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TRANSCRIPT OF PROCEEDINGS

TRANSCRIPT IN CONFIDENCE

O/N H-1288120

INDEPENDENT PLANNING COMMISSION

MEETING WITH PROPONENT

RE: 55 WIRE LANE BERRY GATEWAY

PROJECT #: 12348 06 55

PANEL: **CHRIS WILSON (CHAIR)**

OFFICE OF IPC: **CALLUM FIRTH**

APPLICANT: **MICHAEL PARK
MARK RIGONI
DAVID JOHNSTON**

LOCATION: **SYDNEY**

DATE: **9.31 AM, THURSDAY, 24 SEPTEMBER 2020**

THIS PROCEEDING WAS CONDUCTED BY VIDEO CONFERENCE

MR C. WILSON: Okay. Just some housekeeping. Before we begin, I would like to
5 acknowledge the traditional owners of the land on which we meet. I would also like
to pay my respects to their elders past and present, and to the elders from other
communities who may be here today. Welcome to the meeting. A request for the
Commission to review the Gateway determination for a planning proposal has been
lodged by the proponent seeking to amend the Shoalhaven LEP 2014 to rezone 55
10 Wire Lane, Berry, from RU1 primary production and RU4 primary production small
lots, to R5 large lot residential and E2 environmental conservation. It also aims to
establish a one hectare minimum lot size control for the site.

My name is Chris Wilson. I am the chair of the IPC panel. The other attendee of
15 this meeting is Callum Firth from the Office of the Independent Planning
Commission. In the interests of openness and transparency and to ensure the full
capture of information, today's meeting is being recorded and a full transcript will be
produced and made available on the Commission's website. This meeting is one part
of the Commission's consideration of this matter and will form one of the several
20 sources of information upon which the Commission will base its advice. It is
important for the commissioners to ask questions of attendees and to clarify issues
whenever it is considered appropriate.

If you are asked a question and not in a position to answer, please feel free to take it
25 on notice and provide any additional information in writing which we will then put
on our website. I request that all members here today introduce themselves before
speaking for the first time, and for all members to ensure that they do not speak over
the top of each other to ensure accuracy of the transcript. We will now begin.
Would you like to introduce yourselves.

30 MR M. PARK: Yes, look, thanks. Thanks, Chris. Look, my name is Michael Park,
and we have got Mark Rigoni here, and Dave Johnson's just here slightly out of
screen, sorry.

35 MR WILSON: Okay. That's all right.

MR PARK: And can you hear us okay, Chris?

MR WILSON: Sure. Yes, very clearly. Thank you.
40

MR PARK: Yes. Okay.

MR WILSON: So what I thought we would do, look, we gave – we sent an agenda
but I think it's only appropriate that you give – you are given the ability to run
45 through your – your proposal and the vision for your proposal and the objectives
before we talk about the – the reasons why – for the review.

MR PARK: Yes. So - - -

MR WILSON: Are you happy to do that?

5 MR PARK: Yes. Look, a bit of an overview of the proposal. Look, I guess, Chris,
we're somewhat shocked at how we got here. Like, we're talking about a site that
has been supported by council – proposed by the council for rural lifestyle
development since the early nineties as part of their rural planning exercise they
undertook since the nineties and is still supported today for that purpose. Basically
10 what we're looking at is a – a rural lifestyle subdivision on a site that presents as
essentially infill development between two existing rural lifestyle subdivisions either
side of the site. It provides a chance to address a – a specific housing need in the
Shoalhaven as is required by the region plan.

15 So we have – the proposal is obviously supported by a market analysis which looks
at the demand and the supply of this type of housing in the Shoalhaven, and – and
what it come back and said is that there is a really strong demand, despite a general
downturn in the housing market, there remains a really strong and latent demand for
this form of housing, and there is currently no available supply. It looked at – there
20 is zoned lands for – land zoned for purpose, but a lot of it's either heavily constrained
or – or some of it's in the ownership of an Aboriginal land council and it's unlikely
to – to ever be developed. So there's no supply on the ground and no likely supply
over the next – or over the foreseeable future without rezoning more land.

25 The site not only provides a chance to address a specific housing need in the
Shoalhaven, it also provides a chance to deliver significant improved environmental
outcomes across the site, so including protecting and enhancing and creating new
environmental corridors through the site, so specifically addressing actions in both
the regional plan and the south coast regional conversation plan which identified this
30 regional corridor as a regionally significant biodiversity corridor, and a desire not
only to protect it but to create new vegetative links between significant patches of
vegetation, and this site provides a real opportunity to do that, both through – you
have seen the plan proposal itself, both through the use of zoning – so we propose to
not only zone the existing corridor, E2, but rezone the riparian area running east-west
35 through the site as E2, but also along the Berry – sorry – the Beach Road frontage
and a riparian area running north-south through the site, to use VMPs to – to
establish new vegetated linkages through the site which currently don't exist.

40 So – and it's an opportunity to provide significant environmental benefit but also to –
to – through the use of a water treatment chain to provide improved water quality
outcomes as well. And, look, we're talking about again a site that has been proposed
by the council since the nineties, and it's – for us, it's a local planning decision. The
site has been proposed by the council since the nineties and is still supported by
council for that purpose today.

45 MR WILSON: Okay. Fine. Was it – was the land the subject of the South Coast
Sensitive Rural Lands Study that was done in the early 2000s?

MR PARK: South Coast Rural Lands - - -

MR WILSON: I will ask - - -

5 MR PARK:

MR WILSON: I will ask council that, actually. I will - - -

10 MR PARK: Yes. Again, I – I’m happy to have a look into it and – and let you know.

MR WILSON: So just in terms of council support, if that – is that – is that reflected in their – is it the growth strategy, their local – their local plan?

