILCOTT: Thank you. Just – I don't know if you can pick it out, because there's not a direct legend that links the colours to the event frequency. Are you
20 able just to assist with where the 1% is on that ...?

MR CURTIS: Yes, the next slide will probably assist there.

MR CHILCOTT: Okay, great. Thank you.
25

MR CURTIS: Oh, actually this slide shows – yes, okay, the previous, well, this slide shows the evacuation route. The yellow dotted line is the evacuation route for both number 2 Brisbane Grove Road and 137 Brisbane Grove Road via Johnson's Lane or Brisbane Grove Road, and then onto Braidwood Road. So, this is the 1%
30 flood. So, you can see the pinch-point is the crossing of the Mulwaree River.

MR CHILCOTT: Yes, it's sort of – as you head back from the site towards town, the landscape sort of drops into a little ditch before it then rises up onto the bridge. And I'm assuming it's through that stretch of flooding, at its deepest point, it's
35 0.57, is that correct?

MR CURTIS: Yes. Yes. Oh, that's for the 1%

MR CHILCOTT: For the 1%, yes.
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MR CURTIS: Yes. Yes. But as we have rarer floods moving towards the PMF, that area you're talking about does fill up. So, that last slide, Chantelle. PMF shows the dark green is the PMF.

MR CHILCOTT: Yes, yes.
45

MR CURTIS: Which pretty much inundates Braidwood Road.

MR CHILCOTT: Yes, thank you. And it extends over the bridge. Is that correct? It comes up over the bridge on the Mulwaree River.

5 **MR CURTIS:** Yes, that's my understanding, yes.

MR CHILCOTT: At that point.

MR CURTIS: Yes.

10 **MR CHILCOTT:** Thank you.

MR CURTIS: And that's something we discussed with Council about the feasibility of upgrading infrastructure. And the problem is because the density of development in this Brisbane Grove Precinct is low, it'll be very difficult to justify the government expenditure in upgrading that infrastructure.

15 I think that was our last slide.

MS CHOW: Yes, it is.

20 **MR CURTIS:** Yes. That's the end of the presentation.

MR CHILCOTT: All right. No, thank you. Thank you for that. I very much appreciate your responses to the questions along the way.

25 In terms of the agenda, the way we structured it is to perhaps have a discussion on each of those points before then moving into your overall assessment. In terms of the flooding impacts, part of your most recent comments in the – I think it was just the justification assessment that came through – you make reference to the sheltering-in-place guideline. And I did have a question there in relation to the application of that. It seemed you'd given it some more recent consideration in the matter, although it wasn't available at the time of the original assessment. That's correct?

30 **MR CURTIS:** There was a draft that had been exhibited. But yes, the final shelter-in-place guideline was released in January 2025.

35 **MR CHILCOTT:** Right. And I just wanted to be clear. The application of that shelter-in-place guideline, if I read it, it seems to refer to sheltering in place being the internal movement of a building's occupation to an area within the building above the probable maximum flood. That is, sheltering in place seems to be when the flood comes in and inundates a lower level of the building, it's about moving upstairs to shelter in place, as distinct from isolation, which is, you know, you are cut off because of the waters, from being able to move through to another location.

40 **MR CHILCOTT:** Is that your understanding of how it works? And given that, do you see a particular relevance of the new guideline in the current assessment, noting that the building pads proposed are located at least conceptually above the PMF?

5 **MR CURTIS:** Yes, that is the definition of shelter in place provided in the guideline. But we still think that the spirit of the guideline is still applicable for this particular development in terms of – yes, in terms of, you know, the self-evacuation should be the primary planning response.

10 **MR CHILCOTT:** Yes. But it's – what I'm asking is, you know, is it actually isolation rather than sheltering in place? Or do you have some fundamental agreement with the building footprints that would suggest they can't put building footprints outside the PMF on their proposal?

15 **MR CURTIS:** No, we totally acknowledge that the building footprints can be outside of the PMF and they'll be able to walk around the perimeter of the footprint of their dwelling. It's – yes, we just consider that it's a guide only, and it's indicating that isolation isn't ideal and it's a last resort, but it shouldn't be – it certainly shouldn't be considered for greenfield areas and the guide actually does make that point.

20 Yes, that self-evacuation should be the primary strategy for new greenfield development. And we can see that this is greenfield because it's a rural development.

