

Dalradian: Mr Beattie, Dr Stewart, Mr Dubé, Mr Goodwin, Dr Irwin, Dr Gordon
NIEA: Mr Hutton, Mr Arbinson, Mr Corrigan, Mr McCrory, Mr McGee, Dr Kelly
F&O District Council: Mr Fagan, Dr Isherwood
Third Parties: Ms Rollins, Mr McAleer, Dr Clare, Dr Emmerman, Ms O’Kane, Mr Haughey, Mr S Treacy, Mr M Treacy, Ms Fyffe, Mr Donnelly

10:01

Ms Rollins: There had been an authority raised last week, grateful for opportunity to make legal subs on that when that’s appropriate.

C: Yes

Ms Rollins: Regarding the authority introduced by App’s counsel on Thursday, 2 submissions to make. Firstly, as noted previously it is from English HC therefore of persuasive authority, which means if it was raised in this jurisdiction it would possibly not be followed, not binding. Not equivalent to judgments in this jurisdiction. Secondly, considering the definition in play, functionally linked land, shortened to FLL, this case is essentially defined to FLL and not a precedent for this case. Arguably confined to those situations at its height which is not situation here which involves functional linkage and hydrological linkage. Even at its lowest where considered that it would be in same league, we would submit not a precedent and would not be followed for reasons for the differentiation of facts. One of the relevant paras is 118, where Court states it is possible to conceive scenario where development of FLL could have effect of SPA that it would make ameliorative proposals compensatory. That refers to FLL which is not the case here. That in and of itself is acknowledgement that their finding is not applicable, in case of FLL scenario where ruling would not be the same. Extrapolated to rivers and tributaries and things of that like, the finding would not hold.

Mr Hutton NIEA: Not taking any points about screening; issue is substantive one which we’ll consider in due course.

C: NIEA in statement of case stated that 3rd parties have raised issues in relation to the perverse osmosis plant, stated that there’s significant operational design flaws increasing risk of pollution e.g. membrane fouling, freezing temps etc. Are NIEA satisfied that potential issues have been addressed in the information to date?

Mr Hutton NIEA: We’re aware of the representation and issues raised, reverse osmosis established technology. We have no reason to suspect the treatment

technology could not be effective and meet standards we require. Should there been any breach of consent conditions, we'd consider appropriate enforcement action at that point. Need to be a detailed monitoring programme to ensure consent details were being met. We consider reasonable to proceed on basis that operator will comply.

Ms O'Kane: App hasn't complied in past, so why would leopard change its spots. NIEA didn't enforce, thinking incident in 2016 where Dalradian were 3 times over limit, but according to internal emails we received through FOI showed that informal agreements would have to be 5 times over parameter before they would prosecute. Why have parameters if they're not going to take action and allow over 5 times over it. Looking over FOI stuff, in January 2024 client interface group between NIEA, DFI and Dalradian to progress their app, they discussed parameters in 2024, strange now NIEA is giving us documents with no parameters and have put in the wrong data. Hopefully it means that there has been a change in the relationship.

Dr Irwin: NIEA is correct that reverse osmosis is widely used, not used in all circumstances, e.g. to obtain any consent condition whatsoever. Usually way you have this discussion is first set consent condition, say what concentrations trying to achieve then ask what's best technology to achieve those standards. Don't understand how to have this conversation without consent conditions. Could foresee consent conditions where reverse osmosis not appropriate, conversation occurring in the wrong order.

Mr S Treacy: Previous highlighted ammonia filtration, major design flaw, how that would get through to this stage is scary. At that, looking over figures, major design flaw in high-pressure design pump, they stated have it through 30m³ per hour. Transmembrane pressure one of the most important things. When you run the maths, for 20m³ would need 55.6kw pump, 30m³ 83.3kw, even at lowest flow through point, to meet 100 bar pressure, pump running at over 100% capacity. Any inspector would know that's a fire hazard, pump ready to blow up, no one runs a pump at 100% capacity all the time, never mind at higher through pump. In emergency with heavy rain, sitting with site that's hydrologically controlled by water plant, no way of through putting water from that pipe. This design has dangerous flaws is scary. When pipes fail, contaminated water passing to pure side, that will happen in space of seconds. Technology might be well-established, but look at those mines - any pumping into SAC? Can allow a small amount of contaminant in maybe, we don't have that. Operating under precautionary principle, no such thing as a failsafe system. Never mind the fact can't meet it, design in front of us at the moment is amateurish. Talk about mitigation, conductivity measures total suspended solids, not between each individual contaminant, could have below total TDS and still discharging into that water and couldn't be detected, as there isn't a better technology. What's sitting in front of us is not sensitive enough, no such thing as a true reading. This design is a ticking time bomb, even if did scrape up on design flaws e.g. pressure pump, under inspect by 100% the working membranes, still doesn't work - all it takes it one end cap to blow, one brine seal to move, one rupture in the membrane, and SACs will go.

Mr M Treacy: concerned at way NIEA answers these questions. No substance to what they say, they say if there's issues, we'll deal with them. That doesn't meet the Habitats Test, under Reg 43. NIEA to date has failed on everything context in regards to discharge levels and the statement last time that they didn't need an Embankment License. The plant itself is the lungs of the whole system. For what they're doing there, is concerning. For our statutory bodies to take their word without substantive investigation into this plan put forward, it's scary. NIEA reputation to date, nothing here about heightened conditions, heightened weather, they have taken face value what application has put forward. Not paid to do that, paid to protect the environment in regards the Byrne, SACs, doesn't just stop in Greencastle. Wondering if truly transboundary, if said to Irish Government if anything happens we'll look at it then, whether that would be an acceptable answer. This magnifies everything NIEA puts hand to needs to fall under the precautionary principle, because previous record puts it within that category.

Mr Fahy: I would echo the sentiments of previous two speakers. This is not the safety net to capture all the nasties that are going to come out of this dry stack facility, this is the mechanism that's put in place to replicate the nutrients and headwaters that everything flows into the Byrne, that on its own can't do it. There is no plant ever designed that will do this. By definition, this is a reverse osmosis plant, remineralisation has been rolled out. We're not replicating what's already there, we're creating an artificial water which will not be suitable to the current habitats of the Burn, it's alien to the natural environment and open to failure.

What did the Applicant give to this? Only design doc was membrane development specialist proposal, that's a supplier's proposal, not a performance case. Just saying that this works and this is how it works. Doesn't talk about wiring, the feed, the concentrate, HDPE piping system, filter pressure or crystalliser.

This is amplified by the fact that Appendix C4 Annex C p.20, states that existing site plant won't operate in similar manner. The one already there on other side of the hill operating in different matter. What way is this one operating? It doesn't go into the detail. Most of the multivalent heavy metals – Annex D p. 2. The biggest issues is nitrates from exposure, Landmark Chambers has mentioned that. That's not addressed. MDS text doesn't address the nitrogen ammonium rejection. MDS say that to ensure quality, one simply monitors the conductivity of the permeate, that's Annex D p.2. conductivity can't confirm compliance for individual parameters that concept requires such as nitrate ammonium. If this fails, who will be looking at it and when will these checks happen? Maybe not checked but quarterly, so 3 months of anything flowing into the Byrne. There is no failsafe to this, once this happens and toxic chemicals get through, that's it for Atlantic Salmon and freshwater peal mussels.

There is no mineralisation. Annex 13 S13 admits that it's better than baseline. There is potential in remits of the permit, but it's not a remineralisation process. Plant depends on disposing of its own waste, producing 1.2-2.5m³ brine and 120k parts per million, Annex D pp211. Is there a waste route ID'ed for that, what happens if that fails, can the plant keep running and what happens? If plant closed, what's the fail safe? Is the water backed up? What capacity to store water if failure in this system? Imagine this scenario in a flood event: if this happened in flood event, have plant not working,

good chance no electricity, not able to bring generators in place, we're just opening the doors to total destruction of the Sperrin's burn by allow this to happen. This is their one safety net to prevent the natural environment from being destroyed. If cuts water to burn, how long do fish survive, bearing in mind everything coming through this. Potentially discharge consent required because we've established layer is not impermeable and there'll be nutrients going through that. Vast majority will have to come from the plant to satisfy requirements for the Burn. If that doesn't happen, wildlife, flora and fauna may be impacted. One of the most important points is natural workings not taken into consideration at any level. Not just flow rates, but low flow rate say Burn at low flow is several times the natural flow. Who's monitoring the Burn flow.

C My question is about reverse osmosis. Bringing you back to the reverse osmosis and what third parties have suggested are possible issues with it.

Fahy: RO, who's monitoring the flow and who's reversing the flow of the treatment plant to satisfy that, have to be someone there the entire time to address those issues. Plant closure, we've been told by Mr Merry plant will be closed totally in Year 40. Said ponds will be contoured and will resume natural flow into the Burn. Last week we heard variation now required on consent because of not meeting standards at Y40. This is processing application as it happens – Dalradian documentation says plant closed at Y40 and no further money on top of that. After Y40, Dalradian will be walking away and plant will have to work forever because this is the necessity for this. Other hand told, water will be that good by Y40 will flow directly into the Burn. I don't understand which one it is.

Shocked at NIEA jumping at chance to offer a variant in the discharge consent limit at that junction where heard there was an issue beyond that. How can there be a variation in condition when things not even meant to be there.

Mr Beattie: RO technology is not new. RO itself is in fact the best available technique for mine water treatment, under EU management of waste BREF document, that's ancillary document to Directive 2006/21/EC. That's cited in surface water impact assessment at Appendix C4 and our rebuttal RR9, ss6.17.1 and 6.17.3, pdf pp. 37-38. Also referenced in TBR6 Appendix 2, Annex 2 Annex 117. Technology entirely appropriate for the mine industry and for the achievement under the directive, in use for 50 years or more. Shutdown is something we'd expect to be reflected in the management plans, and for that to be part of the conditioning. In terms of the design and specification, any final construction would have to be signed off by an IEA before operation, would expect that as a matter of course and would be verified.