15 MR PARK: The growth management strategy?

MR WILSON: Yes.

20 MR PARK: Well, they have got – they have got a number of sort of land use strategies, all of which are essentially urban strategies. So the – they have got the structure planned, and the one that covers the Berry area is the growth management strategy. It covers – they have got three main strategies of their three main growth areas.

25 MR WILSON: Yes.

MR PARK: And they have got an urban strategy for the rest, and what it did was look at the fringes of the towns and looked at where each of the existing town could expand, and - - -

30 MR WILSON: So what you’re saying, they don’t have a rural resi or a - - -

MR PARK: No, they don’t have a rural residence. Their last – their last rural planning exercise or rural residential strategy was in the nineties, and this site was proposed by council at that time.

35 MR WILSON: Okay. Okay. Shall we specifically look at – I mean, you have made a submission in relation to the Department’s determination. You might – it might be useful to go through – I know that you have already mentioned market demand and so forth, but you have made a submission and you have made some points in relation to the determination of the Department. Do you want to quickly talk to those – those reasons?

40 MR PARK: Yes.

45 MR WILSON: I mean - - -

MR PARK: Yes, I might – I might just - - -

MR WILSON: There's no hurry, so you have got plenty of time, so I don't mean to
- - -

5

MR PARK: Yes.

MR WILSON: I'm not rushing you. I just – there's plenty of time.

10 MR PARK: I might touch on a couple of other things too if that's all right.

MR WILSON: Sure.

15 MR PARK: There's really three main reasons why the Gateway has – has knocked
back the planning proposal. One, it relies very heavily on a decision – sorry – a
comment made by the Southern Regional Planning Panel on a separate planning
proposal. They have almost relied on it as if it is a strategy, as if a – a comment
made by a planning panel which is outside of what their delegations are – the role of
20 a planning panel, as you're aware, they don't want to sort of tell you how to suck
eggs, but the role of a planning panel is to make a recommendation on a rezoning
review. It's not to set – to make policy on the run and to say that council and the
state are to do X; it is to make a recommendation, and that's – and it's very clearly
outlined what their delegations are under the relevant planning circulars.

25 Yet the Department then rely on that recommendation that, in my view, shouldn't
have been made in the first place but it was, but they then rely on that as if it's – as if
it's a regional strategy, or as if that's an endorsed strategy of – of the Department.
And the guidelines – the State Government's own guidelines outline what should and
shouldn't be considered as a planning – in a review of a planning proposal, and
30 nowhere is there a consideration of a comment made by a panel on a completely
separate matter. So it seems to me a major flaw in the assessment of this Gateway
that they rely so heavily on a – on a decision – on a comment that's made on a
completely separate matter that's not a consideration of the planning proposal. So I
think that point is just worth making because I think it's a major flaw in their
35 assessment when they rely so heavily – and the – the – the – we have met with the
Department only recently, and their advice was that the large – their primary reason
for knocking it back was – was those comments made by the panel.

40 MR WILSON: Yes. Okay. I have my own views on that, but the real – the real job
for you is to justify a planning proposal and come up with compelling reasons why it
should support the rezoning.

MR PARK: Yes. Yes, fair enough.

45 MR WILSON: I – I – my personal view is – I guess is that it's not up to another
planning panel to impose what – what could be seen as a moratorium, but you still –

it's you – the onus is on you. I mean, the planning process – the PP process is to – to try and rezone land where it's justifiable, yes?

MR PARK: Yes. And, look, I 100 per cent agree, and I – I just think it's worth –
5 when – when we're talking about reviewing the Gateway determination, they rely so heavily on advice on – and, look, the – the advice from the Department when we met with them was that was largely the reason why it was knocked back, and that's not a consideration of the planning proposal process and it's not the role of that panel to make policy decisions, or, as you said, to place moratoriums. So, look, but I won't –
10 I won't dwell on it, sorry.

MR WILSON: No, point taken. I understand what you're saying.

MR PARK: Yes. So, look, in terms of the – the suitability or the justification for
15 the site, I think the other thing that's largely ignored in – in the Gateway determination, and it was ultimately taken out of the planning proposal document itself but provided separately to the Department of Planning, was the background of the site. They talk about the strategic context of the site and the strategic merit for this rezoning. The council have been through one major rural planning exercise over
20 the last 25 years and they – the council themselves – it wasn't driven by the landowners. The council themselves nominated this site as a rural lifestyle area. Look, it – the sites adjoining it have since been rezoned. One of the site – the site immediately west of this site was rezoned as part of that rural process. The site to the east was rezoned separately under a separate council planning proposal, or was
25 prior

MR WILSON: Well, just on that, the site to the west is 10 hectare minimum; is that right?

MR PARK: Look, I – I think this is another point that I really want to clarify, in
30 that, yes, both sites to the east and west are both mapped as minimum lot size of 10 hectares. Neither of them are 10 hectares on the ground, and – and this is a – we raised this issue with the Department the other day and their – their comments were that, "But it's mapped as 10 hectare," and I said, "Well, people don't experience
35 places by a minimum lot size map. People experience places by what's on the ground," and the site to the east is a one-hectare subdivision, albeit mapped as 10-hectare lot size, and I'm happy to speak you through why because I was involved in the Shoalhaven LEP when it was put together.

MR WILSON: Okay.

MR PARK: But the site to the west of it is a range of lot sizes, I think starting from two hectares. There's a range of lot sizes that have been subdivided in the nineties, ranging from about two/three/four sort of hectares. So a range of sort of rural
45 lifestyle lots, so zoned RU4 with a minimum lot size of 10 hectares, but on the ground, you're looking at rural lifestyle lots either side of it.