25 **MS CHOW:** To add to that. Having the buildings outside the flood areas we find acceptable. What we don't find acceptable is the isolation period. So, for these people to be cut off from the main parts of town for potentially 38 hours, we don't find that acceptable. It means that in the case of emergency where they're hurt or anything like that, they can't evacuate and reach medical care or the main parts of town for services and things like that. That's a big consideration for us to have refused this proposal from proceeding.

30 And then SES and DCCEEW, their main priority is evacuation is their model. So, our shelter-in-place policy does allow some periods of shelter in place for isolation, but DCCEEW and SES have always pushed that evacuation should be at least the priority and accessible at most points in time.

35 **MR CHILCOTT:** Thank you. What I'm hearing is that from your perspective, it's the isolation that is actually the principal concern. If I understand the sheltering in place and, regrettably, in all of these things, sometimes words have meanings, but the words here seem to suggest that sheltering in place is not about
40 – they don't – isolation is one thing, sheltering in place is another.

45 And if I'm not hearing you challenge the contention that there can be footprints outside of the PMF, and then again reading the policy, it would suggest that the sheltering in place is for periods of PMFs and about having to move up in the building rather than about the isolation per se. So, I just wanted to be clear on that, because there was – I think it's one of the points that the Applicant had raised was, you know, a challenge to the fact that this policy had come in more recently and is it actually applicable in circumstances where the proposal puts forward building

footprints that are outside the PMF.

5 I don't hear you challenge that that's possible. I think you acknowledge that the building footprints could be outside the PMF and therefore it just gives me a sense of, you know, weighting or application if at all of the shelter-in-place guideline. But thank you for that, I appreciate that. Thank you.

10 In terms of the flooding, the models are useful, and I thank you for those. Is there anything – one of the things that we know from planning is that the way we deal with our flood modelling is based on history rather than forecast, if I put it that way. We don't know when these things are going to come. But are you content that there's nothing in the changes that might be afoot with climate change, for example, that need to weigh in here at all?

15 I don't know what it says about this particular region, but I know that the Applicant says that, you know, well, notwithstanding the modelling, and we went on site and had discussions with them, and we'll have more discussions with them later. But I just wanted to feedback to you, one of the things they said was, "Well, we've not seen these sorts of floods come through in recent times," talking
20 20 years and so forth. And I hear what they say. I also want to understand what you say. In relation to such statements, should they be matters that we need to address formally?

25 **MS CHOW:** I mean, we also base a lot of our assessment on the FIRA that they produced. So, that's something that they provided us for our assessment, and that identified the significant timeframes for isolation. And then in regards to the FIRA, I do believe they do consider climate change. George, am I right in saying that?

30 **MR CURTIS:** Yes, it's definitely a requirement of the DCCEEW guidelines in preparing FIRAs.

35 **MS CHOW:** So, their report actually would have considered that, and then they provided that assessment to us for consideration. So, I don't disagree that they might not have seen this type of flood for a certain period of time, but their assessment is what brought those specific numbers, specific issues to light as well. So, it would – it is in their assessment that this is a problem, and that in the mitigation measures, we just didn't find sufficient. I think if they had identified ...

40 Because we've looked at other sites within this area and there is potential to raise some of the roads within reason within cost. This particular area, financially, would not be able to gather the contributions needed to upgrade that road to make it evacuation-worthy, and that was a huge part of our consideration.

45 **MR CHILCOTT:** Thank you.

MS CHOW: Yes.

5 **MR CHILCOTT:** And I'm grateful for you putting on the record that response. I just wanted – I know it's a matter that will come forward. It came forward in the site view, it may come forward in our Applicant meeting. So, I just wanted to make sure I understood clearly. As I understand it, what you're saying is, your response is it's the Applicant's report that actually identifies these things as a problem. You're relying on that study as much as anything else, for your assessment.

10 Then notwithstanding the fact that in some period of time, things haven't been seen, these things by their own report say they are likely are at a particular probability level to occur.

MS CHOW: Yes.

15 **MR CHILCOTT:** Thank you for that, I appreciate that feedback.

20 **MR CURTIS:** And since the New South Wales Flood Inquiry, the standards for flood assessments are just so much stricter now. With the Department's Flood Prone Land Package, the requirement to assess floods all the way up to the probable maximum flood, it just makes the requirement so much stricter now.

