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INDEPENDENT PLANNING COMMISSION

**MEETING WITH THE DEPARTMENT OF
PLANNING, INDUSTRY AND ENVIRONMENT**

RE: GATEWAY REVIEW SOUTHGATE

PANEL: **CHRIS WILSON
STEPHEN O'CONNOR**

ASSISTING PANEL: **CASEY JOSHUA**

PARTICIPANTS: **CRAIG DISS
RENEE TREZISE
CARLIE BOYD**

LOCATION: **IPC OFFICE
LEVEL 3, 201 ELIZABETH STREET
SYDNEY, NEW SOUTH WALES**

DATE: **10.31 AM, WEDNESDAY, 20 NOVEMBER 2019**

MR WILSON: Okay. Just some housekeeping. I've got an opening statement, everybody. Before we begin, I would like to acknowledge the traditional custodians on the land on which we all meet. I would also like to pay my respects to their elders past and present and to the elders from other communities who may be here today.

5 Welcome to the teleconference to discuss the request for review of the Department's Gateway determination for the planned proposal at 112 to 134 School Lane, Southgate. The determination is that it doesn't proceed. My Name is Chris Wilson. I'm the chair of IPC panel. Joining me is my fellow commissioner, Steve O'Connor, and assisting the panel is Casey Joshua from the commission secretariat. In the

10 interest of openness and transparency and to ensure the full capture of information, today's teleconference is being recorded and a full transcript will be produced and made available on the Commission's website.

This teleconference is one part of the Commission's process. It is taking place at the

15 preliminary stage and will form one of several sources of information upon which the Commission will base its advice. It's important for the commissioners to ask question of attendees and to clarify issues whenever we consider it appropriate. If you're asked a question and are not in a position to answer, please, feel free to take the question on notice and provide any additional information in writing, which we'll

20 then put on our website. I request that all participants to this teleconference introduce themselves each time before speaking and ensure that they do not speak over the top of each other to ensure accuracy of the transcript. We will now begin. Now, I hope you all heard me. Yes?

25 MR TREZISE: Yes.

MR WILSON: Yes.

30 MR DISS: Yes. All good.

MR WILSON: All good. Okay. Introductions. So we just go quickly once more around for the benefit of the transcript. I'll start.

35 MR DISS: Craig Diss.

MR WILSON: Okay.

40 MR DISS: Team leader Northern region, Department of Planning, Industry and Environment.

MR TREZISE: Renee Trezise, acting team leader, local and regional planning, also Department of Planning, Industry and Environment.

45 MS BOYD: Carlie Boyd, regional planner with the Department of Planning, Industry and Environment.

MR WILSON: Chris Wilson, commissioner, IPC.

MR O'CONNOR: And Steve O'Connor, commissioner, IPC.

5 MS JOSHUA: And Casey Joshua for the Secretariat.

MR WILSON: Okay. On the agenda, I think it'd be useful if you could just quickly just go through the key issues that were identified in your determination report.

10 MS BOYD: It's Carlie Boyd here. Do you want me to go through the key issues?

MR WILSON: Yes, please, Carlie.

15 MS BOYD: I suppose there were several issues. The planning proposal wasn't consistent with a number of planning strategies, the local council's planning strategy, the regional plan. It was considered to possibly set an undesirable precedent for similar development either in that locality or across the wider LGA. It wasn't inconsistent with 9.1 direction 1.5, rural lands, and the direction 5.10, implementation of regional plans. That was it in a nutshell. It was also inconsistent
20 with the zoning objectives for the OU1 zone.

MR WILSON: Okay. Are you still there?

25 MS BOYD: Yes.

MR WILSON: So flowing on from that, the next question is – I guess the associated offer to entitlements – eligibilities wasn't part of the PP.

30 MS BOYD: No.

MR WILSON: No. Would I have made – I mean, from a statutory perspective, could it have been part of the PP? Notwithstanding it may or may not have, you know, met the statutory requirements – I mean, sorry, strategic requirements.

35 MS BOYD: I suppose - - -

40 MR DISS: Craig Diss here. That was an issue that the Department didn't explore as the planning proposal didn't address that or request that but it could be something that could be considered, I believe, and we could certainly talk with Parliamentary council if that was an outcome the council had been seeking.

45 MR WILSON: Okay. But I mean, look, from my perspective, there's obviously no policy framework to enable such a transfer, in this instance – for this – in this context. I'm just wondering if, from a statutory perspective – was it possible? That's all. Okay. So moving through then to question 4, the Commission seeks to

better understand why the proposal is likely to reduce the grazing and flood free refuge potential of the land.

5 MS BOYD: Well, the current land parcels – there's two dwellings on that total amount of land and the rest of the land is available for cattle grazing and it's flood free cattle grazing area in an area where a lot of land is flood prone so it offers that flood free refuge potential. If the land was subdivided into four portions with a dwelling on each one, all of the dwellings would be located in that flood free portion. About half of the land subject to the subdivision would not be included at flood free
10 refuge and a lot of that land that is flood prone is included as part of the lagoon there, which isn't really appropriate for cattle grazing in any case, so - - -

MR WILSON: So you're saying it reduces access to flood free land.