MR WILSON: And to the north and south?

MR PARK: To the north, you have got a quarry. Immediately north you have got Beach Road and then there's – it's a quarry, isn't it? Sorry, a – a sand mine.

5

MR RIGONI: It's a sand – yes, it will be – it's just floodplain that is rural.

MR PARK: Yes. So it's a – there's a – there's a - - -

10 MR WILSON: And to the south?

MR PARK: To the south you have got rural land.

MR RIGONI: Yes.

15

MR WILSON: Okay. All right.

MR RIGONI: Yes.

20 MR PARK: Yes. So to the south, you have got rural land. You have got land that was – the land immediately south was also identified by council through the rural planning process. Yes, so that's the land surrounding it. Then you have – overlaying the site you have got a riparian area running east-west through the site, and part of the site on the western corner is mapped as a biodiversity corridor. So what - - -

25

MR WILSON: Has that – has that been ground-truthed?

MR PARK: Yes. So we have – we have had an ecologist's report, so again ground-truthed the site. He has basically recommended that we protect that area, that you don't allow development in that, so what we have proposed is to not only zone that part – portion of the land E2 with a VMP over it to protect the vegetation, but also to – to expand the riparian corridor, so expand it along the riparian area.

30

MR WILSON: Yes.

35

MR PARK: So the riparian area runs straight through the existing corridor but then out to the edge of the site, so it provides an opportunity to enhance that existing linkage.

40 MR WILSON: All right.

MR PARK: So that's also – there's a riparian area running north-south through the site, and it's currently not mapped as a corridor but what we have proposed through the planning proposal is to start to revegetate that riparian area, because there's an existing patch of vegetation immediately south of the site.

45

MR WILSON: Okay.

MR PARK: So this provides an opportunity to - - -

MR WILSON: Just from the map, it looks like it sort of finishes halfway through the site, but then you have got a – you have got a – you have got the BSAL mapping
5 which comes down from the northeast. Is that right? That sort of – let me just go to the map in your planning proposal.

MR PARK: I'm just pulling the map up, sorry.

10 MR RIGONI: That's right.

MR PARK: Yes. So the corridor would – yes.

MR WILSON: I see. I see, E2 zone.
15

MR PARK: So that – that corridor – so if you look at where the zoning is, so that – that existing vegetation largely reflects that – the biodiversity corridor overlay. It's slightly out but – but it largely reflects the biodiversity overlay in the Shoalhaven LEP. We have proposed to expand it along a riparian area. It doesn't – you can't see
20 it on the aerial photos itself but there is a mapped water course running east-west through the site. There's also one – between those two existing dams, there is a – there is a mapped water course running north-south through the site.

MR WILSON: Right.
25

MR PARK: And we have proposed to, through the use of a VMP, to revegetate that and provide a linkage. You can see there large parts of vegetation to the south of the site.

30 MR WILSON: Yes.

MR PARK: And to provide an additional linkage. And these are – these are things that are outlined in both the South Coast – so the South Coast Regional Conservation Plan and the South Coast Regional Strategy specifically talk about this corridor, the
35 Berry Wildlife Corridor, I think is the name of it.

MR WILSON: Yes.

MR PARK: And they specifically talk about the desire to link these existing patches of vegetation through wildlife corridors. And that – as you would know, that's not
40 going to happen while this land is for use for agricultural purposes. Dave currently runs cows on the site, albeit he's losing money off it every day, but he runs it more as a hobby farm than anything else, and while you're doing that, you're never going to be able to re-link the – like, you can certainly expand these corridors. Thankfully,
45 Dave and Joy are – are very, I guess – have – have managed the land really well, so that corridor that's there has been protected, thankfully. Where you get agricultural

use, as you know, often – often you start to degrade these corridors, but it's still in good quality, which is good.

MR WILSON: Yes.

5

MR PARK: But this provides an opportunity to really enhance and protect those corridors.

MR WILSON: Okay. Just coming back the to the BSAL, because it is – it is an interesting issue. Your – just noticed your E2 zone seems much more narrow than the – than the BSAL mapping. Now, the BSAL mapping is regional level and may not be accurate, but – so you have said you have had ecological – you have had consultants out there looking at that land, have you?

MR PARK: Yes. So we have had – we have had two – multiple consultants looking at the land. Obviously, we have had about – quite a few consultants out on site, one of which was looking at the ecology of the site.

MR WILSON: Yes.

20

MR PARK: And it said just – basically the area it's – you can see on the zoning map, before we go – you can see the riparian area then extends further east-west through the site, but the rest of the E2 zone land is the land that is vegetated, and I don't have the – I don't have the species in front of me but he said it should be protected.

25

MR WILSON: Okay.

MR PARK: So we're proposing - - -

30

MR WILSON: And BSAL is more about soil type, isn't it?

MR PARK: Yes. So then we have also had the agricultural land assessment done of the site.

35

MR WILSON: Yes.

MR PARK: I guess a point that's worth making and – and a frustration of ours is that in the meeting we had with the Department last week, they said they haven't reviewed the agricultural lands assessment. So they have used the fact that it's – these sort of state-wide or regional based modelling of – of soil types and – and suitability for agricultural as reasons to justify that, where the ground-truth thing – and – and the site-specific assessment which looked at the site-specific constraints, etcetera, etcetera, come back and said that the land is not suitable for agriculture. So we asked Ian Sinclair, who is – and you're probably familiar with Ian Sinclair.