25 **MR CHILCOTT:** All right. Thank you. And I mean, from my point of view, in terms of evacuation and emergency services inputs, you've been very clear in your presentation as to what the feedback was from both BCS and SES. So, I'm grateful for that. I don't have any further questions in relation to that. But I'll just check whether Tahlia or Jane do wish to raise anything specifically there.

MS JANE ANDERSON: Nothing in relation to that from me, Michael.

30 **MS HUTCHINSON:** I don't have anything, thanks Michael.

35 **MR CHILCOTT:** All right, thank you. And in relation to heritage impacts. I think you noted that there was a heritage property there. Is there anything you wanted to add in terms of heritage impacts? That is to you, Chantelle and George.

40 **MR CURTIS:** Only that it's my understanding that the actual heritage item won't be impacted. It's not proposed to redevelop that site. So, it's actually 13 new dwellings, there'll be 14 different dwellings on the site, but only 13 new dwellings.

MR CHILCOTT: All right. And was there anything in relation to Aboriginal cultural heritage impacts? I think you did touch on that along the way in your Assessment Report.

45 **MR CURTIS:** Yes, that was assessed. But yes, and an Aboriginal impact statement was provided. But the conclusion was that there wouldn't be any significant impact on Aboriginal heritage items or relics.

5 **MR CHILCOTT:** All right. Thank you. And then going onto your strategic merit and the consistency with strategic plans. Again, your – I’ve read through your various assessment reports and I’m grateful for the work you’ve put in to be as clear as you can on those. I just wanted to touch on particularly the Section 9.1 Ministerial Directions and the status of those. Partly because in undertaking this review, this is the first of these gateway reviews that I’ve dealt with. I’ve not previously had to deal with the Ministerial Directions.

10 Can you just briefly, for the record, put on some commentary in relation to the origin and application of these Ministerial Directions. And then I’ll want to quickly take you to clause 4.1 of the Ministerial Directions concerning flooding. Just have a quick discussion about those. But I just wanted to put some context into the Ministerial Directions and the manner in which they’re applied by the Department.

15 **MS CHOW:** Ministerial Directions have been developed by the Department for, I guess, rezonings across the board, across New South Wales. So, we consider them for every planning proposal that comes across our desk. There are, I guess, situations where they say, you know, no future developments should occur unless something has happened, which is usually strategic merit.

20 So, it’s usually any Department-preferred strategy or Department-endorsed local strategy that says, you know, we agree for further development within the flood prone areas or within rural areas to transform into urban areas. So, that’s where they’ve come from. So, does that answer the question that you’re asking?

25 **MR CHILCOTT:** No, that’s fine. The current Ministerial Directions you’re working with, when were they put in place, what’s the timeframe for their authoring and application? Roughly?

30 Well, I mean, let’s use the Ministerial Directions to which you’ve referred and which you’ve used as assessment. I’m just inquiring as to the circumstances of this particular set of Ministerial Directions’ origins. Were they put in place, you know, have they been put in place and applied consistently in this form for a decade? For 35 five years? For two years or one year?

MS CHOW: I would say –

40 **MR CHILCOTT:** Again, I’m just not –

MS CHOW: Longer than a decade. So, I’ve been using Ministerial Directions longer than a decade.

45 **MR CHILCOTT:** And in this form, Chantelle?

MS CHOW: Yes, they do get updated every so often, depending on whether there’s new information out there. So, I think the Ministerial Direction that we’re currently relying on is dated ...

5 **MR CURTIS:** Yes, they're regularly updated. The Flood Direction, that was updated when the Flood Prone Land Package was released, so that – I think that dates back to July 2021. But the, yes, the Direction for Regional Plans is probably a little bit older.

10 **MR CHILCOTT:** No, that's helpful. Again, it's just context that I'm interested in and the manner in which these things come forward and how they're applied. It just helps me to gauge matters of weight and so forth in the consideration. So, I'm thankful for your background there.

MR CURTIS: We can get back to you with the specific dates on those directions, if you'd like?

15 **MR CHILCOTT:** Only if there's something different – perhaps just confirm what you've said orally ...

MR CURTIS: Yes, okay.

20 **MR CHILCOTT:** ... and got on the record. That would be helpful. I think the comment you made, George, in terms of the Flooding Direction and being said mid-2021. Is that correct?

25 **MS CHOW:** Sorry, the Flooding Direction has been longer than a decade.