In terms of Dr Emmerman's broad point, we put forward parameters which we say are protective and reflect the EQS, where there is no JNCC or EQS, figures follow same approach to deliver same level of protection. We haven't seen any proposal that suggests that what we're proposing there's better way to deal than RO plant, absent any subs. While NIEA set out position regarding parameters, we consider that our approach is consistent with JNCC and conservation objectives.

Issues regarding detailed design, can be properly picked up in terms of the verification process, but overall approach proposal is two-train system. Not a single pump, 4 pumps in total, there are default mechanisms in the design at this stage. In terms of replicate nutrients, will ask Ecology team to comment on. Mr Haughey commented on issues of flows and what happens if plant shuts down, that's something Dr Stewart will comment on, matter for ecology team.

Dr Stuart will ask him to comment at first instance, then ask for further comment or detail, as far as linkage will ask ecologists to comment.

Dr Stuart: Propose to give brief comments on flooding and min flow, then comment on how RO plants flow into Burn. Flood event question we covered that pretty well last week, also flagged in extreme event of overtopping considered in Tables 9, 28, 29 30 of impact assessment, ES Appendix C4, pp149-151. In terms of minimum flow, if downtime, covered in Surface Water Impact Assessment pp. 20, 56, 120 where clean water pond can provide compensation flow in event of any issues. Still able to maintain Q95 flow in the Burns. Going to wider point on Pollanroe, comments implied mine would dominate or overwhelm flows in the Burn, put into context how much of Burn mine site fits within. SWIA Fig 91, p. 99, put infrastructure of the area in a visual context. Table 9.4 p. 104 have table describing catchments reporting to ponds on site. Mouth of Pollanroe where fish have been observed, mine site is only 20% of whole catchment, rest of catchment still respond to rainfall as present – 57% unaffected by mine, 16% upstream of the clean water pond which will store some waters but will still spill during wet weather conditions.

Impact of flows on the Burn assessed in great detail in various subs – SWIA s922, pp.85-111, summary in Statement of Case Tech Report 9 pp.13-14, further detailed assessment in TBR6 Appendix 2 Annex 11 Chpt 3. On average flow rate is increased by 15L/s and less under lower flows due to primarily the increase due to the pumping of water from underground mine and increase in catchment by 3% because unnamed water course becoming part of catchment. Need to be considered in relation to 3 things (1) impacting aquatic life (2) compared to natural variations (3) whether impacts key hydrological processes. Reference before from transboundary response provides details on how hydro parameters affected. Small changes in key parameters e.g. water depth and wetted area and velocity of flow. Changes would be seen as positive, increasing depths and wetted areas during low and average flow conditions without impacting velocities. Mine won't produce monotonous managed flow, water discharged is actually from rainfall, discharge from mine will vary in response to rainfall, on top of fact majority of catchment will also respond to rainfall as a present. Fact flows vary from mine site area are shown clearly in Water Balance Report Environment Statement 2020, Appendix C4 Annex A. 3 figures – Fig 17 p. 53 shows monthly variation in discharge from mine, clearly varies seasonally in response to rainfall. Fig 24 p. 60 – daily rates showing variability in rainfall, mine responding to rainfall and changing its flow, target to keep pond levels as low as possible, Fig 27 p.70 compares natural variations in baseline to the average changes in operational flow due to the mine. Noting how relatively small change is compared to the natural variation.

Can also reference surface water baseline report, appendix C3 p. 49 shows observed flows in Pollanroe monitored, wide range of flows through the year. In summer range between 5 and 200m², factor of 40, puts into context the average of 15L/s.
Key points – mine site doesn't occupy full catchment of Pollanroe.

C Don't need to repeat yourself, question about reverse osmosis.

Mr Beattie Y [*not clear*]

C Understand Haughey strayed into flows, but everyone else stuck to question, so my concern is everyone else is going to want to comment on flows, so in this circle of –

Mr Beattie Take point, thought flows was issue you may have question on. If it's raise our default is to deal with it

C There are others who may want to come back.

Mr B Will we deal with flows later on, come back?

C Best at this stage to continue with whatever your witnesses will say, but will have to let 3rd parties back.

Mr B Links to Mr McAllister said last week about 5 Burns, Q was do you want us to deal with everything?

C No only Pollanroe.

Dr Stewart After Pollanroe, we talked about effect that controlled flow will have on the Burn. Other point covered in TBR 6 Annex 11 is that mine won't increase high flows or velocities in way that will increase erosion or hydro morphological change as shown in Annex 11. Mine won't change velocities in way that would cause erosion of bed material.

C Have that in evidence

Dr Stewart Loughs Agency raised concern about sediment impacting salmon, I'd say movement of fine grain material depends not just on flow but source material, while mine may increase flow there are limited sources of fine grain materials. Lack of material in Burns, shown in photos in TBR6 Annex 11, observed TBS materials low, most samples below detection – TBR6 Annex 13. Table 4-2 p.17 summarises the water quality with an average Pollanroe TSS of 43mg/l. Para 4.16 p.25 and Fig4-5 p.29, gives summary graphs of samples of TSS, Pollanroe bottom left of that figure. Can see that almost all concentrations are low with few high concentrations reflect intermittently raised TSS. Also sources in the catchment are limited and likely main sources of fine grain sediment due to material exposed in eroded banks of the Burn. In Pollanroe, key source is damage from livestock, e.g. Figure 3-6 of Annex 13 p.23, which flags areas

upstream where se damage to the banks. These are limited in P Burn, reflected by why you end up with low TSS levels. Betterment plan proposes removal of livestock upstream, so over time with betterment plan should reduce the sediment load, limited sources of fine sediment and mine would act to remove some of these sources. Removal of sediment and discharges from RO will have negligible TSS just due to fact water passes through these membranes. Mine will not significantly alter flushing flows in the Burns therefore even if fine settlement accumulating, still high flow events that wash sediment out into the Burn.

You flagged a closure?

C Discharge stopped and then pumped up and out to the Pollanroe, so there's drop initially in terms of flow going to Proe, then next change that happens -- Initial change in flow, the next change at closure stage, can you deal with both of them?

Dr Stuart: That's correct, during operations any flows that currently come out will stop, any outflow of water go to mine workings and pumped to Pollanroe, lowering of ground water due to mine, so reduction of flows. Assessed in SWIA Chpt 10.2.2. p. 257 and particularly pp. 167-171 which gives tables and graphs showing impact. Also some more information in TBR6 Appendix 2 Annex 11 Chpt 5, p. 39-45. These calculations show small changes to hydraulics and depths, which are already shown in photos in the Annex 11 Figures 5.2-3. There might be some short-term intermittent discharges, but these would be short-lived and discharge itself, 12.6L/s is well within range of variation for the Burn, can be seen in the Surface Water Baseline Report Appendix C3, p.22 which gives flow time series of Burn measured. Flows even in summer from 5-60L/s.

At closure where mien working stop, groundwater table start to rise again. For first 7 years, don't see too much effect as groundwater is rising, but then ground water table interact with level added, then get flows coming out of the added. Flows coming out of added higher after operations than they were at the baseline, mentioned some of these figures before but SWIA Fig 10-1 p. 162 gives added flow over time coming out into the Curraghinault? Impacts at closure, SWIA Table 10-4 p. 170 gives summary of the changes in the Burn from pre-development, drilling ops, closure. At closure, there'll be increase of about 5L/s compared to the baseline. If account for climate change, then it's 3.6 because predictions are average conditions will be drier. Given the nature of the Burn, 5L/s not large increase compared to natural variability of flows shown by the measure of data. Channel itself steep and rocky, more so than the Pollanroe, so small changes won't have hydro morphological effect, minimal changes in Burn where Burn has little flow in any case.

Mr Dubé: Water treatment specialist. Will refer to Directive 2006/21/EC. RO used since 1970s. RO membrane physical barrier removing more than 99% of metals, 99.5% removal. Performance is monitored online, such as conductivity, PH, total suspended solids and other parameters. Link to automatic shutdown ensures compliance. In case

of deviation, permeate is recirculated and never discharged (RR9 Surface Water, s6.17.1 and s6.17.3 pp.37-38).

Membranes – important to note our membranes are modelled for each project. Membrane selection design parameters and system configuration – RO modelled for this project for various conditions using membrane suppliers' tools, MDS proprietary model. Results are compared against similar projects delivered by MDS and ASDR. ASDR valuate the model and undertook bench testing. Plant commissioned and performance tested on site, regulator approves consent and those results before any discharge begins. If it can't meet the limits, it is adjusted before it can be approved. Discharge within that environment approved by the authority following a performance test. Pumps to provide sufficient pumping capacity and not just one.

To respond to Mr Treacy's comments on RO capacity, RO plant composed of two trains composing of 250m³/h for capacity and 300m³/hr. TBR6 Appendix 2 Annex 17 ASDR RO Plant Paper p. 4/16. Furthermore, the water treatment plant consists of two independent trains, each train only required to operate at an average flow rate of around 85m³/hr, ensuring 100% redundancy (TBR6 App 2 Ann 17 p.6/16). Mr Treacy mentioned number of membranes and flux in document of MDS. 108 RO membranes, providing sufficient flow rates for 150m³ in storm, as per Appendix C4 Annex D, p.1529. 18 pressure vessels supplied by 16 ROs, giving 108 membranes.