45

He is the – as far as I'm aware, the number 1 expert in this field, and he – we asked him to look at a range of sort of agricultural uses on the site and whether things could work. We looked – asked him to look at RU4 and – and a more intensive agriculture and whether we could make that work. Ultimately, the recommendation come back
5 and said it's not suitable for broad acre farming. It doesn't have the carrier – carrying capacity for broad acre farming and it's not suitable for more intensive smaller lot stuff because of the site-specific constraints, including the slope, lack of sort of – lack of water access, and there was a couple of reasons why he's flagged it not suitable. But the fact that this report hasn't even been assessed as part of the
10 Gateway determination - - -

MR WILSON: Yes. There's not a lot of broad acre farming down there, is there?

MR PARK: There's quite a bit down to the south of the site around the Shoalhaven
15 River.

MR WILSON: Okay.

MR PARK: Around Bolong Road, if you know – I'm not sure if you're familiar
20 with the area. Bolong Road. There's quite a bit on their floodplains. It's actually their best agricultural land is on their floodplains. So there is quite a bit in that area down towards – between – to the north of Bomaderry.

MR WILSON: Okay.
25

MR PARK: I'm not sure if you're familiar with the area, but - - -

MR RIGONI: North of the Shoalhaven River, just - - -

30 MR PARK: Yes. North of the Shoalhaven River.

MR WILSON: Okay. So let's go probably to – that was – so I'm just trying to understand the planning history a little bit too. I know you have touched on it. Council's report to the development committee touched on it. It's a little bit
35 convoluted.

MR PARK: It is. It's a – it's a mess.

MR WILSON: Do you want to try and put it in – succinctly explain to us what –
40 how – how it has occurred and how it has come to this, or - - -

MR PARK: I will do my best.

MR WILSON: The – the journey. Just – I mean, I have read it twice. I have read it
45 in your submission and I have read it in the Department's – sorry – the – the council's original submission to the development committee, and I'm just trying to get my head around it. Is there a simple explanation?

MR PARK: Yes. So the site – this site itself – do you want me to talk about the area generally or this itself?

5 MR WILSON: Just the site itself and how it has – how it has been – well, look, if you need to put some context around it, put some context around it, but yes, just do the best you can.

MR PARK: Yes. Well, the - - -

10 MR WILSON: Because I will ask – I will ask council the same question.

MR PARK: Yes. So in the nineties – well, I think it started earlier than the nineties but they – they did what was called the rural plan. So it was – it looked at – it was their major rural planning exercise. As part of that process, it was exhibited and back
15 and forth with the Department a number of times. They – my understanding is it was exhibited once without some areas included. After the first exhibition, the council expanded some of the areas that were – that were considered in the report – that were identified for future rezoning, and this site was included in those expanded areas. When the plan – and then we made it into the final version that went up to – from
20 memory, it was DPNR or DUAT, one of the – one of the acronyms of the day. When it went to them, it was taken out of the final adopted rural plan because it was added in after the first exhibition.

MR WILSON: Right.
25

MR PARK: So – and so the council at the time proposed that it was ultimately taken out by DUAT because it was not exhibited in the first version, so the land to the west was - - -

30 MR WILSON: Was it taken out because it wasn't exhibited, or was it taken out because it was inconsistent with their rural land policy at the time?

MR PARK: My understanding is – and again, in the council report it talks about because it was not exhibited in the first exhibition, and that's come from the council
35 report, and you would have – you would have a copy of it too.

MR WILSON: Okay.

MR PARK: So that's coming from the staff's comments at the time. And yes, so
40 that's why it was dropped out. The land then to the east was not identified but rezoned at a later stage, and ultimately the loaners of this side have never – never progressed it, never – never looked at it again up until the last little while while Dave has decided to – to look at what his options were across the site because it's not
45 viable farm land.

MR WILSON: Okay. All right. That's fine. So – so you have touched on – touched on the agricultural land assessment. Maybe it's worthwhile touching on the market analysis as well.

5 MR PARK: Yes. So the – the market analysis, it's – as you would be aware, the regional plan talks about – and there has been a big shift in state and regional planning in terms of this type of housing, in that the regional plan talks about the council's planning for housing to meet the specific market demands of an area. The Shoalhaven Council haven't been through a rural – rural lifestyle or residential
10 strategy since that time in the nineties, and as a result, there's a really strong demand for this type of housing. There is, as I said, zoned land. There's quite a bit of zoned land for purpose, but none of it's developable. You have got land that is heavily constrained or either in the – or in the ownership of an Aboriginal Land Council and unlikely to be developed in the foreseeable future.

15 The actual theoretical supply, for want of a better word, or the theoretical capacity of – of their zoned land is never going to be realised, and a lot of that is assessed in the market demand. What the market analysis actually says it that despite there being a really strong demand, there's not one lot for sale. There's not one lot for sale in the
20 northern part of the Shoalhaven, so there's really strong demand for this type of housing yet no supply. So this site provides an opportunity to – to actually achieve what the regional plan sets out to do and provide housing that meets a specific need in the Shoalhaven community, which currently isn't available.

25 MR WILSON: Okay. All right. So then we will move on to the next point. I don't need to talk about community – economic benefits.

MR PARK: Just one point on – on community consultation, and I guess it - - -

30 MR WILSON: I'm happy to talk about it if you want to talk about it. I just – just not quite sure - - -

MR PARK: Look, only very, very briefly, in that – again, I – we have got some concerns about process, and the planning – again, I don't want to bore everyone with
35 planning circulars, but the planning circular around – around how we deal with planning proposals is really clear to say community consultation must not occur until after a Gateway has been issued. The council exhibited this planning proposal a couple of days after it was lodged and wrote to all of the adjoining landowners who have lobbied really hard to the Department of Planning. There have been meetings
40 with the Department of Planning with the local forum, all outside of what the circular says to do. Like, the circular is really clear to say that consultation must occur after a Gateway determination has been issued, yet on this site, by all the adjoining landowners - - -

45 MR WILSON: Well, aren't they talking about statutory exhibition though? Aren't they talking about consultation in terms of section 65 of the Act?

