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TRANSCRIPT OF PROCEEDINGS

TRANSCRIPT IN CONFIDENCE

O/N H-959208

INDEPENDENT PLANNING COMMISSION

MEETING WITH THE DEPARTMENT OF PLANNING AND ENVIRONMENT

**RE: 194-214 OXFORD STREET AND 2 NELSON STREET, BONDI JUNCTION
PLANNING PROPOSAL REVIEW**

PANEL:

**DIANNE LEESON
TONY PEARSON**

ASSISTING PANEL:

**MICHAEL WOODLAND
REBECKA GROTH
MATTHEW TODD-JONES**

**DEPARTMENT OF
PLANNING AND
ENVIRONMENT:**

**AMANDA HARVEY
LAURA LOCKE**

LOCATION:

**IPC OFFICES
LEVEL 3, 201 ELIZABETH STREET
SYDNEY, NEW SOUTH WALES**

DATE:

9.39 AM, FRIDAY, 9 NOVEMBER 2018

MS D. LEESON: I think, Amanda, you've been through a couple of these before.

MS A. HARVEY: Yes.

5 MS LEESON: So we have quite a formal process to get us underway. So good
morning and welcome. Before we begin, I would like to acknowledge the traditional
owners of the land on which we meet and pay my respects to their elders past and
present. Just one thing. George, can you hear okay? Can you – welcome to the
10 meeting today on the review of a planning proposal that seeks to amend development
controls and remove local heritage items to enable the redevelopment of 194 to 214
Oxford Street and 2 Nelson Street, Bondi Junction. My name is Dianne Leeson. I'm
the chair of this IPC panel, and joining me on the panel is Tony Pearson. The other
attendees of the meeting are Michael Woodland and Rebecka Groth of Keylan
15 Consulting, who are assisting the commission secretariat with this project, and
Matthew Todd-Jones from the IPC secretariat.

In the interests of openness and transparency and to ensure the full capture of
information, today's meeting is being recorded, and a full transcript will be produced
and made available on the commission's website. This meeting is one part of the
20 commission's process of preparing advice. It is taking place at the preliminary stage
of the process and will form one of several sources of information upon which the
commission will base its advice. It is important for the commissioners to ask
questions of attendees and to clarify issues whenever we consider it appropriate. If
you are asked a question and are not in a position to answer, please feel free to take
25 the question on notice and provide any additional information in writing, which we'll
then put up on the website.

So we will now begin. Thank you very much again for making the time available.
We will, I think, begin asking the department just to outline its thoughts on the
30 process to date and the strategic merit of the proposal as is before us, and then I think
we particularly want to focus on some elements around the VPA. So we'd like to
understand from the department your key issues and concerns or positive
contributions around the project, and we'll go through a few issues, but I think the
VPAs probably going to occupy a bit of our time.

35 MS HARVEY: Okay. So I'll give a bit of an overview of the planning proposal. It
was submitted some time ago with council, and it's had an iteration of amendments
that went through the Joint Regional Planning Panel at the time through a pre-
gateway, and from that recommendation, a gateway determination was made with
40 revisions to accommodate - - -

MS LEESON: Can I interrupt.

45 MS HARVEY: Sorry.

MS LEESON: I'm really sorry. I have failed my first task - - -

MS HARVEY: Yes.

MS LEESON: - - - which was to ask you to state your name - - -

5 MS HARVEY: That's all right.

MS LEESON: - - - just so that we've got it right for the transcript.

10 MS HARVEY: It's Amanda Harvey, the director of planning.

MS LEESON: Thanks, Amanda.

MS HARVEY: So coming back to what I was saying is that – I'll go through the process, perhaps, and then we'll go through the proposal itself. So, as I was saying, 15 it's gone through the pre-gateway process some time ago. It then had a gateway determination that reflected most of the comments that were raised by that panel and went on exhibition with a draft SEP. The proposal, once it was exhibited, had a number of objections. I gather it's over 400 submissions in particular, and 396 of those were objections from the public. There was comments from RMS, City Water 20 and, I think, from Heritage that came through as well through that process.