Dalradian Rep: In relation to impact of flow, Dr Stuart presented flow findings, we're not dealing with entire Pollanroe Burn being impacted by the actual RO plant discharge. There's also misconception that there's Atlantic Salmon at that discharge location. I would like to point you in relation to assessment of flows and impact upon Atlantic Salmon and Fish. Section 4.1 p. 88/115 of TBR6 Appendix 2 Annex 5 fish, where we have used evidence from Dr Stuart to assess impact in relation to Atlantic salmon. Also to draw attention to the hydro morphological assessment and photos in upper Pollanroe Burn, TBR6 Appendix 2 Annex 4. Can clearly see the siting which the discharge is proposed. As such, downstream receptor within lower Pollanroe Burn is Atlantic salmon, don't see impacts associated with 15L/s increase in flow and instream habitat changes which Dr Stuart mentioned, and any potential changes in sedimentation. Final point, discharge consent criteria protective of Atlantic Salmon.

Mr Goodwin: Deal with osmotic shock first. In terms of that, remineralisation happens quickly, have to remember all evidence for many parties shows fish not present until lower reaches of Pollanroe Burn, therefore by that stage in terms of osmotic shock won't be a problem. Probably one other thing to factor in is that species like salmon that incur in part of life cycle in fresh and part salt water are adaptive, because otherwise going into salt water they would shrivel, and going back into freshwater they would burst as that's what happens with uptake or loss of water from the cells. Not the change that needs to be assessed, but what any change would mean to salmon and other features of the SAC. Firstly, in terms of functionally linked land, and then in turn on the SAC, looking at all the evidence together in terms of changing flow or water that's being put in in terms of osmotic shock, still of opinion that those small changes are not significant in terms of FLL or SAC direct. One way of looking at this in more practical sense; if you weren't persuaded by my colleagues' evidence in terms

of flows, and there was some kind of effect on salmon in lower reaches, and I don't accept that for a moment, but if there was, what is the position of the agencies in relation to that. Their position they have set out clearly, that any change to the numbers of salmon would be an impact on integrity. 2 points – there is nothing in evidence that they present to show leap in faith, that position doesn't stack up not in basic scientific front, and that's primarily because on one hand you can't claim that the loss of some salmon at bottom of Pollanroe affects integrity, and on other hand issue permits for taking salmon directly from the same system, that's not compatible. One is right and effect on integrity, if that's what agencies believe then they shouldn't be issuing permits.

One bit of information not before the inquiry, I don't have it, Loughs Agency said 20% of permits issued were a catch and keep, allowing angler to keep 1-3 fish, what was missing is how many permits actually issued in that 20% rather than 80% at catch and release. That's simply in scientific terms does not stack up when looking at integrity of the SAC.

Mr Beattie: For your note, reference is TBR6 Appendix 2 Main Report, Paras 5.223, 5.227 at pp. 60+63. Concluding comments para 5.225 pp. 60/70. A5 Report in your papers at the FOEC Rebuttal, first Appendix, there are direct works on a series of watercourses that clearly have some habitat and commission engaged in consideration of the impact on salmon in those watercourses. In Report itself Para 3.50 Recc 7 p. 90 in pdf. In that application at para 4.47, noted that the assessment didn't resolve number of points raised by NIEA, in order that design measures agreed with Loughs Agency on consent basis, they were content with that approach. No one sought to argue those mitigation measures were insufficient to protect the salmon, commission hadn't reported on the impact assessment, but at 4.29 noted 4 working areas within metres of the SAC.

At 4.44, Commission expressly noted that sediment could result in loss of spawning in direct harm to species, where instream and bankside works required for constructing bridges, culverts, watercourse diversions and headwalls for drainage out fills Commission expressly reported on impact of suspended solids and levels to be achieved, much same debate as having here, for spawning nursery reaches. At 4.53, Commission noted diversion of 48 watercourses and 10km of supporting habitat lost, some to be re-established. There were comments regarding challenge to the characteristics of the watercourses to be relocated and consequential issues regarding dewatering of fish.

In terms of approach, A5 involved culverting of salmon watercourses with at least 16 named crossings in one section, 48 diversions, and structures up to 100m long with imported travel beds were accepted in terms of design commitments. Put those for reference, because when considering impact, that's a reasonable position to be mindful of given it made ruling in respect of those proposals as recently as 2023.

Dr Irwin: 2 concerns. Water treatment doesn't depend just on RO, that's just the first step, that's just what occurs during operations. 20-25 years of operations followed by a forever of closure. At closure, we go into a different kind of water treatment, TR4 Closure Plan, s3.6. Water treatment using RO plants will continue into closure until

demonstrated water can be discharged without further treatment or passive treatment systems developed. s3.7 ponds have potential to act as passive water treatment system should that be required. Don't see anywhere any further detail about the passive water treatment system, it's quite rare that especially a deep pond by itself would have ability to carry out water treatment. Many e.g. of wetlands used for water treatment, requiring a lot of design, lot of testing, it's quite rare that passive water treatments function on their own without continual testing/maintenance/adjustment. Disappointed to see no plan for this, just statement that we will carry out passive water treatment, no discussion as to what happens if 15 years of closure has passed and passive water treatment still not satisfactory, who takes over operations at that point? This document called conceptual closure plan, unusual to be at this stage of mine planning and closure plan is still conceptual, more appropriate at pre-feasibility whereas we're quite far beyond that. Passive water treatment needs a lot more design, planning and consideration at this stage.

2nd concern, gentleman correct that RO are common, doesn't mean they're always appropriate. First question to ask is what concentrations are you trying to get at the other end. If they're very low, then need to look at nano or ultra filtration, to just say we will do RO and required concentrations will come later doesn't make sense. It's saying work out details and come up with plan later. Besides required output concentrations is that RO can have a lot of problems if total suspended solids are too high – constant clogging of membranes, need for replacement and maintenance, needs consideration as understand water from mine will be in pond before going to water treatment plant, get some reduction in suspended solids but still need to know what suspended solids to expect coming out of those ponds, tell us whether RO appropriate but also whether some additional pre-treatment necessary before water goes into RO plant. In summary, great deal of more planning should have been done before we got to this stage.

Ms Rollins: As follow up to Dr Emmerman's point, lack of information regarding passive water treatment plan goes to the question of sufficient information before the commission, we would submit another element where not sufficient information before the Commission in order to make their recommendations. Second point is in reference to points made regarding agencies position on catch and keep vs current discussion today, we would note similar tone of argument made regarding nitrate in water that effectively if something is damaged can be damaged further, we would submit that this can't be right under position of law, and equivalent between specific catch and keep policies vs current plan can't stand.

Dr Clare: Last week heard continuous dust input from dry stack facility, wonder how that's being taken into account in the filtration of the waters.

Mr McAleer: Summary of additional flows, always brought back to lowest common denominator, L/s. 15L/s is 900 L/m, 54,000 L/hr. these are massive volumes of water. We've heard from Loughs Agency last week, everyone else's opinion is this will affect flow, sediment, Applicants are the outliers in the room. Also, referenced again to Pollanroe Burn and only 27% affected, as if that's not too bad. Applicant hasn't had

access to all of the Burn, there is livestock grazing, there is sediment there. Directed to photos because they've got in there and rest is ignored, because it doesn't suit them. In relation to ponds, can tell me if isn't relevant, in relation to passive treatment. Previously heard in terms of ponds that they're insignificant and very large/overdesigned, overlaid them in terms of boundaries of ponds. Substance level in them drifts. West Pond was 310x40 and 8m deep originally, now same footprint but 1.9m deep.

C Less deep?

Mr McAleer: No not less deep, filled to that level, but volume Applicant says is going into it is a quarter of what it was originally.

Ms O'Kane: TBR9 in terms of surface water, said after closure discharge would 4400 gallons per day for 7 years, they keep going back to so much per second, but I'm of old school that counts gallons. They're saying that would have no impact, don't understand how they could say that amount could have no impact, it's huge change to what happens currently.

Mr S Treacy: Stated that the water rising would hit the Audit on Y7, then start flowing out, previously we'd distinguished in planning that they put large concrete cap on Audit with enough room for pipe. Also established water won't have rebound to normal constituency until much later. Where is water treatment plant for that side? None in front of you, one that's there will be removed, so are we discharge highly contaminated water straight in? Nothing sitting in front of you in terms of a water treatment plant on that side. Hearing here about double pass, two-stage, two-pass, there's distinct difference in methodologies, will have significantly ramifications for design parameters, it uses them sporadically, no clear drawings to show methodology, wouldn't be acceptable for any project, other side spoken at length about looking at this later. That information should have been polished and ready to go, know there's recommendations but you have to make recommendations for highly technical plants, should have been in front of you for you to consider. 3 specifications, but no final scheme or signed off scheme of the actual design. Jumps between three and there's significant design between three of them. We hear mention of the number of membranes stated, clearly states in Annex D 96 membranes in schedule of materials, what are we looking at, what are we assessing.

Material refers to shut down, instant shut down, I know no one shuts down RO plant, it's a gradual run down. Where there is flooding, and talking about 100 bars across semi-permeable membrane and shut down instantaneously, catastrophic effect of back pressure, don't know what it is but could rip membranes, blow joints off, blow seals, do anything. Reason why you gradually shut down RO plant because cause catastrophic damage, instant shut down wouldn't want to be worker in that plant.

E.g. given in most recent TBR6 of plants installed around the world, quite notable a lot of them are dry Arab places, whole different specification and design criteria, so would take them with a pinch of salt.

Mr Donnelly: we've heard that the hydrology experts Atkins have confirmed that this type of mine worldwide that sulphides will be left behind in situ, heard in this inquiry that Applicant intends to filling mine with acid producing rock, now hearing Y7 acidified mine water will be running out, doesn't sound good.