MR CHILCOTT: Okay.

30 **MS CHOW:** It was dated in 2021. The current direction that we relied on for our assessment, it was last updated 20th of February 2023.

MR CHILCOTT: Okay.

MR CURTIS: Okay. Sorry. Right.

35 **MR CHILCOTT:** That's fine. Again, if you could just perhaps give that short – I mean, obviously flooding considerations are the most significant matter we're dealing with, I suspect, in this particular gateway application. And so I just want to be clear about these. Just gives me some context, as I say, to what we're considering.

40 In clause 4.1, you've particularly made mention of sub-clauses 4.1(4e) and (f), and you've got those down, I'm grateful again, on page 20 of your Justification Assessment of the gateway review where you've given me the full text of that. I'm just trying to – I'm just quickly referring to that, bear with me.

45 Would it be fair to say that these are amongst the most critical elements that you've assessed in your assessment of the gateway application?

MR CURTIS: Yes, yes. The inconsistency of the planning proposal with those requirements and the Department's view that the inconsistency hasn't been justified to the Department's satisfaction.

5 **MR CHILCOTT:** All right. And I thank you for that. No, I'm grateful to you for those things.

The other one I wanted to touch on is, I think, George, early in the presentation when you're going through the planning proposal, mention was made of some sort of reliance on clause 5.22 of the LEP. I didn't see much consideration of it on the way through the documentation. I'm not sure how you bring it into your assessment or how you've addressed it or what weight you've given to it, if any. It sort of – it's an early preposition that you'd normally apply in the context of a specific DA and measure the DA against those provisions specifically. I just want to explore it because it is mentioned. Was it something which weighed in any way in your assessment, and if so, how?

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20 **MR CURTIS:** It did, because there are specific requirements in the direction that relate to that clause, the land between the flood planning area and the probable maximum flood. In particular, safe evacuation.

MS CHOW: I might step back a bit. So, flooding clauses are mandatory in all of the LEPs.

25 **MR CHILCOTT:** Yes.

MS CHOW: This one is the Special Flood Considerations clause which was developed a few years ago and was optional for some councils. Goulburn decided to adopt it, so it enables us to ensure that development applications are considered from the 1%, the flood planning area, to the PMF. Whereas normally it's not captured in a lot of LEPs for that to be considered in DAs. So, it is actually a benefit to Council that that clause exists in their LEP, so that when we come to issues like this, consideration for DAs and safe evacuation can be considered for the 1% to the PMF, which this property would lie within.

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40 So, it is something that we can rely on, saying that there are appropriate development application clauses that would assess the flood evacuation between those two flooding planning levels for future assessment. But when we looked at it because of the FIRA information, we knew that there wouldn't be sufficient evidence that it could be adequately assessed or mitigated when the DAs would be considered, because of the fact that the road could not be accessed during those periods.

45 **MR CHILCOTT:** Okay. So, you've undertaken a sort of pre-emptive, or you've taken a pre-emptive view in relation to the potential application of that clause in a future DA. Is that the way you've viewed it?

MS CHOW: Yes. So, the Department likes to ensure that if we're releasing

5 additional housing to the public, or potential to the public, that essentially those DAs can be progressed at whatever stage that they are applied for. Otherwise, it makes it ... Releasing housing that could not ever be developed would just be inappropriate as it would raise everyone's land value, it would raise the taxes associated with their properties.

10 So, for us, we do consider certain things, not everything gets assessed, like DA-level information gets assessed at the rezoning stage. But something like this, we considered appropriate, because if they could not ever get the mitigation measures to work, then they could never actually get the land to be developed.

15 **MR CHILCOTT:** All right. Thank you. Obviously, there's a lot of material that's come forward to us in the review in a relatively short time. You're more familiar with it at this point, I suspect, than I may be. But I just wanted to seek your assistance as to where that discussion is in your documentation.

MS CHOW: About the DA process?

20 **MR CHILCOTT:** The 5.22 considerations.

MR CURTIS: We didn't go into a lot of detail in terms of the proposal to include that clause. It just triggered – as I said, it triggered those requirements of the Local Planning Direction in terms of considering safe evacuation and occupation.

25 **MR CHILCOTT:** Would those considerations be triggered without 5.22? Were they just not – would they not just be a normal part of your consideration anyway? I'm just wondering if there is any specific reliance on 5.22. As I say, I couldn't spot a significant discussion of it in your documentation. I appreciate what you say, George, and this isn't a criticism, I'm just trying to be clear.