MR PARK: Well, it talks about - - -

MR WILSON: Section 65 is probably different - - -

5 MR PARK: It just says community consultation must not occur until - - -

MR WILSON: Yes. I – I’m not quite sure there’s any restriction on – on councils consulting on any – any planning and proposals, whether strategic or – up until the time you go Gateway. Is there – anyway, I will have a look at the circular and
10 take that on board.

MR PARK: Yes.

MR WILSON: But I think they might be referring to exhibition or the planning
15 proposal, but I will have a look.

MR PARK: Well, the circular talks about community consultation.

MR WILSON: Yes.
20

MR PARK: It uses the words:

Community consultation must not occur until after a Gateway has been issued.

25 And it – yes, for this – for this site, the – the community were – the adjoining owners have lobbied really hard with the – with the local community group. Yes. And it – and it’s - - -

MR WILSON: Yes. That’s okay. Your proposal will either stand up or it doesn’t,
30 so - - -

MR PARK: Yes.

MR WILSON: It’s okay. Point taken.
35

MR PARK: Okay. So – so what was the next point?

MR WILSON: Economic benefits.

40 MR PARK: Yes. Look, again, we – I guess we have flagged this issue. In the current climate, as – as you know, there is a push from the State Government for the development industry and the planning industry to – to assist in the economic recovery from – from COVID-19, and this site is ready to go. They could have a DA in within months. We have done a lot of the work. There – we could have a DA in,
45 ready to go within months, and we’re talking about the type of development that meets local – that – that supports the local economy. And we’re not talking about

project on this site. We're talking about local builders, million dollar houses. This can have a dramatic and very quick economic impact on the local area.

5 MR WILSON: Okay. So you might want to talk about the Department's views on inconsistency with the directions.

MR PARK: Yes. So – so in terms of the ministerial directions?

10 MR WILSON: Yes.

MR PARK: I'm just going to pull up - - -

15 MR WILSON: In terms of consistency or otherwise with Illawarra Regional – firstly, the – inconsistent or otherwise with the Illawarra Regional Planning and Shoalhaven Growth Management Strategy.

20 MR PARK: Yes. Yes. Yes. So the regional plan, I think, is – for me is quite an easy one, in that there's really three key – there's three key directions that relate to this planning proposal. I think it's 2.1 which talks about the diversity of housing types to meet the needs of the community, and you can see in there – it's a point I made earlier. There is a specific action in there to plan for housing that meets the specific market demands of an area. So that's – that is word – sorry, I shouldn't say is word for word because I did – I'm not reading it as we speak, but it's along those lines. It directs councils to plan for housing to meet the specific market needs of an area, and that is a – that is a big shift from previous regional strategies.

30 So the regional plan specifically directs council to do that, and this site, as I have said, was supported by market analysis which shows that there is a really strong demand for this type of housing, there's a strong need for this type of housing in the community. So this site provides an opportunity to – to meet that need in the community and specifically address that – probably the most relevant direction in the regional plan. The other two, I guess, relevant directions in the regional plan, one is about protecting regionally important agricultural lands as an asset to food and fibre production, and again, I – I don't want to dwell on the fact that the – the agricultural lands wasn't assessed, but we have looked at the – the agricultural capability of the land and it has come back and said that the land is not suitable for viable agricultural purposes.

40 So we also – yes. So we're of the view that it's not inconsistent with that direction, in that it's not viable agricultural land. Even the Department of Agriculture's advice come back to – said it's category 3 ag land, which is not – wouldn't meet the old prime crop and pasture land. They are category 1 and 2 agricultural lands. But even at – it doesn't look at the site-specific constraints of the land. And what I guess is another frustration is you think of, for example, the biodiversity values mapping, it is similar. It's a regional-based modelling exercise to look at biodiversity values. 45 When an ecologist goes out and ground-truths that and says, "That's not whatever type of vegetation it is, it's something different," they change the biodiversity values

map. They submit it to OEH, or the old OEH and the biodiversity values map is changed to reflect the ground-truthing.

5 On this exercise, we have just completely ignored the ground-truthing of that work to see whether this is productive agricultural land. It has gone back and said, “No, it’s not,” yet the Department have just completely ignored that. Well, one, haven’t reviewed it, but then just said, “No, it’s mapped as category 3 so therefore you can’t do anything”. I mean, that’s – yes. We believe that we have satisfied that part of the regional plan. And the other one – the other key one that is really critical I think is –
10 is the specific direction about protecting the region’s biodiversity corridors, and it essentially calls up the South Coast Regional Conservation Plan which specifically missed the Berry Wildlife Corridor and the desire to – to enhance it and connect those existing patches of significant vegetation. So this site not only protects it but provides the only opportunity to enhance it and actually provide new connections
15 that currently don’t exist.

MR WILSON: Okay. You might want to just explain the objective in relation to the swamp, actually, because that’s mentioned a few times throughout your planning proposal.

20 MR PARK: So the Coomonderry swamp?

MR WILSON: Yes.

25 MR PARK: Yes. So what that is, so as you can see in the planning proposal, we tried to provide more strategic context around the site. We provided an option for – and it’s outside of the scope of this planning proposal in terms of this planning proposal is looking at rezoning 55 Wire Lane and nothing else, but as part of that we put some strategic context around it to say here is a potential long-term sort of rural
30 residential release plan for the Shoalhaven which address some of the other state government objectives in – in bringing Coomonderry swamp back into public ownership. So we looked at the land that was previously identified by council as part of that rural planning exercise in the nineties, which included the two sites immediately south of – of David and Joy’s site. So we said, look, here is a potential
35 strategy that is consistent with what council have previously identified, but also addresses the – the other desire to bring Coomonderry swamp into public ownership.