Mr M Treacy: Reference to deterioration of the banks of the P Burn, one notable point is Dalradian has had control of lands for past 10 years. To state that they would stop degradation of the banks is farcical, could have done that over 10 years but decided not to. Would pay very little heed on that claim. In regards to NIEA and discharge and RO plants, I think unless have to take into consideration Water Framework Directive, from information we have here, I don't think that the Commission or NIEA or DFI can establish an answer to granting this application because the Weser test implicit in Water Framework Directive, I can't see anywhere where NIEA has undertaken study or has raised that, that's the deterioration of ground water, again it is established that you can't grant approval to anything that will either not improve water quality or cause deterioration. Last week disclosed that water quality had changed on system, from good to moderate to bad, but in that context under Water Framework Directive there is no discharge that NIEA or Dalradian can't put into that system that would improve it, just because it's bad can't put heavier concentrations of chemicals or sediment or anything else, think we're getting sidestepped as to reasoning why NIEA hasn't set parameters for discharge consent. That's serious failing - if we don't know where we're going or where we've been, we're lost. This application farcical that it's got this far and DFI say they have enough information to make an informed decision.

Mr Conway: Someone living locally would know all the farmers that own all the land along the P Burn, Dalradian states condition of P Burn up to the bridge, that banks are deteriorated above bridge, once you come to that bridge all landowners go to great efforts to Fence along the Burn to protect it. Is it by accident or design that Dalradian who have control of the land above that bridge has full control of the land and therefore is it by design they allowed P Burn to deteriorate?

Mr Haughey: Mr Beattie said that RO is built for mining. Nobody here is taking away from the reversal treatment plants around the world, RO does work in certain circumstances. That's where difference lies here. RO used for different application; trying to reflect and produce water for habitat that contains freshwater mussels and salmon. That's not what it was designed for. Quite right in what he's saying, but not telling the full story. It's its application here. Next thing found startling was the permit and everything else will be designed as site-specific for the application. That's done in consultation with NIEA and they will be the body that approves it, nothing done until they approved it. NIEA will do the oversight based on what the Applicant has said, key question is how can that be the case? We have been 9 years into this process, only last week don't have discharge consents, which is basic parameter.

C Stick to flows

Mr H: that's the point, how can this be acceptable. Key thing here now, done a lot of research over last number of days, is about selection. Impacting flows and everything else. Question is: why was it sited there? This goes back to environment statement 2017 Chapt 5.

C Alt Chapter not relevant, I'm asking about flows

Mr H: It didn't take into account P Burn being there; ignored P Burn because low sensitivity, not taken into account therefore not considered. Once we established hydro link between P Burn and mussels and salmon, should have been revised. Based on parameters used for ruling out alternative sites, this site would be ruled out too. That is fundamental. Can't understand how this stie was selected based on importance of P Burn expressed by NIEA and Loughs Agency from Day 1. If revision had come, someone said why is it here, answer would be based on everything done in the past, it shouldn't be here. Basic parameter of this mine, situated in headwaters and shouldn't be there. I've sent NIEA and DFI 2 letters, copied PAC regarding all this information. If that's ignored then major issues about selection and role of NIEA to date.

C Don't raise issues with Department here, raise directly with the Department.

Mr H: We're putting in artificial drains to replicate flows, there's no control, whatever goes in dictates the flows, then talking about supplementary flow based on NIEA's own figures, they're saying that's up to 20 times the amount required. What we're doing is not replicating or creating the P Burn, we're changing it forever, or at least 40 years, then question arises what will happen afterwards.

Re suspended solids, attributable to agricultural works and erosion of cattle on bank, that's what's caused the issue. We must remember this is a point in time. They already proposed to put 8.3m tonnes of rock crushed which by definition will cause increase of suspended solids at very least through there but also through the water. The under drains are going directly to the P Burn. NIEA said something like 0.075ml, no cohesion, that means it'll flow along and build up. There is no solution as to how it will be rectified, because it can't be.

Re closing, there is no mechanism there to dictate the flows. Based on what Mr Merry said about contour of ponds taking natural flow of P Burn, you've got that which will be added to the flow then underground drains still there. Any way you look at this, can't replicate to see impact on salmon and mussels. Considering all elements of dry stack dump into water, Loughs Agency says when salmon come up stream they follow the scent. If that's changes salmon won't come upstream. Not taking into account basic habits of fauna and fish involved in this instance. Can claim RO does this and that, but can't replicate a natural body.

C: In terms of cumulative impact, sceptic tanks seen as insignificant, but residential development listed elsewhere as a high pressure threat, and notes high numbers of one-off housing observed, and proximity of houses to the river noted. Given length of

list provided by Applicant in its assessment to be discounted, is the assessment sufficient and beyond reasonable scientific doubt in this regard?

Mr Beattie: One of the issues flagged was that DAERA looking at treatment of 100k homes in NI, looking at that the Dept has not been inspecting or taking account of the impact of those facts that there are discharges in. One of key investigative points looking at in context of SAC whether or not Depts are failing to take necessary steps, element in which our community assessment looking at whether Government dept has to take issues

Dr Gordon: We have been keeping track of planning permission for houses, in our statements of case and rebuttal statements, have been keeping that schedule up to date. Aware of policy in play within council's plan in relation to dwellings on farms, being used to grant planning permissions for houses in vicinity of the site. One mentioned for e.g. in the Noise session, we're aware that that one North of 212 Crockanboy Rd granted permission on 13 March 2026 for farm dwelling and garage under council under HOU11 Policy, that one has package plant and discharge consent which we've seen, only emerged after transboundary statement of December 2025, has package plant treating water before discharged into Burn. That's what we're trying to keep an eye on.

Mr Beattie: Our proposals put forward in light of those properties and what was happening, consistent with submission that these are matters which are part of endemic systemic failure to take appropriate action, doesn't impact modelling done.

C My Q was that you have set them aside in your HRA and not considered them, so in relation to EIA Regs, we have to consider existing and approved development, have you considered them and the cumulative effect in relation to HRA which would be beyond reasonable scientific doubt.

Mr B: Water quality predictions part of Annexes to HRA, start from measured baseline up and down stream, TBR6 App 2 Ann 13 surface water assessment Table 3.2. Mine's discharge added to that content at levels we say are appropriate. Conclusion that there is a negligible impact on water quality, even on assumption water discharge at max limits – para 3.8 p. 8. The RO plants discharge is less than baseline, Para 3.12. baseline catchment existing sources Annex 1 App 13, Tables 4.2-4.7. Question of whether discharge taken into account is answered in terms of the methodology, that's the baseline, Habitats Assessment confirms no new water receptors – Main Report Para 5.1.1-2 pdf 40/70. HRA deals with impacts as per the main report, already contained within every one of the existing discharges in Annex 13, baseline tables at p.16 of that Annex.

Dr Stuart: Only reference I'd make is to the betterment plan, with the sceptic tank discharges our predominantly concern is nutrients, betterment plan offsets all discharges from mine and is neutral, irrespective of any other activities, mine will be offsetting its nitrogen loadings.

Only other point I'd make, Mr Beattie has referred to the TBR6, just to flag that the water quality baseline presented there was updated with new data up to Jan 2024. Can see that in that Annex Tab4-1 at p. 14 where shows all sampling sites, shows number of samples in 2020 EIA and number of samples considered in this update. Can see in terms of the robustness and length of record, lot more samples being taken forward now and in any future calculations.

Mr Goodwin: existing discharges all taken account of as part of the baseline, that's the water being looked at in terms of what the mine would then add. What we didn't do as didn't feel appropriate was try to make judgment call on individual applications coming forward. As Agencies have said, all relates to betterment in terms of how to deal with that, so to give you an e.g. in terms of England, betterment plans now are pretty common or nutrient neutrality plans, but has to be dealt with on a catchment wide basis, rather than looking at individual applications for one-off dwellings, they're caught within that. Just about being a step ahead of where we are in NI, nutrient neutrality plans is only way to deal with it.

Mr Fagan: Herein lies the tension in their case. On the one hand, Mr Beattie last week made significant play of fact that the existing baseline is problematic but that's due to range of reason outside our control and under responsibility of government, but when asked in context of cumulative impact how have you deal with that, answer is don't worry about it much regional govt will deal. There's fundamental tension in way Applicant addressing this point. OEP report no answer in context of HRA which is required, no answer to say don't need to look at cumulative effects because OEP taking in investigation at regional level, that's a red herring. Already pointed out Applicant HRA set aside treatment of any individual waste water treatment plants, answer you got was we didn't set it aside, we took it into account up to the baseline, that's not apparent from shadow HRA but even if we take that to being correct, when you go to the TBR6 Appendix 2 Annex 13 you were referred to, if you look at Annex 1 of that you'll see baseline updated to a Jan 24 base, even on App's own analysis, they only brought assessment up to 2024 base. Of course, that baseline itself would only have taken into account actively discharging developments at that time, not for e.g. developments granted permission which perhaps were being built out and subsequently discharge, nor take into account post Jan 2024 consents. Even on their own analysis there's a gap in how they've done that.

Mr Goodwin said it would be an impossibility to look at all applications, despite fact Dr Gordon able to give you a recent e.g. and told you expressly they were looking at it. That's inconsistent, and it wouldn't be a virtual impossibility, bar is really quite high and evidence before you comes nowhere close to demonstrating that. Do appear to have a gap in shadow HRA insofar as it relates to assessment of these individual projects which are coming forward, doesn't appear to have been adequately explained away from what you heard. On proper analysis, regional government approach no answer, baseline is 2 years old, heard from Mr Goodwin that haven't done it because a virtual impossibility even though Dr Godon has given you some detail on that. Case simply doesn't add up.

Mr M Treacy: Reemphasise the Council's position, don't believe anywhere this has been looking at. Serious hole in Shadow HRA. With regards nitrates, can't see any calculations showing combined total nitrates loading that the mine will produce or catchment loading or what they're allowing for the betterment scheme. Scheme talks about context, but missing out leave as part of the Shadow HRA. Great concerns that more we discuss, more holes appearing in App's information. Again, talking for sake of talking won't answer questions.

Mr Haughey: We've established water quality is poor, before adding private supply. For Applicant to come at this stage and blame NIEA for failings in the past is questionable, as Mr Fagan said, that the NIEA will become a panacea overnight and fix these, can't happen. If taking baseline such that already failing in phosphorous iron and nitrates, why is this development being placed here.