30 **MR CURTIS:** Yes, that is part of our normal assessment. But the fact that that clause was proposed to be included actually called up those sections of the direction.

35 **MR CHILCOTT:** Okay. When you say, "proposed to be included," is not 5.22 in the LEP?

MR CURTIS: It is, but it doesn't currently apply to the site.

40 **MR CHILCOTT:** Sorry. 5.22 of the LEP would apply to all development proposals, wouldn't it? How is it excluded? Again, I'm just seeking your clarification.

45 **MR CURTIS:** Yes, I'd probably have to get back to you on that.

MS CHOW: Yes, it does apply to all land, but it wouldn't apply currently because the dwelling potential hasn't been increased. So, it's looking at the new dwelling potential would call in this clause to look at the sensitive and hazards development

which would be putting new housing in parts of the flood prone areas or that would have impact to the safe egress of these people.

5 **MR CHILCOTT:** Okay. And again, I'm just trying to be clear about how it has been brought in, how it's discussed. What I've heard from George was its presence may have been a trigger to a Ministerial Direction. But I just want to be clear on, is that a trigger that actually was required to get you into the Ministerial Direction? Or is it the Ministerial Direction would operate anyway?

10 **MS CHOW:** Yes.

MR CHILCOTT: And yes, it's a thing in the background that you're aware of. So, as I say, I haven't seen a lot of weight in the ...

15 **MS CHOW:** Yes.

MR CHILCOTT: ... documentation about it. I appreciate it's a matter that would be considered in due course. I'm just trying to understand for my own benefit, the degree to which you view any formality there on 5.22 at this point.

20 **MS CHOW:** So, the Flood Direction on its own is what we base our assessment on. 5.22, we didn't have any relying – because it's almost at the next stages of the assessment process.

25 **MR CHILCOTT:** Yes.

MS CHOW: So, we knew it was there to address flooding issues between the 1% and the PMF, but we were already looking at in the FIRA in the 4.1 Ministerial Direction. So, we didn't have to reference it so heavily because the Direction 4.1 already covers the information in the clause 5.22, it just subjects the DAs at that time to the specific requirements of that clause.

30 **MR CHILCOTT:** No, that's helpful. Thank you. I just wanted to get that clarity again from you. The 5.22 consideration seemed to be something that was mentioned upfront and then subsequently it wasn't relied upon. I can perfectly understand why, as you say, it's something which would find its application really should the matter proceed through gateway to a DA and then at that point one would then assess it specifically in relation to the DA.

35 **MR CHILCOTT:** But for the moment, it's sort of a background matter that you're aware of, it doesn't weight heavily in your assessment, ultimately, from what I hear. Because you've relied on the Ministerial Direction which gives you the considerations in relation to flood matters in any case. Thank you.

40 **MR CHILCOTT:** All right. Look, from my point of view, I don't have anything else. Is there anything you want to bring forward beyond what we've spoken about at the moment?

5 **MS CHOW:** No. Not from me. Besides, I mean, this is an assessment in a point of time based on the information we have. Should they be able to provide new information, there is future potential for planning proposals to be reconsidered in the future. But flooding and evacuation's a pretty big issue that they haven't overcome with the mitigation measures that they have identified so far. So, this may not curtail any future rezonings in the future. But it's just something they haven't overcome in this particular application right now.

10 **MR CHILCOTT:** Thank you. I'll just check in with Tahlia and Jane, anything from you at this point?

MS HUTCHINSON: Not from me at the moment.

15 **MS ANDERSON:** Not from me, thanks Michael.

MS CHILCOTT: All right. Thank you. In which case, Chantelle, George, what we might do is just take a 10-minute break between the meetings, if that's OK? We'll just have some internal deliberations and then we'll come back on, and we'll discuss the other proposal. Let's call it 5 past 12. Is that okay with you?

20 **MS CHOW:** Yes.

MR CHILCOTT: George, it works for you?

25 **MR CURTIS:** Yes, that's fine, thanks Michael.

MR CHILCOTT: All right. Thank you. Well, we'll close this meeting to a close. I thank you both for your assistance in the matter, and we'll speak shortly on other matters. Thank you.

30 [All say thank you]

>THE MEETING CONCLUDED