The council considered those submissions and felt that the impacts of the development weren't appropriate and then resolved not to support the planning proposal, and it's now been submitted back to the department, as we are the local 25 plan-making authority, to make a final decision, and so today's exercise is for us to talk to you and just to make clear our reasoning for submitting it to the IPC is to basically ask your advice in our consideration of making a determination of this particular planning proposal and whether it should proceed, in its current form or in a revised form.

30 MS LEESON: And, having done an assessment previously – and the JRPP did an assessment, which recommended proceeding further – can you touch on the key justifications or the reasonings, from the department's point of view, for recommending it for – to proceed at that point? And I think there are issues around 35 strategic merit and then some of the local site issues.

MS HARVEY: So the – I wasn't at the department at the time of making the gateway – I'll make that clear – but I understand the gateway determination was made on the basis that the strategic merit of the project was that it was well-located 40 as part of the Bondi Junction's CBD strategic centre. It was well-positioned; I think it's only 650 metres from the Bondi Junction bus and rail interchange. It in itself provided additional housing and also contributed towards public domain areas and improvements. I think those were the strategic reasons.

45 In terms of the site-specific merit, I think it was provision of housing, the suitability of the location to accommodate additional development, including housing, for the site. In terms of – coming back to your question, I think, going forward – you're

5 talking about why we made the decision for the gateway. I think it was just a reflection that we felt that the height was commensurate with the public benefits that seem to be – and so from the DCP – there was a requirement to have the DCP exhibited, and we felt that the DCP could reflect a number of those public-domain inclusions. So that was the plaza – or plazette, I think it's called – or plazatte.

MS LEESON: Plazetta.

10 MS HARVEY: Yes. Plazetta was a new term for me.

MS LEESON: Yes. Thank you.

15 MS HARVEY: And also retention of the significant tree, provision of additional access or improvement to access and also the fact that the road could be – accommodated the widening and so forth to accommodate the traffic and resolve some of those issues.

20 MS LEESON: That probably then starts to take us to the question of VPA and the public benefit of this tied to the height that's proposed, and we'll hear from council and from the - - -

MS HARVEY: Yes.

25 MS LEESON: - - - proponent, probably, on their views about how well the public benefit is either committed or addresses council's needs. Does the department have a view about the height, the floor space and the link to the amount of public benefit that might be provided?

30 MS HARVEY: I think the department probably sees it as a package in and of itself with the DCP and the planning proposal. We're not involved, obviously, as you know, with the VPA, but we see that there's merit with both of those two instruments actually affording similar or same outcomes as was what was put before the Joint Regional Planning Panel. So in terms of being able to deliver those public benefits we're instilled in the DCP, whereas the heights and the controls I think are
35 reasonable, and our current assessment at the moment shows some of the responses to some of the issues that were raised such as overshadowing and visual impact – the work that's been done subsequent to that. So there's a visual impact assessment by Richard Lam and also an overshadowing assessment – show that the impacts are probably somewhat modest. I don't think they're detrimental, but the – again, we
40 haven't finalised our position at this stage. We're putting this to yourselves - - -

MS LEESON: Okay.

45 MS HARVEY: - - - to also – to provide an opinion.

MS LEESON: And we understand that council and the applicant are not in any negotiation at the moment around the VPA, and council's sought the department's

advice as to how best to proceed. The council's – sorry – department seems to be recommending an approach to mandate within a site-specific DCP for those public benefits to be included. What's the strength of that in terms of it being in a DCP? That it gives certainty that they would be provided and – does the department have any sort of legal advice?
5

MS HARVEY: I won't comment on the legal advice, but I will say that in terms of the DCP, it does provide some certainty in providing those pieces of – those outcomes. Sorry. Come back to your question. Can you ask the question again, sorry, so I'm - - -
10

MS LEESON: Sure.