C Specifically asked focused question, want you to focus on that question.

Mr H; Based on what they're saying, it will fail. If looking at what is planned against existing services. Applicant says betterment plan sorts this out, but that's based on premise nitrate put on fields, if mine wasn't there, nothing would be having an impact. Doesn't take into account 44k tonnes of ammonium nitrate. We know water, know private developments, know proposal for residential development is an issue. Now at juncture: do we put weight on Dalradian's plan to have toxic mine, or go with local development plan and have houses. On baseline data, we can't have both. This goes further with cumulative impact on entire Foyle system, and all new houses on that river too. Not just a small impact on mine itself, impact on septic tanks throughout whole course of river which needs to be taken into consideration. Whole application predicated on baseline being outside their control but failing. Not taking into consideration true impact on future development plans of Fermanagh & Omagh and Derry & Strabane councils.

Mr Beattie: One more reference: TBR6 Appendix 2, Shadow HRA, 5.249-5.253 pp.68-69/70, expressly particular to question you asked.

C: Fisheries Technical Report states that horizontal drilling no longer proposed, remaining alternatives are culvert replacement or installation. Can NIEA confirm that this is the final crossing schedule for each water course crossing ID'ing where single measure fixed, and choice remains between installation or excavation remains.

Mr Corrigan NIEA: Yes those are the final proposals.

C: Where choice remains, several areas in table where choice between A and B, what criteria determine the final method

Mr C: Criteria will be depth of existing culvert to the road surface, caveat is that existing culverts are in poor condition, some blocked and some collapsed, proposal would be replace culvert in full and not enhancement in diameters as a result of that.

C: That's an NIEA choice based on practicality as opposed any ecological factors.

Mr C: Correct, assessed culvert depths but won't know condition until we dig down into road and expose the culvert head.

C That decision won't be made until undertaken on site

Mr C: Yeah but choice from options in that documentation

C You've said that table represents final position, so where there's a choice between A or B

Mr C it'll be either or

C Where culvert replacement remains alternative, do the 2 methods have material different effects on aspects such as fish, sediment etc, has worst case assessment been completed?

Mr Hutton In terms of impacts of methods, they will be very similar. In terms of hydro morph, this is already impacted reach of channel and will replace where method is to replace with same footprint. In terms of sediment, same methods used as presented in outline construction plan to ensure that sediment through downstream sensitive areas is addressed and mitigated to ensure no likely significant effects.

C in reference to ST10B, that's only crossing now where open channel works are proposed, can NIEA describe controls at reinstatement of ST10B and explain evidential basis of residual effects will be neutral

Mr Hutton In terms of open cut crossing will be introduction of infrastructure i.e. dams to ensure that the open cut crossing is undertaken in dry conditions, to ensure that any sediment loading is reduced to a minimum and to prevent any potential hydrological and sediment impacts on sensitive sites downstream. Dams allow for excavation in dry, upstream dam over pumped to downstream reach to ensure that the excavation for trench can occur in the dry, then reinstated using the same bed material that was removed from the excavation and river banks will be reinstated in a similar fashion using the stockpiled material and where necessary erosion protection in form of Hession mat. Material used to ensure that bank erosion post reinstatement is not a significant risk.

C Are both those erosion methods referred to in outline

Mr Hutton Y and Chapter 9 of environmental statement

C Lough Agency position given nature of crossing used?

Loughs Agency rep: Application being NIEA. HRA that will need to be conducted for the mine development as a whole will need to cover cumulative effect of all development including electrical connections. There is a lack of clarity about precisely what construction methods are proposed for each watercourse crossing so that HRA process will need to at the very least taken into account the worst case scenario impact, but will also need to consider if there's sufficient information available on the crossings to provide the appropriate level of certainty that is required for HRA purposes. With those 2 overview points, nothing we'd want to add above what we said in our written materials.

Mr Haughey: I'd echo the points from Loughs Agency, key thing here is the quantity of these and need for them based on the fact it was coming from Strabane etc wouldn't be needed. Have to consider what's proposed. The methodology that NIEA described would be correct method in terms of the dam and over pumping

C NIEA confirmed directional drilling no longer option

Mr H DD would have been better option, irrespective of what we're doing we're impacting on the environment, there's substantial number of stream crossings and culverts. Culvert replacement for e.g. means damming and pumping over, we don't know what we'll find when we excavate the culvert. If just replacement not a problem, this could all have been assessed beforehand. Then we're talking about laying cable ducts beneath the bed, the impact on EMF and particular flows in there is a consideration that isn't done. When starting to change culverts, you're bringing in concrete and diesels and other options that shouldn't be in this area. There are 9 crossings effected, 7 in worse situation, water quality moved from good to below good in last few days. If that's the case and we're now proposing this

C Be cognisant of what information I have access to and what I don't

Mr H Simplest thing would be that we know depth and conditions of culverts, that's the basics, is there requirement for fish passage for e.g. if fish at that point. This is an extraordinary project crossing that scale of ground.

Mr M Treacy: My concern is in regards information given by NIEA that their information isn't strong enough to mitigate that they're not in breach of Water Framework Directive, nothing to say works won't contribute to degradation of water in regards to pumping out and everything else. I know Shadow HRA in place, but have reservations in regards to any current proposals of we'll see when we get there, don't believe that's acceptable, under Water Framework Directive, Weser and Houlihan, unless significant scientific evidence to back up, there should be a full HRA in place. My concern is that NIEA currently it's something they've used repeatedly before, but moving forward I believe it's certainly something that should be seriously questioned in regards to compatibility of meeting Water Framework Directive and everything else, don't think current plan is.

12:56

14:01

C RPS states s46 applications submitted after planning permission, what matters remain capable of change through s46 process, could that require different crossing method from that presently assessed, and have worst case impacts reasonably been assessed.

Mr Arbinson: First point was issue raised by Loughs about adequacy of information to inform HRA. Mr McCrory will address this.

Mr McCrory NIEA: You heard before lunch how my colleagues in NIE covering water quality explained how various instruction methods have been taken account, to confirm and clarify to you, this pallet approach have been considered in the shadow HRA, that is at Appendix B to the ecology technical report which itself is Tech Report 5 of NIE Statement of Case. At para 2.2 of that reference, it is confirmed that the proposed alt methods for installation were assessed in the HRA to ensure that all construction options and applicable mitigations were included were it had not yet been determined which of the potential techniques would be undertaken. The mitigation measures outlined in NIE's CEMP are targeted to each of the techniques, various subsections of CEMP speak to that. The requisite level of certainty required for purposes of Regulation 43 of the Habitats Regs it occurs, there is no lacuna in the assessment in that regard as prepared by NIE. The SNCO, DAERA and planning response team etc final consultation response and position is clear: they're entirely satisfied that measures outlined in the CEMP represents the correct suite of checks and balances required. I note also that these alternative construction methods, or the pallet approach, this applied in the case of the Habitats Regs assessment conducted by the decisionmaker for the north-south interconnector, PAC and decision maker satisfied there were no lacunae or levels of uncertainty in that respect. Our shadow HRA concludes that decisionmaker can take assurances required so as to not have lacunae and have level of certainty required so as to not adversely affect the integrity of the SAC or any other European site

C Are you content of each crossing worst case option has been assessed

Mr McC: yes, various techniques considered by fishing expert, water quality expert and the ecologists. Effects under that theme has been captured by shadow HRA.

Mr McGee: In relation to the water framework directive, we have considered compliance in context of the Directive and in particular the environmental objectives

for water bodies traversed by the power line. Again, in undertaking this approach we have adopted a pallet approach to look at the different methods proposed for the watercourse crossings. In the context of the Directive, our impact assessment and mitigation measures considered to address and potential significant effects will ensure that the environmental objectives for the water bodies traversed will not be compromised. That includes no deterioration objective, but equally our project will ensure no additional pressures introduced that would compromise attainment of good status for those water bodies where they are currently not achieving that objective. Our project will not compromise attainment of good ecological or chemical status, therefore will not impact on the programme of measures that are outlined in the 2024 river basin management plan which seeks to achieve good status for those water bodies.

In relation to the Weser ruling, our assessment indicates that none of the contributing elements to status under the Directive will deteriorate as a result of the power line project.

Mr A: Issue raised about diesel and concrete as well.

Mr McG: In relation to use of diesel during construction process when plant machinery used on site, intended that refuelling only occur offsite either within site compound or at public filling stations.

C that's in your outline?

Mr McG: Yes, in terms of concrete, any culvert repairs with precast concrete pipes, no requirement for concrete in the pole sets, they'll be ensured using wood. In relation to detail of OCEMP, there will be small amount of concrete used, detailed within standard detail which is specific to each crossing, included within the OCEMP.

Mr Corrigan: Re why HDD was dropped. We did begin this scheme planning to use HDD, we do use HDD quite regularly across our projects, we considered responses from stat bodies as part of statement of case, the risks outlined from using directional drilling, the specific risk is frack out of HDD fluids. Whilst HDD is useful and common, more catered for larger water crossing than these sporadic culverts on small road networks. On balance, in discussion with fisheries expert, option we brought forward presented lower risk of impacts upon water courses than HDD.

Dr Kelly: We conducted all surveys on watercourses that intersect underground cable route, habitat assessments and fish surveys, outlined in Chapt 8 and Statement of Case. In all but one, no fish, and habitat deemed incapable of supporting fish let alone salmon or trout. One site, ST11, did find some brown trout. In terms of fish passage, key potential issue is if culvert replacement and that site has fish, replacement done through s46 appropriate consenting process, outside key sensitive period for fish as recommended by Loughs Agency. Culvert replacement involve design which caters for fish passages, as set out in Chapt 8 described and OCEM. No permanent obstruction of fish passage at any of the crossings.