15 MS BOYD: It reduces the amount of flood free land available.

MR WILSON: Yes.

MS BOYD: And it reduces access to it and reduces the amount of land available for
20 that kind of farming in any case.

MR O'CONNOR: It's Steve O'Connor here. Just to understand how much of the land we're talking about is flood free. I'm looking at figure 2 on a Gateway determination report, page 2 of 13. Has anyone got that in front of them?
25

MS BOYD: I'm just trying to grab it. Yes. Figure 2. Yes.

MR O'CONNOR: Yes. So the bottom of page 2.

30 MS BOYD: Yes.

MR O'CONNOR: That is, I think – because there's no legend or anything, I think that's indicating the blue area of the subject site is subject to flooding in the - - -

35 MS BOYD: Yes.

MR O'CONNOR: - - - one per cent probability flood and the area that's a sort of – I don't know what – a bone colour is flood free; is that correct?

40 MS BOYD: Yes. That's right.

MR O'CONNOR: Okay. It does seem very odd that all these rectangular angles – that's not the way flood waters and land scape normally operate. Can you just explain that? It looks a very odd flood map to me?
45

MS BOYD: That would be council's flood mapping data that they've provided. So I am not aware of why the edges are mapped the way they are. That's just the information that we have.

5 MR O'CONNOR: Yes. Sure. Okay. We can ask council that question. So what you're saying is the amount of bone coloured land for grazing is going to be reduced if this were to proceed but, surely, it's only reduced by having two dwellings in that bone coloured area – well, having four dwellings instead of two – it's not taking up a very big footprint in terms of grazing cattle, is it?

10 MS BOYD: I would argue it's taking away quite a bit of potential. You have four dwellings potentially owned by four different people. So you have to look at the size of each individual portion in relation to its potential for extensive agriculture.

15 MR O'CONNOR: I wouldn't've thought that it would make much of a difference either way in the scheme of things flood free land for cattle, you know, during flood times in that location. It seems a fairly moot point to me.

20 MR WILSON: So, Carlie, Chris Wilson here. Just in terms of figure number 1, I'm to assume that those two additional dwellings would be to the north of the first lot and in-between those two – you can see the existing dwellings and their footprint. That's it?

25 MS BOYD: Yes. Yes.

MR WILSON: So there'd be one to the north, yes, so they'd just be in line there, would they? That's what's proposed.

30 MS BOYD: Yes. Along the road. Yes.

MR WILSON: Yes. Along the road and there'd be access – additional lots. Yes. Okay. All right.

35 MR O'CONNOR: The next question is about the voluntary relocation of the dwelling entitlements outside of a flood affected area. It doesn't seem to be supported by either strategic or statutory plans. What do you believe the implications would be if this approach were adopted more widely?

40 MS BOYD: Well, I can't really speculate but, if this kind of land swap kind of arrangement was permitted, I feel that that would set a precedent for a lot of other landowners whose dwelling eligibilities are in locations that aren't as convenient to them or are subject to some level of constraint to being able to apply to have them moved elsewhere in the landscape, which isn't really reflecting a strategic planning approach and doesn't really follow council or the state government's current
45 framework of determining where dwellings should occur in the rural landscape and where they shouldn't.

MR O'CONNOR: So you'd argue that it just leads to a potential random outcome that could prove very difficult to service with schools and busses and health services and everything else that generally goes.

5 MS BOYD: Well, that and the potential increase of conflict between rural residential or residential housing in rural areas where farming practices are being carried out. Yes. Servicing issues and the conflict issues.

10 MR WILSON: Okay. Chris Wilson, again, Carlie. It's not on the agenda but I guess we just want to talk about Southgate itself.

MS BOYD: Yes.

15 MR WILSON: It seemingly was a village in a time gone past.

MS BOYD: Yes. That's right.

20 MR WILSON: But it's dissipating in the sense that – and, in council settlement strategy, it's not proposed as a village.

MS BOYD: No.

25 MR WILSON: That's right. Okay. And the emerging pattern is for ongoing agricultural pursuit, yes?

30 MS BOYD: Yes. Cane production and cattle grazing, basically. Once upon a time the village had shops and halls and all manner of things, but all that's left now is just some remaining scattered houses. And much of it has been demolished or fallen into disrepair and there's no intent to re-establish it as a - - -

MR WILSON: Okay.

MS BOYD: - - - functioning village.

35 MR WILSON: And that's identified in council strategy, yes? Well, sorry, it's not identified in council strategy as a – as a – as a village or – or – or to be re-established or to be populated. Where – where – what is the local - - -

40 MS BOYD: No.

MR WILSON: What is the local township or village – the next level of services?

MS BOYD: Probably Grafton or Lawrence.

45 MR WILSON: Okay.

MR O'CONNOR: And how far – it's Steve O'Connor here. How far would Lawrence be from School Lane?

MS BOYD: That's a good question. I don't have that in front of me.