MS HARVEY: Sorry. It's a bit of a multi-question there.
15

MS LEESON: No. I'm sorry about that. Department's advice to council appears to be, "If we include a site-specific DCP as a requirement in the LEP and that that DCP mandates the public benefits –" so, reading between the lines, I'm sensing that council is nervous of the applicant's commitment to these and it doesn't want to proceed with a planning proposal or an LEP amendment without commitment, and not negotiating in a VPA at the moment - - -
20

MS HARVEY: Yep.

MS LEESON: - - - is giving some kind of impasse, I suppose.
25

MS HARVEY: Okay. So I think the – look, the DCP was always intended, and so we required that DCP was to be prepared and put together with the planning proposal, and that was done. So there was always an intention to have the Development Control Plan actually have – support the planning proposal. So that was never – that hasn't changed, and we probably hoped that the VPA would, obviously, come about and that the negotiations with council and the proponent would resolve itself over time, and so we've tried to work to finalise as much as we can, but we can't force council – or the proponent, obviously – to come to a mutual agreement. We can't say that the VPA is necessarily one and the same as the DCP, but we do acknowledge that the DCP can reflect the elements and, obviously, require those as part of a future development application to have those elements included as part of an application.
30
35

MS LEESON: Okay.
40

MS HARVEY: Yes.

MS LEESON: Okay.
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MR T. PEARSON: So what work have you done around trying to – I hate this word "quantify", but to – I'll used it in the absence of a better word. What work have you

done around quantifying those benefits that would otherwise be reflected in the VPA, that have been finalised now, but you're proposing to just reflect in a DCP.

5 MS HARVEY: Just to make it really clear, us, as a department, haven't tried to actually instil a VPA into the DCP. What we have done is actually recognise that the DCP includes some of those elements, in fact, most of the elements that are offered by the proponent. I think the difference is, with a VPA, is the timing, and, obviously, you know, the degree to which those requirements are provided can't be instilled in a DCP, but the DCP has always intended to reflect those outcomes.

10 MS LEESON: Okay. George, for your benefit, that question was from Tony Pearson. The council proposed, at one point, to lower the height of one site to 25 metres. Has the department done any assessment, or accepted the assessment work done about the impact of that on overshadowing and on a material change to the public benefit that might result?

MS HARVEY: Now, we haven't, and the reason for that is that the Joint Regional Planning Panel saw the benefit of the scheme, as it was, and so we proceeded with a gateway – or gave the gateway based on that scope.

20 MS LEESON: Okay.

MS HARVEY: And it as reduced from the very original planning proposal. So there was an original proposal for somewhat greater than that, and then it was reduced prior to the actual going to the Joint Regional Planning Panel, but it wasn't reduced to the extent that council sought, which was 25 metres, as I understand it. So it went on exhibition, and we're now looking at the proposal as it stands at the moment.

30 MS LEESON: Okay. So you've relied on the JRPPs assessment that 36 metres was appropriate.

MS HARVEY: Yes.

35 MS LEESON: Okay. Thanks. RMS has made couple of comments, and one includes the process of – or a land dedication requirement to enable a right turn access of Oxford Street. Can the VPA also address that matter, because the VPA is with council and the proponent? I think my question is, really, how does that land dedication get picked up and taken through, and the department's thoughts around that.

40 MS HARVEY: So I understand – because I haven't actually seen the full VPA, but I understand the VPA doesn't actually include that land dedication, but I would have to get the proponent and council to clarify whether that has changed or something has modified since, but, I suppose, from the department's point of view, we would want to rectify – there's an anomaly with the zoning and the RMS picked that up and said they would like that to happen, so we're going to do that, but in terms of the

alterations to the network itself, which are both council and RMS roads, not necessarily just RMSs, that could be a matter for which a development application could seek to remedy and/or to rectify, partly because the land is not actually under the control of the developer, and any land where a road wants to be widened. Roads
5 are permitted on any zone so it would be at the behest of the developer to actually negotiate that outcome to acquire or to get the land to then make the improvements as part of that, and the degree to which that change could be made for that intersection could be – would be determined based on detailed design as well.