Key potential impact would be temporary obstruction during fish passing stage, we've considered in statement of case. Key measures conduct during less sensitive period, 1 May to end of Sept, wouldn't expect migratory fish to be running. Also have damming and over pumping as well, but wouldn't consider fish passing key issue at that time of year. That's standard procedure for all types of crossing like these involving linear projects.

Mr Arbinson: Previous not aware of Loughs Agency requesting further levels of information. We do think have given sufficient information to ground s46 application. All techniques used address worst case scenario, and will be reflected in application in due course.

Mr Corrigan: On s46, they're specific to the construction stage, relying on start and end date and contractor name, were we to submit s46 today they'd be out of date.

C Crux of question to ascertain what can change between final assessment and s46, is there likely to be imposed variation or variation mitigation.

Mr Arbinson: Goes back to pallet approach, everything we're doing is on pallet, no substantive change.

Mr Haughey: Re s46, one river will involve damming and over pumping, ST10B, this is considered to be worst case scenario which is excellent. That time there will be low flow, there could be issues there. Can't put in liner because all culverts oversized, concrete will flow, although precast best way to do there will be concrete required for joining depending on length of the culverts. The fact that Loughs Agency asked for s46 more information, that's one of the requirements they have stated, they're the body NIEA should be trying to address. Whether asked for it or not is irrelevant, information should be given as request

C no dispute that s46 required, just whether or not level of information provided or likely change from level of information assessed during planning application and then in relation to s46

Mr H If culverts assessed at that time, there should be no issue in providing that information. NIEA using the OCEMP to determine adequate provisions taken to not produce the various streams. But with regards the main one, no mention of dams, reservoirs, over pumping. That's the more critical one, and all that flowing into same rivers. NIEA well used to doing this, but when it comes to the main project there is no consideration for any of this. Talking about km worth of re draining from PR Burn and headlands and that's not considered at all. Can't have certain provisions in one place for minor part of works then main part of works ignored. Dealing with bog here, key point is when working with water there is a cut-off date from Oct to May of working in peat works. Ulster Wildlife in Creggan have to stop on 1 Oct to May to facilitate work in peat.

C Not talking about in-channel, put pin in that and leave until we get there.

Mr M Treacy: Coming back to point about Wisener, states that not an accumulative effect: any single quality element would be in breach or cause deterioration of rivers. Mitigation as in NIEA's statement doesn't cover that, because it states that there can be no deterioration, as far as I'm concerned with NIEA's information, can't say that's not the case. My concern is may have done this before, but what was done before isn't automatically correct. One single quality element is impact, therefore breaches the Directive. Nowhere have they removed any doubt that what they have proposed doesn't go any distance.

C What concern specifically?

Mr MT: If setting up trenching, can't keep a pristine site in regards to those works. What I'm seeing is that if it doesn't meet stipulations of the Directive, it has to be refused.

Ms O'Kane: In 2021, RPS was employed to write the Environment Statement for NIEA network about Dalradian's application for power line, 2023 RPS employed by NIEA

C Are you going to conflict of interest point we've already heard, I believe we've heard this point about RPS before and made a determination on it, I don't want to reopen it. Keep comments to area previously discussed.

Mr S Treacy: Noticed in OCEMP mentions the production or side effect of site byproduct of cement water. Don't see any mitigation to that or test before reinstallation of water course, would be quite toxic to the water course. Don't see mitigation, so wondered if applicant can clarify.

Mr Hutton: Number of points made by Mr Haughey, don't need to address because either peat related or directed towards Dalradian. Ask Mr McG to address concerns about cement, and high PH cement water.

Mr McGee: Limited amount of cement used in isolated conditions in the dry, so limited potential for impact on physio-chemical conditions for bodies impacted.

C What about mitigated measures for high PH cement water?

Mr McG: Mitigation would be undertaking work in the dry. Re Weser, single quality, our assessment in water quality chapter has concluded that with mitigation proposed, biological elements etc and chemical status will not be significantly effected or lead to deterioration in any of the contributing elements to the Directive status.

Mr S Treacy: Did it say he wouldn't have mitigating issues, or they didn't believe that it wouldn't?

C Don't want to get into back and forth

Mr M Treacy: Any derogation at all means a refusal

Mr McG: Can be some changes to those supporting elements but can't be no deterioration from good to moderate or moderate to poor, in bad status category absolutely no deterioration allowed. None of the water bodies classified at bad status.

Mr Arbinson: We won't be applying for any derogation from the Directive.

C NIEA Fisheries evidence says power line won't give rise to cumulative effects with mitigation. NIEA environment department raises specific concern about 50ml suspended solids will reduce SAC habitat.

Mr Hutton Consideration of in-combination effects between power line and mine projects, principally we considered phases. Construction phase of power line project isn't capable of having effects which could act in combination at operational phase of mine project. In relation to construction phase, the NIE shadow HRA outlines on p.54 which is at s4.2.24. We ID overlap of themes relate to water quality and habitat deterioration, that can bite and result in in-combination effects. In circumstances where considering another project that hasn't yet received a development consent, and can't see environmental impact assessment or Hab assessment of the decisionmaker, can't guess what it might look like. In professional practice of environmental consultancy, when considering another project, you take at face value the assessment presented to you in the application material, you don't undertake de novo assessment of another project. So at the time we undertook the in-combination assessment, information we used to undertake that assessment we did so on basis of information submitted by DGL which is entirely normal. On its face, we have our project, have outlined and ID'ed our potential effects and have applied mitigations commensurate with those effects to offset them to result in no residual environmental effects in an EIA sense, and no adverse effects on integrity of European site.

Our project alone doesn't result in adverse effects upon integrity of the site. When considered the mine project, we take impact themes ID'ed and particularised in those reports, and take measures outlined in CEMP proposed as part of that application for development consent. When we consider them together, whilst temporally there is potential for effects greater than sum of parts, measures proposed for both projects bring us to a net conclusion that when considered in combination, there is no likelihood of adverse effects on integrity of a European site, for powerline project alone and in combination.

C If I could stay with cumulative effects and look towards powerline project and examination of sequential effects, can NIEA explain cumulative impact in same catchments, including sediment pulses before downstream habitats have fully recovered. What sequencing controls to prevent cumulative effect? Looking at combined works but their repeated impacts on the same water course.

Mr McGee: The water crossing points assessed individually. Within the OCEMP, information there to assess how information would be mitigated, provided mitigation measures implemented correctly, then there should be no potential for significant sequential cumulative effects.

C Is there assessment for potential effects?

Mr McG: not within water quality chapter, have looked within that chapter and ecology chapter, and have adopted catchment-based approach when looking at cumulative effects. Have looked at our own development and potential against various other proposed developments, to consider whether potential for cumulative effects at crossing and other water bodies downstream. That did look at a catchment based approach sequential impact was not something that had significant potential cumulative effect.

Mr Haughey: NIEA saying we're a separate project, looking at cumulative effect and mine, but can't do that because NIEA haven't supplied appropriate assessment or the appropriate review. Says this is normal and expected. This is one of the largest projects in NI history and potentially the most destructive, affecting our waterways, potentially destroying one of the largest inland rivers with mussels and salmon. Practice is HRA and AA should have been done beforehand. This is what we're saying from Day 1. We're saying that further environmental information isn't there, now confirmed by NIEA

C In what way

Mr H: Says can't make decision until HRA in place, we won't go over this again and not possible to do that, this is what we're saying from Day 1

Point is what decisions are they making, what information do they hold. They say they took into account all information from the mine, but thing is no mention of ammonium nitrate. Not taking into consideration real environmental risks here because they're not known. I'd even question whether the applicant took into account link with Pollanroe Burn. 2 projects working together and pretending they're interlinking at some point in the future. At no point can cumulative effect be taken into account, because information isn't there or isn't being built upon.

When we start powerlines will be working and built with site being prepared, dry stack facility will be started, drains etc in place, all these things have major impact on water quality. What we're doing with NIEA networks is adding another one to it, cumulative effect isn't just separate things, it's everything together considered in one.

Mr M Treacy: NIEA says professional consultancy practices, that might explain how NIEA prepared its report, but has no weight in determining whether competent authority has satisfied s43 requirements. I'm seeing NIEA pushing this down the road, in something as important as this in an area of NOAB, SAC. NIEA doesn't take into consideration environmental impact of very many of their projects.

C There's quite significant documentation which says –

Mr M Treacy: My concern is way HRA and mine itself, think there's massive issues there. Looked at it in context of satisfying their own requirements, but in the overview they have missed the goal altogether.

Mr McAleer: Touch on Mr Haughey, Applicant said information reasonably expected to be provided because NIEA hasn't done this. This is where application treated as standard app, it's not standard practice for a mine application, context is key here. Starting point is project which predominantly produces toxic waste. Discharge consents now unknown, abstraction levels unknown, explosive levels not considered at time of this study. Baseless and incomplete at best.

C I asked specific Q about cumulative effect of power lines.

Mr McA: To say we used information at hand, you can't do that, there has to be realisation of the pollution impact of this. To say, we didn't do that in other job we did, that doesn't hold water at all.

Mr Hutton NIEA: there may be conflation of concepts, at pains to point out separation of effects. When first responded, think I said something like there's no possibility of in-combination effects specifically in relation to outputs, water chemistry, power line connection doesn't have capacity to have discharge like that. That impact theme can't occur and comments raised in relation to absence of parameters for discharge consent by DAERA. Was referring to principle planning permission. Re any reference to pushing can down the road – information that NIEA is submitting as applicant to DFI is to inform an appropriate assessment, isn't to undertake an assessment as they are not the decisionmaker.

C Fermanagh and Omagh, have stated that peat assessment relies on out of date guidance from 2010-2012 and that proposal significantly out of step with current legislative framework. The Applicant has updated their list of guidance in their inquiry documentation, does this address your concern and if not, what material difference would it make.