MR WILSON: Okay. Okay.

40 MR PARK: And that’s not – it’s not necessarily part of the regional plan. The Coomonderry swap is not a – the – the desire to bring Coomonderry swamp into public ownership isn’t part of the regional plan, so the site down the – site down the road at 510 Beach Road was essentially supported because it brought Coomonderry swamp into public ownership, not - - -

45 MR WILSON: But that’s just part of the swamp, is it?

MR PARK: It has part of the swamp on it, yes. It has got a tiny part of the swamp and - - -

5 MR WILSON: But there must be – there must be a push by somebody to have – have that swamp - - -

MR PARK: So there's a – there's a plan of management that was done - - -

10 MR WILSON: Okay.

MR PARK: A Coomonderry swamp plan of management, but again, not – not consistent with strategy as such, not consistent with the regional planning, whereas this site specifically addresses specific directions in the regional plan about enhancing the Berry Wildlife Corridor.

15 MR WILSON: Okay.

MR PARK: It was

20 MR WILSON: Yes. No, I have got that. Yes. Okay. So what about the Shoalhaven Growth Management Strategy?

MR PARK: Yes. Look, I think that – we spoke about that briefly earlier.

25 MR WILSON: Yes.

MR PARK: It's - - -

30 MR WILSON: Well, let me just put – let me – let me – so you don't – so we can down to the point, the – the council is basically saying they have sufficient rural resident – you have mentioned it already actually, rural residential supply for how many years.

35 MR PARK: Yes.

MR WILSON: So just on that, I guess. But you have already - - -

MR PARK: Yes.

40 MR WILSON: Is that basically a reiteration of what you said about there being some land which is a – but it rezoned rural resi but you – you're saying basically it has not been up – taken up because it has constraints, yes? Is that right?

45 MR PARK: Yes. Look, I will – I will just provide some other information you may not be aware of.

MR WILSON: Yes.

MR PARK: So that's not in the growth management strategy itself. It's – so there's – the growth management strategy, version 1, which is what has been adopted by council, the council have been working on version 2 which was going to look at some of the other areas. So version 1 looked at the expansion of the urban areas. It
5 looked at - - -

MR WILSON:

MR PARK: - - - involved in this process and it was – the first job I did as a trainee
10 campaigner walking around the edge of these towns, saying, “Yes, this is suitable, no, that's not,” and that was about the level of detail that went into it. But it didn't look at rural lands. What they have done, they're – they put out a discussion paper on a second version of – a second iteration of the growth management strategy which was going to look at other things. As part of that, they said, “Do you think” – and it
15 was basically a series of questions to the community, and they said, “Do you think we should supply more rural residential subdivision,” and they said, “This is how much zoned land we have got. We have got” – whatever. Say it's three hectares of zoned land or 50 hectares of zoned land.

20 MR WILSON: Yes.

MR PARK: If you divide that 2000 metres squared you have got X amount of lots.

MR WILSON: Right.
25

MR PARK: And they said, “So we have got” – say, it's 1000 lots of supply. “Do you think we should rezone more?” That's – and that – that's what the – their justification is to say that they have got X amount of supply.

30 MR WILSON: Okay.

MR PARK: If you look at that theoretical supply, it's what we discussed before. Heavily constrained - - -

35 MR WILSON: And you're saying that – that – that led to the response from the community to say, “Well, we don't need more rural resi and that's our vision,” yes?

MR PARK: Yes.

40 MR WILSON: Okay.

MR PARK: So I don't know what – sorry. I don't know what the community came back with but that was what was put out by the council at the back end of last year, to say, “We have got – we have got 20-plus years of supply. Do you want us to rezone
45 any more?”

MR WILSON: Okay. So has version 2 been adopted?

MR PARK: Not as far as we know. I don't think it has even gone on exhibition.

MR WILSON: Okay. All right.

5 MR PARK: It was a – it was a discussion paper to kick off version 2.

MR WILSON: Okay. And version 2 is not just about urban areas, it's about the LJ in general. It includes rural areas, yes?

10 MR PARK: Yes, I think it will include rural areas, is the – look, I – I think the - - -

MR WILSON: Perhaps I will ask council.

MR PARK: Yes. I think the intent is - - -
15

MR WILSON: That's okay.

MR PARK: There's a clear push from council – the – well - - -

20 MR WILSON: To give guidance, or - - -

MR PARK: Look, my best guess with this is if you look at the information that was put out by council, if you ask someone, "Do you want a high-rise next door to you," the answer is going to be no. If you ask someone, "Do you think we need to provide
25 more housing close to services, employment, etcetera, etcetera," the answer is going to be yes, and a better mix of housing types, etcetera, etcetera. If you say, "We have got 20 years of supply existing. Do you" - - -

MR WILSON: Yes. No, I understand what – the point you're making. Yes. Okay.
30 All right. So we will talk – we have talked in general about rural zones, and I think you identified an inconsistency but you consider it minor in nature.

MR PARK: Look, again – and it's – not only is it – it's certainly minor in nature but also supported by a strategy, so supported by an independent review of the land
35 capability, so – which is what the requirement of the direction is. So – yes, so we have actually addressed what the requirements of the direction are by providing that information.