10 MS LEESON: And presumably at the DA stage.

MS HARVEY: Correct. Yes.

15 MS LEESON: Yes. Okay. We have the secretariat here helping us. Is there any issues that you would like to explore with the department?

MR WOODLAND: Michael Woodland, Keylan Consulting. Thanks for that, Commissioner. The only thing I wanted to ask or just have the department clarify is around the infrastructure VPA provision. We've talked about the delivery of
20 infrastructure through potentially a VPA or a DCP. The actual items themselves, is the department satisfied that the items provided in the planning proposal are satisfactory in terms of the potential uplift from the development?

25 MS HARVEY: When you say "infrastructure", what sort of infrastructure are you talking about, because there's infrastructure that will get delivered under section 94
- - -

MR WOODLAND: Yes.

30 MS HARVEY: - - - as I understand, or 7(11). So - - -

MR WOODLAND: I'm talking infrastructure above and beyond section 94 that's claimed as public benefit. So it would be that plaza, the road widening, any other public benefits that have been provided as part of this planning proposal.

35 MS HARVEY: Well, we see it as a whole package, but in terms of it – you're talking about numbers – dollar numbers, or are you talking about just value and actually its public benefit and its intrinsic value?

40 MR WOODLAND: Correct.

MS HARVEY: I think it's certainly there. I think there's some value in the actually complete package, and I think that was reflected in the gateway determination that we made for the DCP and the proposal to go ahead, as was – and I think the other
45 thing to comment was that we probably anticipated the VPA to have been resolved by now, which would have provided a further support to both the LEP being made, assuming it will go ahead, and the DCP. So – yes.

MR WOODLAND: So from the department's perspective, the issue is the delivery of the public benefit and the mechanism, rather than the public benefits themselves?

MS HARVEY: That's partly why we've come to seek your advice.

5

MR WOODLAND: Okay.

MS LEESON: Okay.

10 MR PEARSON: So we see that we can do – there's a limit to what we can do. We can't force two parties to come together for the VPA, but under the mechanisms by which the department can look at it, the DCP, which council are willing to move with either under an LEP amendment and/or as a separate – and they've already started the process, but we said to further support and bolster that prior to a development
15 application being submitted that the DCP be prepared and be in place and adopted prior to any development application being submitted. So I suppose that's the only thing we could have and have done to really bolster that public benefit outcome, but we think that the two can be completed at the same time, yes.

20 MS LEESON: Okay. I mean the VPA was, I think, the thing causing me most interest. Overshadowing we've touched on, and you've not done any assessment work around the 25 metre height, and we understand why that's the case. The overshadowing of Centennial Parkland is described as minimal, and I'm assuming the department – I don't want to put words in your mouth, but I'm assuming the
25 department is accepting that assessment.

MS HARVEY: Yes, yes. So the extent of shadowing on the Centennial Park was one issue, and that only really occurs for a window of two hours during the midwinter period or the solstice, and it's only for a small fraction of that part of the
30 park, whereas it was an existing tree, no less, and it's perhaps not – it's not – is it the auditorium or the – what do they call that?

MS L. LOCKE: Amphitheatre.

35 MS HARVEY: The amphitheatre that's next to it is actually not detrimentally affected after 10 o'clock.

MS LEESON: Yes.

40 MS HARVEY: So it's only a window of one hour, I think, and one corner of that amphitheatre that's impacted.

MS LEESON: Okay.

45 MS HARVEY: So we think that's reasonable. There was also comments made about the pub to the south-east of the site.

MS LEESON: Yes.

MS HARVEY: Further detailed assessment was done on that and reflects, I think, only for a short period in the afternoon as well, so we - - -

5

MS LEESON: About 3 o'clock or something, I recall.

MS HARVEY: Correct. Yes. So most of – for the duration of the day it's sunlight.

10 MS LEESON: Okay.

MS HARVEY: Yes.