14:56

15:03

C Submission suggests proposals out of step with current legislative framework. New guidance referred to in inquiry papers. Does this address your concerns and if not, can you please submit what significance it would have on the assessment to date.

Mr Fagan: Concerns aren't addressed in substance. Concerns remain as substantively set out in expert evidence, substance of those concerns remain good. Appendix 1 of RR7, peat management rebuttal report from Applicant set out summary of guidance docs. Some have been referred to there but as in all the cases, it's more about substance of the docs rather than date.

Dr Isherwood: The Applicant has updated list of guidance docs, but haven't changed what they're proposing to do in any significant way, remain completely contrary to best practice guidance and best practice in operational in all parts of the UK. Proposals remain fundamentally flawed about how peat should be used and handled, documents have not changed their position.

C You're still of opinion no meaningful consideration of peat as environmental constraint, and no possible areas of Fen?

Dr I Yes

C NIEA In your rebuttal on abstraction, statement of case, have said blanket bog restores outside development footprint. Given subs of F&O expert witness, is it still your opinion that restoration sufficient for contributing to peat land on infrastructure site, and any potential areas impacted by draw line. What is this based on, considering note you have sought clarification on extent of dewatering of peat?

Dr Hammond: In relation to our consideration, we considered proposed mitigation levels in relation to associated planning policy. Main consideration was the type of area lost, condition of the areas lost, and the proposed areas that were proposed for management and compensation. Those were our primary considerations. We also then considered the feasibility of what was being proposed, and active management required to maintain and restore the compensatory areas. On that basis, we were content with the proposals. Also took into account degree dewatering was likely to occur during those considerations. We would consider that there always remains a risk, there is theory and there is practice, that's why careful monitoring and active management during any restoration would be required.

C In relation to that risk, surely that's then too late because the peat will have been removed by that stage. So, how do you propose to limit that risk?

Dr H: Risk would be in relation to success of the proposed mitigation and compensation. Peatland restoration projects being proposed is theoretically possible, but those projects and other ecological restoration projects do require active management – if you say you're going to create a certain habitat it can be possible but difficult. During those processes would monitor restoration in terms of vegetation communities developing, monitor the water levels on the site, monitor to ensure no surface subsistence. If those occurred, the habitat management plans should have mitigations to allow to rectify those issues

C Are they before you

Dr H: in any project they are unpredictable

C Are they before you

Dr H would expect to see them in Habitat management plan, which would outline how the monitoring is proposed to be carried out. Examples of what we heard previously is if species composition doesn't develop, then would require mitigation measures with facilitation seed, if seed from external sources changing species composition, put in measures to manoeuvre the vegetation communities, but a lot reactive because don't know ecologically how it will turn out. That's why monitoring is important.

Mr Fagan: Ask Dr H where he has in the evidence based that assessment, he set out in response to direct Qing that he has taken into account measures in question, can I ask for reference for my witness to respond to

Dr H: We did not include detailed methodology within statements of cases.

C I'm asking where the applicant has supplied that? Where applicant has supplied proposed restoration plan and methodologies and risk assessments

Dr H There is information about measures to measure water quality

C Where in the environmental statement that has the information, not an e.g., actually where you looked

Dr H we looked in relation to proposed vegetative communities

C That was the title of the document?

Dr H For e.g. compensatory measures for direct loss of blanket bog found in 2017 Enviro Statement Vol 3 Appendix C9 Ecological Mitigation and Management Plan Parts 1-4. For e.g. s3.41, ID of restoration and management units. Within that, it would for e.g. for MU1 it would indicate proposed management prescriptions, drain blocking to rewet the peat, grazing control, give indication of what they're aiming to achieve in those areas. They're proposing what measures intended to take with regards veg communities and restoration of habitats. Then there would be examples of measuring water levels etc to determine whether restoration is being successful.

C In general, you're content that the amount proposed for restoration is sufficient in relation to amount lost?

Dr H Yes but we do recognise that some habitat types being lost are being compensated for by different habitat communities

C So not direct comparison for peat on peat

Dr H For some habitats like Fen and loss of some headwaters, there's not like for like compensation in those instances.

Mr Fagan Helpful to have that reference, doesn't actually answer question you had put which was around how NIEA had assessed the risk that Dr H had referred to. He had candidly made point that can't be sure about this type of compensation, risk it won't be delivered. References Dr H gave you was to mitigation, but not how if those measures turn out not to deliver on what they're said to deliver on what the consequence is then. I'm afraid Dr H didn't answer question asked.

First ask my witness to respond to whether quantity of proposed compensation sufficient, and tag on question about like for like, you heard Dr H confirm it wasn't like for like.

Dr Isherwood In terms of quantity of compensation, it is standard practice in Scotland and Wales to expect significantly more than 2:1 as is proposed. IN Scotland the requirement is 10:1, Wales 6:1 because of recognition that blanket peat is sensitive and classed as an irreplaceable habitat. Annex 1 of Hab Directive, very sensitive to mistreatment and loss. Peat grows at rates of mm over 1000s of years, once lost very difficult to replace and take very long time to produce an active peat-forming habitat. Re like for like, one concern has been that Fen Habitat have no proposed compensation at all, they are proposing that some of their blanket peat proposals would be sufficient but that's an entirely different type of peat and habitat. Blanket peat acidic whereas Fen peat alkaline. Provide substrate for entirely different habitats. Proposals for blanket peat for Fen peat is inappropriate.

Mr Fagan Helpful for Dr Isherwood to explain why refers to Scotland and Wales guidance

Dr I: Mr F asked me to explain why referring to S and W guidance, this is because S guidance which is now used in Wales and England is the most up to date and detailed available in the UK because Scotland has a lot of peat, this has been an issue for over 25 years, so a lot of research funding and government funding has gone into addressing peat management and restoration, compensation proposals. One of the most up to date documents for peatland restoration methods is Nature Scot's peatland compendium that takes into account new methods tried in different areas at different elevations to work out what is possible in terms of peatland restoration for areas of degraded or damaged peat, that's the best practice document available in this country. Scottish guidance is the benchmark, widely accepted as being the best practice in the UK.

Mr Fagan: Next ask Dr I to respond to Q about whether she has confidence in measures put forward by Applicant

Dr I: Measures proposed are quite weak in terms of what they're suggesting, they don't take into account any more recent developments in peatland techniques in more recent versions, they're proposing drain blocking, only one technique among many. One of the principal concerns is that they're proposing to put under drains under bund, whole point is you have to raise water table to keep peat wet, because if too low then don't get active peatland vegetation forming. Water level needs to be at ground level to get peat forming. If water table is too low you don't get that peatland habitat forming so don't get peatland soil formation for peatland restoration or formation project to be effective. Putting in drainage, whilst from geo-technical perspective seems sensible, from peatland compensation your project is doomed for failure from the beginning.

Point about peatland creation is complex, because peat soils and peatland habitats are sensitive to handling, particularly the humified peat which has tendency to collapse as soon as you dig it from the ground. This material is difficult to work with, has no internal structure. Proposals require this material to be compacted, which would help prevent water table rising through material to sustain vegetation in uppermost layer where active plant life is. As peat is quite impermeable when in situ, if you compact it you're making permeability even lower than it is naturally. Not aware of any examples where peatland creation has been undertaken effectively and demonstrated to be effective in the long term, largely because peat has tendency to dry out once removed from its original water supply, proposals here would help support further drainage of that peat and prevent raising of water table to suitable water table to help the vegetation continue to grow as it would need to.

Mr Fagan: Final point is Q you asked Dr H, if this doesn't work - what happens? Is there a way to go back and fix that, or ship sailed once peat's out?

Dr Isherwood: Once peat dried, impossible to rewet it, if peatland cells become dry and desiccated, you won't be able to rewet that peat so it's lost in perpetuity. It's very difficult to have confidence in the proposals, because they're proposing untried methods where potential for raising of water table is a very inadequate and drainage is inappropriate, and likelihood of peat drying out is very high.

Mr Fagan: Council's view is that Proposal NAO3 hasn't been met, so we take different view from Applicant and Dr Hammon on appropriateness of mitigation and compensation measures that have been put forward.

Mr Donnelly: You're motoring along here, be grateful to make comments on cumulative impacts

C That wasn't raised in papers so I won't be considering it. Anything wish to say in relation to peat?

Mr D: Missed that

C Wasn't raised in papers so won't be considering it.

Dr Emmerman: I have 3 areas of concern. First is use of expression "active management" by NIEA. It's not being used correctly and means opposite of way it's used by NIEA. Also called adaptive management or observational method, it's the basis for any kind of mine planning at the present time. Idea behind active management is that not all actions can be foreseen from the beginning because some future actions will depend upon outcome of other actions, so instead what is done is to set up a system of monitoring to measure intermediate outcomes, but part of that is that there's a contingency plan, plan ready for execution in the event of any adverse outcome, that means that nothing is left to chance, there's a plan for every possible adverse outcome. I feel like this expression active management used in sense of figure things out as go along, but active management means the opposite.

My second area of concern is that we were told peatland restoration requires on the order of 1000 years. That's my understanding, depends on location and climate, but on order of 1000 years, on other side we're told that there's a closure plan, called conceptual closure, that ceases after 15 years. Now still have 985 years to go. Who is overseeing or carrying out this active management of this peatland restoration, certainly by 1000 years Applicant will be long gone. My interpretation of Scottish approach with 10:1 restoration is assume will be 10% successful, which seems reasonable to me. This 2:1 restoration with 1000 years to find out if it's successful does not seem like a reasonable plan.

Third area of concern is plan to instal drainage and carry out compaction. I understand why that's being done, that's how you ensure stability, but that's inconsistent with restoration of a B plan as we've been taught. Seems to me have too steep of a slope to carry out peatland restoration, so seems like plan is flawed from the start.