MR WILSON: Sure. Justifiable inconsistency. That's what you're saying?
40

MR PARK: Yes, and I think that – again, we talked about the site two doors down the road. It didn't – it wasn't supported by this information, yet received a Gateway determination. So we're just, yes, shocked as to why this site was not given a Gateway determination when it provided all the additional information and
45 justification, specifically addressed points in the regional plan that the other site doesn't provide that, it justified these directions by providing the relevant information, yet one site gets a Gateway and the other one doesn't. This one has a

strategic background that the other one doesn't. Like, it just – it's – yes. Anyway, I won't – I won't dwell on it.

5 MR WILSON: No, that's okay. No, no, I understand. Then we go through the – the directions. We have spoken about the Illawarra-Shoalhaven Regional Plan. Environmental values. South Coast Regional Conservation Plan. You have discussed that and its contribution to that. What about the proposal is not consistent with planning controls and local character of the surrounding area?

10 MR PARK: Look, again, I would encourage – no, look, I don't – sorry, I shouldn't encourage you to go out and see the site. But at some point if you jumped on maps, Google Street – not Streetview, Google Maps, Google Earth, one of the – you don't even need to go out on the site to see that this is consistent with the surrounding areas. It's a site that's located between two existing rural lifestyle
15 subdivisions. Other – I don't know how they can say that this is not consistent. We're talking about a site that on either – they – they say it's not consistent because it's mapped as 10 hectares either side of it. Look, council will give you the background of how these sites – yes, they're – they have a map for them the size of 10 hectare. They used to have specific clauses in the 1985 LEP which facilitated the
20 one-hectare subdivisions or – or the site to the west is sort of two to four-hectare subdivisions.

MR WILSON: Yes.

25 MR PARK: When we – and I say "we" because I was at council at the time. When we created the new LEP, we looked at removing local clauses that were redundant.

MR WILSON: Sure.

30 MR PARK: These sites had been subdivided down to one hectare, so we maintained the – the status quo in terms of the lot sizes, but we removed redundant clauses. It had been developed to capacity, the clause was no longer needed, the Department's advice was, "Get rid of local provisions," so we got rid of the local provisions. But if you go to the area or you look at the aerial photos, it will clearly show the character
35 is a rural lifestyle context.

MR WILSON: Okay. I think that probably – then the last comment, and I think it's a comment from – yes:

40 *The rezoning of any rural land in this location should be considered through a council-led strategic approach rather than a spot rezoning.*

MR PARK: Yes. Look, it's a – it's a good – it's a good point to make, because what we didn't say in here – and – and we don't want to be critical of the council, but
45 if you look at the rural plan – and the council will tell you the same thing. The rural plan adopted in the early nineties, the last rezoning occurred a couple of years back. The structure plan, so the major priority growth area identified in the regional

plan and identified by council – so adopted by council in 2006, endorsed by the Department in 2008, in the regional plan and council strategies identified as the priority growth area. The first DA for the first of the seven urban release areas has literally just been approved but they can't build it for another two and a half years
5 because there's no infrastructure. I mean, we're talking about the priority growth area – how many years are we – so 2008. We're in 2020. So - - -

MR WILSON: Where was that, sorry?

10 MR PARK: That's – this is in the structure plan. So council's priority growth area, they – they adopted the strategy in 2006 and it was endorsed by the Department in 2008 as the priority growth area.

MR WILSON: Yes, I know. That's - - -
15

MR PARK: And it – 12 to 14 years down the track, the first DA has been approved. The rural plan took 20 years to – to implement. So if we're going to wait 20 years, what happens to this latent demand in that time? Does it just not provide a – not address a housing need to wait another 20 years? And the discussion is Dave – Dave
20 spoke with the council about the likely timing of any strategy and the advice was it could be five years, it could be 20.

MR WILSON: Don't they have to – doesn't council – I will ask council this question. Don't – isn't council required to address this in their local strategic
25 planning statement?

MR PARK: The council – again, I don't want to be critical of council, but they don't have an LSPS yet. They're working through that process. Our understanding is there will be an action in the LSPS which says in the medium term develop a –
30 develop a rural land strategy.

MR WILSON: Okay. All right.

MR PARK: So again, that's an – that's an action to undertake a strategy which
35 might take five years to develop and 20 years to implement, so if - - -

MR WILSON: Okay.

MR PARK: Yes. So I just – I don't think it's a reasonable thing to not meet a
40 housing demand for the next 20 years because there's no current strategy in place when this site – and if you go through that strategic exercise, this site is a prime candidate for this type of housing. It's located between two existing rural lifestyle areas and provides opportunities to get some economies of scale with things like waste collection that currently occur to the sort of 50 or 60 lots there. You start to
45 get a feel – a bit of economies of scale with those types of things.

MR WILSON: Sure.

MR PARK: So there's actually a site that is likely to come out of a strategy but we can't meet this need for housing if we're waiting 20 years for that strategy to occur.

5 MR WILSON: Okay. Point taken. I think that goes through most of the issues raised in your review request. Is there anything else you want to add to it?

MR PARK: Is there anything else, Dave, that you - - -

10 MR D. JOHNSON: Mr Wilson.

MR WILSON: Yes, I can hear you.

MR JOHNSON: Now, I'm - I'm the actual owner of the property, the proponent.

15 MR WILSON: I understand.

MR JOHNSON: I don't have the domain knowledge of the gentleman you are currently conversing with, but Michael - Michael said don't visit. I would encourage you to visit, or somebody to visit anyway, because nobody has, and if somebody
20 simply just drove down the road and had a look to the south - Beach Road and look to the south, I would be hard-pressed for them to be able to say it's not consistent with its surrounds.

25 MR WILSON: Sure.

MR JOHNSON: All right. The - the question I will have - and this isn't for you to answer, of course, but there's a - in my mind, I struggle with, you know, why are we different to the farmers that - that had previously bought the land up and down Beach Road, and that they have been able to subdivide and we're not. I - I get the
30 feeling this entire thing is a - a bit of a not-in-my-backyard case, and it's about the views of the people around it, and some of the township of Berry wanting to preserve effectively what they consider a village environment.