MS LEESON: There's a – part of the public benefit identified is the pedestrian or cycle through-link. That seems fairly important to the whole proposal. Does the department have a view on that? One of the questions, I think, that we're going to find is a question of whether that land is dedicated, whether that public access is genuinely public and the dedication issue. Is that within the department's scope to consider and have thoughts on, or is that something you would leave between council and the applicant?

15
20

MS HARVEY: Ordinarily, we would leave it between council, but we could consider it, if need be.

25 MS LEESON: Yes.

MS HARVEY: We would ask your advice on that one.

MS LEESON: It may prove to be one of these pivotal issues in conjunction with the public benefit.

30

MS HARVEY: Yes.

MS LEESON: And, therefore, the VPA or whatever is ultimately decided.

35

MS HARVEY: I think I just don't want to make comment on what council and the proponent have more recently agreed to which, again, we haven't been a party to, and maybe that matter hasn't been discussed.

40 MS LEESON: I understand. And we will ask.

MS HARVEY: But we would be open to discussing what options might work for them, and maybe, you know, from your considerations.

45 MS LEESON: Okay. Thank you.

MS HARVEY: Yes.

MR WOODLAND: I have one more question, Commissioner, for the department.

MS LEESON: Yes.

5 MR WOODLAND: Did the department have any - - -

MS LEESON: Michael Woodland again.

10 MR WOODLAND: Sorry. Michael Woodland again. Did the department have any role in the West Oxford Street Precinct study that was undertaken by council on the – I think at the time Government Architects Office.

MS HARVEY: Not that I'm aware of. We would have to check with you on that one. What was the period to which it was – or undertaken?
15

MR WOODLAND: It was undertaken in 2014.

MS HARVEY: Myself, no. But we could double-check to know whether it was considered at the time as part of our previous team.
20

MS LEESON: Okay.

MS HARVEY: And under the previous director. We can put that on notice.

25 MS LEESON: Thank you. That would be appreciated.

MS HARVEY: Yes.

MS LEESON: If you can provide that information to Matthew.
30

MS HARVEY: Sure. Yes. We can do that, yes.

MS LEESON: We will make sure that's loaded.

35 MS HARVEY: Sure.

MS LEESON: Okay. Matthew, do you have any – as from the secretary, any follow-up questions or issues? No. Tony.

40 MR PEARSON: Look, this may not – let me ask this question, and if it's not the right one, let me know. So I'm just wondering what happens if you embed elements of the VPA or instil, I think, was the word you used, into the DCP, what are the risks around that subsequent process around the VPA that what – that it confines or restricts what could or may be put into the VPA back to what's in the DCP? So I
45 guess the adequacy of the subsequent VPA will, essentially, be tied to what you put into the DCP. What are the risks around that?

MS HARVEY: I think the DCP doesn't have quite as rigidity as perhaps a VPA, so if there was an intent for, say, a plaza of a certain scale – I think in this instance it's like 300 square metres, and say they wanted to negotiate something different under a VPA. I think there's scope for an allowance for that to be further negotiated through the VPA. I don't think it's quite that rigid for a DCP, but I certainly think it's clear to the community what the intent is for the scheme and how it should be realised. I think that's the other – my understanding also too with the VPA is that it wasn't actually to be finalised until the time of the development application. So, again, it may be a question for council and for the proponent to address. It was noted in the offer that was put to us in just terms that was – that council provided us that that wasn't to be finalised until that time anyway. So, as you say, there could be a period of time when things get further fine-tuned or refined, yes.

MR PEARSON: Okay.

MS LEESON: Thanks, Amanda. I think I'm not hearing any more significant questions. I think they were the key questions for us. So really appreciate your time in coming down and the work that has been done today. We will meet with the other stakeholders later this morning, and we will do a site visit this afternoon so that we're very clear around our thoughts and processes. So thank you very much.

MS HARVEY: Thank you.

25 **RECORDING CONCLUDED**

[10.02 am]