Dr Clare: I noticed there's something missing in any of the materials about peat restoration and health of peatlands. There are a number of studies showing that dust of any type is detrimental to growth of mosses. Mosses don't have true roots so have to absorb everything they're in contact with, so if in contact with anything toxic it will kill them. No one has addressed topic of dust and mitigation that would affect the peatland ecology.

Mr Treacy: To reiterate that was major concern all along, was dust and adverse effect on surrounding peat. To date, don't think any statutory bodies have looked at it in a meaningful way. Problem is everyone says nothing goes further than the red line, my concern is amount of peat going to be transferring from one spot to another is insane. States that when they remove that peat, it can't go back to being used for the same flora and fauna as it is being mixed with other materials. Even with the compensation, not the same having twice the size of an area of a different type of peatland than that of what was removed. That is specific to these areas like anything else, it is grown over the generations and DNA is specific to sides of those mountains. The local development plan by F&O Council has clause about industrial removal of peat, even

though not being sold still financial benefit to company extracting peat which runs contrary to local development plan, and that's a serious concern. Even though not going off site, it's mechanically being removed and company financially benefit from mine on that land, so that's something that has to be taken into account. Council has done a lot of work on this, local development plan should be a serious stumbling block to proposals in front of us.

Mr Haughey: We started off by asking about the surveys and are we content its meeting standards and practices, I don't believe it does. Starting off from survey, there's 100m in 2012 and 50m in 2015. Then further 137 probes done after that. Even whenever looking at what is proposed, see alternative road there and various aspects, the data isn't available to determine what is required and depths isn't acknowledged. We walked that site a few months ago, we're talking people saying there's digger buried in there because of depth of peat. Basic information from survey not being undertaken at this point in time. How can we build anything when we don't know the peat. One of the worst things you can come across is peat and dealing with soft spots, can't just take it away but replace it with something.

Best practice hasn't been used on the 2017 guidance, but 2010, 2011, 2013 but not 2017. Why is that? If we're allowed to pick and choose guidance we want, we'll pick ones that are not onerous to us.

Then listened to NIEA, say one of the reasons we looked at this, the peat is degraded and not of sufficient quality, that is the basis of what they were stating, but that is opposite of current guidance, which states that if there is degraded peat then we need to try restore it and make it better. Can't believe NIEA who are overseeing various peatland policies are now deciding they're moving away from current policy, which is to improve the peat and not to get rid of it. Key question is if for instance this project wasn't there, would NIEA allow the movement and extraction of all this peat, answer would be no and citing various policy. What we're doing is allowing extraction of peat for industrialisation of area of natural outstanding beauty.

NIEA required new marsh survey because length of time passed, I don't know whether that has been done or not.

C We're coming onto that from Thursday onwards.

Mr H This goes back to, hard for us to make determination when habitats management plan isn't in front of us, important because how can we have compensation for blanket bog when we're not looking at the overall picture, all we see is the applicant proposals, saddens me that NIEA have agreed to remove all this peat and haven't produced a HRA, how can that be the case. Surely HRA comes first to say what should happen, then peat removal seen as last resort option. What is leading NIA, economic progress or protection of environment, can only be one?

Ballymyer Fen, 8 hectares, don't know full depths, stuck in middle of where pond will be. Q is what does the peat do? It created environment for habitat for Atlantic salmon and mussels, bog itself is a filtration system, can't be replaced. When remove bog, we'll be replacing that with stones, crushed gravel. All we're seeing is it won't be what's there. By definition, habitats of Atlantic salmon will be eroded.

One of the fundamental things reading peat management plan by Dalradian, talks about removing 2 types of peat, but no peat management plan about logistics of moving or how it'll happen. One consideration is that the new road has to be in place before other road is abandoned, has to be in place, so has to be one of the first things done. If you're doing that, you're going down slope and digging out the peat for this road. Talking about 5000m³ for road alone, all that's taken out but where is it going to go? No storage places.

Fundamental thing is place where it should be would be the northeast of the site, as that'll be done last. Would have to facilitate management of that. Mr Spears talked about stripping the peat from south to north, from east to west from Cell 1 to Cell 3. That can't physically happen. If it can happen, you're going to go into that Fen where depth of 6m deep, where pond will be sitting. When extracting peat you're exposing the ground, something like 87000m³ of peat along that area, where will it go? This is not described anywhere, and every bit of peat removed will endanger the headwaters of the P Burn. No way that can be mitigated against realistically. As we said earlier on in terms of drainage, what was proposed by Mr Dorman wasn't a method of removing peat at all, does not make sense for P Burn. NIEA at least know procedure for doing it, but what I heard here from Mr Dorman is fantasy. Next stage is where it will be stored in quantities. There's 122000m³ mixed peat, 74% of site total done before Cells 2 and 3, where will that be stored. No one is telling us that. Then question of you're storing peat in one area, there'll be run off, everything will run down into the drains. There's a water management issue there as well. If you go to dry stack drawings, they say it's conceptual, all drawings are not detailed drawings. If they're conceptual you're talking about Stage 2. Because of severity we're talking about Stage 4 detailed design which doesn't exist.

The documentation isn't in place to substantiate what's happening in the peat, so how does this proposal get to this position where it is now. I don't understand that. Should be materials management plan showing where everything is going when and in what scales. Once take away peat, creating surface for water to fall on and go back into P Burn. We're removing something but will have much greater impacts on the P Burn. Goes back to very simple question – App aware of P Burn but chose to be there, alternatives have proven to be inaccurate, should have been renewed and disregarded then.

Mr S Treacy: Would like to reinforce what heard today – ambiguity, lack of data, once starts happening we'll react. Whole mitigation is reactionary, don't think that's acceptable. Gaping holes in data is shocking you're able to consider this, what is it you're considering. From memory peat storage close to headwaters of unnamed Burn. Bogs and highlands would be classified as big sponge that soaked all waters up, but this water is highly acidic. Is there potential risk or a drainage scheme laid out for, may be just can't find it, for peat storage areas

C I have questions in relation to that

Mr McAleer: 95990m³ of excavated peat with intention of mixing it to be stored in mine waste facility, that's equivalent to 56% of estimated 170,000m³ extracted in NIEA

for horticultural use in 2022. Ulster Wildlife mentioned in terms of peatland restoration, experience is peat consistency can vary over short distances. As peat becomes wetter, deeper and more decomposed excavation becomes difficulty, material can fragment and become difficult to recover cleanly. Practical restoration work rarely results in recovery of exactly the same volume and condition of peat originally modelled.

If you do extract 95000m³ of peat and need to dry it out, where do you put it? Can't put it straight onto dry stack facility because too wet, information isn't there.

Ms O'Kane: In TR7, read that over 159000m³ peat removed, then 95980cm³ peat used on dry stack facility, wondering where the 70000m³ difference go? As we're familiar with peat and restoration project that Ulster Wildlife undertaking at Duncreggan, they have raised concerns about what happens when you excavate peat and handle it: can be sediment, pollution issues. Loughs Agency mentioned that about organic matter release, run off pathways and wider hydrological impacts, we have got no answers on those questions.

C Do have some Qs on that

Ms O'K: Thank you. Another point is they're involved in many peatland restoration projects and focus on degraded peatlands. I thought from reading Dalradian's documents that degraded peatland was not important, but they were saying it's still hydrologically important, ecologically important and needs restoration, just want to mention the importance of degraded peatland, it's still a carbon store.

Ms Fyffe: Re measures for peat restoration, seems Application treating peat as material to be excavated, and not as functioning ecosystem it is. Can't be dried out, removed, then expected to go back to being an ecosystem. Derives its value from interaction between hydrology structure and living organisms. Once excavated those vital relationships are disrupted and can't be recreated by putting the peat back. Loss of more peat uplands is a loss to us all, removal has downstream effect. Only this week saw flood barriers in Omagh. Yet, we're going to remove 100s of m³ of peat, removing very sponge that would impact this effect. Discussion ought not be how to manage peat for restoration, or whether it's removal that should be refused in the first place.

Mr Beattie: Mr Haughey raised document which I never heard of. Peatland Strategy 2026 April. I would like to see it as he has sought to rely on it.

C Paragraph 18 Procedures, must be relevant issues, couldn't be supplied before that point.

Mr Haughey: Not necessary for me to rely on it, that's NIEA policy, they should be doing it.

C Do you want me to consider the issue? If not are you withdrawing the remarks on it.

Mr H: Come back to you on it tomorrow

C Need reason as to why it's relevant to issues before us, and if you don't then need to withdraw your comment.

Mr H Need exact date published.

C You've told me a date

Mr H Told me when it's from April 2026 – December 2027, but need to see when it was published.

C If you're seeking to rely upon it, you need to give me due reason as to why seeking to rely. You should know by now that that's the procedure.

Mr H: Published 22 April 2026, NI Peatland Strategy Delivery Plan, 9 pages.

C How is it relevant?

Mr H This is the current strategy by DAERA to improve peatlands rather than getting rid of it, they are choosing to go away from it.

Mr Beattie: At 3pm the question was the Council had said peat assessment out of step relying on guidance, you asked if update had filled the gap, we've moved onto a significant number of subjects beyond the guidance, Mr H has raised point about guidance, don't see how it's not something that should go in, but also appropriate that because you asked question about guidance I should be allowed to read it and invite my experts to comment on it

C Any objection to it being admitted?

Mr Beattie: No

Mr Bias: On DAERA website, confirms NI Peatland Strategy published in December 2025. Then Delivery Plan published in April 2026. Strategy which sets goals to put in place policies, published in 2025, whereas Delivery Plan is Apr 26-Dec 27 and subsequent delivery plans beyond that.

Mr Beattie: Not objecting to its introduction –

C Mr Haughey you can submit the Delivery Plan by email, if anyone wishes to have a hard copy can you let us know before you leave
Reconvene tomorrow at 10am

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