But I don't see it that way because simply there's a - an estate at the end of town
35 called Huntingdale which is quarter-acre blocks. They have put in brand new expressways. They're building a new hospital at Shellharbour. They're going to upgrade the rail line by \$150 million. The on - off - the infrastructure is there. People have just got to admit it. All right. And yes, so unlike Michael, I would love you to have a look. Right. That's the only comment I will make.
40

MR PARK: Yes. And I think Dave has raised a good point too in that - in our view - and this is essentially about reviewing the Gateway determination. In our view, there are some major and fairly fundamental flaws in that Gateway assessment process, one is obviously that they have relied on things that they - their main
45 justification for not supporting it is a recommendation by a planning panel on a completely separate matter, which for us is not a consideration in the planning proposal process. They have acknowledged they haven't reviewed the agricultural

land assessment, yet they argue that one of the reasons it shouldn't be supported is because it's removing viable agricultural lands. I mean, two fundamental flaws in the assessment process. They talk about the lot size being 10 hectares when it's clearly a one-hectare – it's a rural lifestyle area, and they talk about that character, and as Dave said, no one has been on site, no one has – it seems that no one has even pulled up an aerial photo to look at the area, because it will clearly show the context. It will – it clearly shows character.

MR WILSON: Okay. That's a good point, actually. And while I'm on it, so just in terms of that context, because – and that's why I asked you earlier, north-south. If you turn – if you spun your map around, you know, you're wedged in between primary and – well, okay, whatever it – it's zoned agricultural 1. What's – what is it? RU – what is it? Sorry, I have got my zonings wrong. Sorry, it's – yes, RU1 primary production north and south. So I guess I'm asking you are you – is that fragmentation of existing land or not?

MR PARK: Is – is this zone fragmentation of existing land? The – the land is currently in separate ownership, so - - -

MR WILSON: Yes, I understand. But you're – look, I'm just being devil's advocate here. You're arguing that, you know, it's contiguous with – with zonings on the – on the east and west.

MR PARK: Yes.

MR WILSON: But to the north and south, it's – the current zoning is contiguous. So if you – do you consider that this – by taking this land out of production, it – it fragments productive rural land, or are you – are you arguing that it already does that?

MR PARK: We're arguing that this land is not – this – this – the site-specific assessment shows that this land is not productive agricultural land. We haven't looked at the land to the south as part of that agricultural assessment.

MR WILSON: I appreciate that. I appreciate that.

MR PARK: But – but given the findings of the site-specific assessment for this site, my best guess is that the same could be said for the south because it has similar constraints in terms of topography, size, so it has similar constraints. So I'm assuming that the land would have a similar finding, but I don't want to pre-empt what it might say.

MR WILSON: Yes. That's okay. I just - - -

MR PARK: But I guess what we're saying is that this site itself is not productive agricultural land.

MR WILSON: Okay.

MR PARK: And there's obviously significant barriers in terms of – if this was to be used – it's got existing rural lifestyle subdivisions east and west of it. It's not - - -

5

MR WILSON: Yes.

MR PARK: That in itself is not conducive to agricultural production because you're – you're creating conflict with the existing owners.

10

MR WILSON: Yes. No, I appreciate that.

MR PARK: Yes.

15

MR WILSON: Okay.

MR RIGONI: And the ag assessment actually classified it as rural lifestyle.

MR PARK: Yes.

20

MR RIGONI: That was its conclusion.

MR WILSON: Yes.

25

MR PARK: Yes.

MR WILSON: Yes. Okay. Callum, do you – do you have any questions?

MR C. FIRTH: No, not at this stage.

30

MR WILSON: Okay. Look, that has been fantastic. Thank you for that. Do you have anything further to add?

MR PARK: No, look, we – we appreciate the time. We appreciate the opportunity to – to clarify some of these points. Yes.

35

MR WILSON: Okay.

MR PARK: Look, from – from our point of view, it's a – these sorts of things are local planning decisions been supported by council forever and a day, and it's not – if this was prime crop and pasture land – the agricultural land come back and – I make the point in that we specifically asked the agricultural consultant to look at what the options were in terms of agricultural production on the land. We looked at whether – whether it could be used for broad acre, we looked at whether it could be used for more intensive, and both come back as no. Yes. So it's – if it was – if it was productive agricultural land and we could look at more intensive farming and –

45

etcetera, then that would be what we would put forward in the planning proposal, but it has basically come back and said that those uses are not suitable.

5 MR WILSON: Okay. All right. We will be meeting with – I think we're meeting with the Department this afternoon and council next week. Is that right, Callum?

MR FIRTH: Yes, that's right.

10 MR WILSON: And I – I'm in the vicinity over the weekend and I will do my best to have a look at the site.

MR PARK: Perfect.

15 MR RIGONI: Great.

MR WILSON: Okay? I'm in Kangaroo Valley so I might jump over the hill and have a look.

20 MR PARK: Great.

MR RIGONI: Awesome.

MR WILSON: Okay?

25 MR RIGONI: Thank you. Thank you very much for your time, Chris and Callum. It's much appreciated.

MR WILSON: I appreciate it. Thank you.

30 MR PARK: Thanks, guys.

MR JOHNSON: Thank you very much.

35 MR WILSON: Thank you. Thank you, Auscript.

MR PARK: Thank you, Auscript. Thank you. See you.

MR WILSON: See you.

40 MR FIRTH: See you later.

MATTER ADJOURNED at 10.21 am INDEFINITELY