5

MR WILSON: That's okay. We can – we can – we can look that one up. Just in terms of – just again the – a lot of – a lot of the justification for the – the planning proposal is the – the viability or lack of viability on the cane – on the – on the flood – on the land adjacent to the river. Can you comment on that?

10

MS BOYD: Yes. Well, the planning proposal argued that this approach was required to keep the cane land operational within the family business, because it was open to being sold off at high price for lifestyle uses, if it – if this – if it had those dwelling eligibilities still. But that's not an argument we accepted. We didn't feel that the planning proposal is required to keep that land in cane production. It's currently in cane production. And I – even without the dwelling eligibilities, those lots could still be sold off to other cane enterprises and split off from the – the family farm. Consolidation. And if houses were eventually built on the cane production land, in the areas that they've identified, again that doesn't prevent its ongoing use for cane production. It may actually make it easier to continue cane production on those lots.

20

MR WILSON: Okay.

MR DISS: Craig Diss here. The proposal also wasn't supported by any kind of economic analysis of what would constitute a viable sugar cane farm at the present time in the Clarence Valley. It made many claims around the viability being potentially affected, but didn't give any – or go down into that level of analysis, demonstrating what an economic farm would be or what size it would need to be.

30

MR WILSON: Yes. Thank you. I don't think we have any more questions. Do you have anything more to add, just in terms of the strategic documents, the strategic context of the proposal? Just – maybe – maybe some commentary on – in relation to the Rural Land SEPP and fragmentation. My understanding is the primary - - -

35

MS BOYD: The - - -

MR WILSON: - - - the primary concern of the Department is – is the fragmentation of – of grazing land. Yes. Is that correct? Or the potential fragmentation or – or sterilisation of grazing land.

40

MS BOYD: Yes. Yes.

MR WILSON: And so just in terms of the Rural SEPP and how that – and my understanding is that places in the – in the – in the – the LEP certain provisions that prevent you from fragmenting land. How does that work?

45

MS BOYD: Yes. There's a new clause in the LEP – clause 5.16 - - -

MR WILSON: Yes.

5 MS BOYD: - - - which sets out rural subdivision principles. And basically a proposal needs to demonstrate that it won't have a significant impact on uses that are preferred and predominant land uses in the vicinity, that it's – it's compatible with surrounding land uses and that it avoids and minimises land use conflicts. We didn't consider that the proposal demonstrated that it did meet those principles.

10 MR WILSON: Right. You considered it inconsistent with those principles. Yes.

MS BOYD: Yes. Because it doesn't – it doesn't demonstrate how the proposal meets those principles or satisfies those principles.

15 MR WILSON: Does it – does it hinge on whether it's – like, there's an impact. I guess there's – there's a range of – there's a range of that impact. Does it say – it says – in the legislation it says “significant”, yes. In the LEP it says “significant”.

20 MS BOYD: I think so. Yes.

MR WILSON: But there's no definition of what significant might be or - - -

MS BOYD: No.

25 MR O'CONNOR: There rarely is.

MR WILSON: Rarely is. Yes. Okay. Look - - -

30 MR O'CONNOR: Just one more - - -

MR WILSON: Sorry.

35 MR O'CONNOR: - - - question. Going back to that figure 2 – on the next page, since asking that question about near settlements to School Lane or Southgate, there's a figure 5 on the next page. And it shows Ulmarra. It shows Cowper. And it shows Brushgrove, which all appear to be closer than Lawrence, the – the settlement you did mention. Do you just want to comment on – on what the capacity is in those places to accommodate the sort of rural residential development they're – they're
40 arguing for?

MS BOYD: Ulmarra is a functioning village. It's not really rural residential. There's urban – it has an urban village. And that's accessible by ferry from – at some point over near Southgate. The reason I mentioned Lawrence before was
45 because it's on the same side as – of the river as Southgate, so it's more readily accessible. And so is Grafton, in terms of accessing services. The other areas need to rely on - - -

MR O'CONNOR: Ferry.

MS BOYD: - - - intermittent ferry services. I'm not familiar with what services are available at Brushgrove or Cowper, but I – they're very small settlements.

5

MR O'CONNOR: And you don't know if they're recognised in council's rural strategy – rural residential strategy? Just be useful for us to know - - -

MS BOYD: Again, I don't – I don't think they're rural residential in nature.

10

MR O'CONNOR: Right.

MS BOYD: They're villages with small residential lots.

15 MR O'CONNOR: Okay. Thank you.

MR WILSON: Guys, I think that's all we have. Is there anything else you want to add before we finish? Craig, Carlie, Renee?

20 MS TREZISE: Renee here. Nothing from me.

MR DISS: Craig here. Nothing from me.

MS BOYD: Carlie. Nothing from me, either.

25

MR WILSON: Thank you very much for your time, taking the effort.

MS TREZISE: Thank you.

30 MR O'CONNOR: Thank you.

MR WILSON: Thank you.

MS BOYD: Thank you, too.

35

MR WILSON: Thank you. Bye.

MS BOYD: Bye.

40 MS JOSHUA: Bye.

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[10.55 am]