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TRANSCRIPT OF PROCEEDINGS

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INDEPENDENT PLANNING COMMISSION

MEETING WITH DEPARTMENT OF PLANNING, INDUSTRY AND ENVIRONMENT

RE: 42 BELLS LANE, KURMOND

PANEL: ANELISE TUOR (CHAIR)

**OFFICE OF THE IPC: LINDSEY BLECHER
JANE ANDERSON**

**DEPARTMENT: GINA METCALFE
ELIZABETH KIMBELL**

LOCATION: ONLINE

DATE: 3.02 PM, FRIDAY, 6 NOVEMBER 2020

MS A. TUOR: So good afternoon, and welcome. Before we begin, I would like to acknowledge the traditional owners of the land on which we meet. And I would like to pay my respects to their elders past, present and emerging. Welcome to the meeting today to discuss the Gateway Determination review for 42 Bells Lane,
5 Kurmond. My name is Annelise Tuor. I am the commissioner appointed to this review. Joining me from the Office of the Commission are Lindsey Blecher and Jane Anderson. In the interest in openness and transparency and to ensure the full capture of information, today's meeting is being recorded and a complete transcript will be produced and made available on the Commission's website.

10 This meeting is one part of the Commission's review process. It is taking place at the preliminary stage of this process, and we will form one of – and it will form one of several sources of information upon which the Commission will base its advice. It is important for the Commissioner, me, to ask questions of the dependees and to
15 clarify issues whenever I consider it is appropriate. If you are asked a question and are not in a position to answer, please feel free to take the answer on notice and provide any additional information in writing which will be then put on the website.

To ensure the accuracy of the transcript, I request that everyone today introduce
20 themselves before speaking, each time they wish to speak, and for all members to ensure that they do not speak over the top of each other. So we've got an agenda that you were sent, and the first I'd like you to comment on is, I suppose, just the strategic and site specific merits of the proposal. I know you've outlined it in your report, but if you can just, sort of, give us a brief summary.

25 MS G. METCALFE: Thank you. It's Gina Metcalfe, the Director of Agile Planning and Programs for the department. I will outline the – our position on the strategic merit of this proposal. We received this in September 2019, and our key considerations for the assessment of the proposal were the District Plan and the
30 strategic planning investigations occurring at local level. This included the local strategic planning statement supported by a rural land study and housing study which we're all entrained as the department completed its assessment.

Council was concurrently considering a strategy for the Kurrajong Kurmond
35 investigation area. The department refused the Gateway for a number of reasons and, in particular, the absence of strategic merit. Now, in summary, the key reasons for refusal – key reason for refusal was that the proposal did not adequately demonstrate strategic merit and was inconsistent with the Western Sydney District Plan. Specifically, the values of the metropolitan rural area were not respected, and
40 these include agricultural productivity and the rural landscape. The District Plan aims to protect the values of the metropolitan rural area and it provides that housing needs to primarily be met in designated growth areas and specifically discourages urban development and fragmented rural/residential development. So I'll pause at that point, if you'd like to ask questions, further questions on the department's
45 position on that matter.

MR L. BLECHER: Annelise, sorry, I believe you're on mute.

MS TUOR: Yes. Sorry. There was a bit of echo. I don't know if other people were getting it, so I put it onto mute. Yes. We've had some discussions with the applicant before this meeting and their position is largely that when the planning proposal was prepared in 2016, it was consistent with the strategic framework that existed then. And they say that some of that strategic framework is still in place, particularly, the Hawkesbury Residential Land Strategy 2011. And they also say that it's consistent in their supplementary information that it demonstrates that it's consistent with the future strategic framework as far as it's known, so the Western District Plan etcetera, etcetera. So if you can just elaborate, I suppose, a little bit more on just why you're saying it's not consistent with the Western District Plan, I suppose, particularly, in terms of housing and rural lands.

MS METCALFE: Thank you. Yes. Gina Metcalfe speaking. The District Plan was released in 2018 and the department is obliged by the Act to consider the plan when determining Gateway applications. So the District Plan is quite clear that it encourages urban development in designated growth areas. The strategy you referred to was not a strategy endorsed by the department, and so the department is bound to take strategies it endorses into account. And in endorsing those strategies, they become part of the strategic planning framework. The Local Strategic Planning Statement to be produced by council following the release of the District Plan is not yet assured by the Greater Sydney Commission and is soon to be considered by council.

So the Local Strategic Planning Framework is dynamic, the department recognises that and recognised that in its report. The prevailing strategic planning guidance is the District Plan. The other point that we took into account was council was in the processes of preparing a strategy for Kurrajong Kurmond after some years of investigation and this proposal is inconsistent with the draft strategy that was recommended to be placed on exhibition which represented the most current view endorsed by councillors at the time the department formed its view on this Gateway proposal.

MS TUOR: And that draft structure plan, the council has resolved not to proceed with that at the moment until the other plans are done. The inconsistency with that was that it recommended that this site be one hectare and not the 400 square metres that's proposed, is that the main inconsistency?

MS METCALFE: That's right. It recommends one hectare compared with 4000 square metres proposed by this proposal.

MS TUOR: Okay. Yes.

MS METCALFE: I have to say, the department has concerns about the one hectare topology as well, given the clear guidance of the District Plan.

MS TUOR: Which is primarily that you have urban development around urban centres.

5 MS METCALFE: Yes. The District Plan aims to have a 30-minute city which provides that jobs and homes are located as close to one another as possible to allow people to – allow the state to provide services in urban centres.

10 MS TUOR: One of the other things that the applicant is saying is it's – the proposal is not about meeting housing targets, it's more about giving people choice in terms of their lifestyle choices, so that it's meeting a need for people that want to have that, sort of, rural lifestyle, but on smaller lots; is that something that's recognised anywhere in the strategic – strategies?

15 MS METCALFE: Yes, it is. And diversity of housing typology is important and, in particular, to meet the needs of an ageing and dynamic population, that's the role of council's Housing Strategy, to analyse the particular needs of Hawkesbury and to identify how those needs could be met with respect to the other priorities of government, including managing natural hazards, including managing the metropolitan rural area and providing physical and social infrastructure.

20 MS TUOR: Right. Thank you. So the next item on the agenda was just a level of detail of the proposal; is there anything you wanted to comment on about that?

25 MS METCALFE: Could I clarify the question there?

MS TUOR: Just the next item on the agenda was the level of detail in the proposal, so is there anything that you wished to elaborate on there?

30 MS METCALFE: The department had sufficient detail in the proposal to form a view about the strategic merit and we generally don't encourage proponents to spend further capital on exploring issues when there's a strategic merit question.

MS TUOR: Okay.

35 MS METCALFE: If there are matters of detail that needed to be resolved, then those could be conditions of Gateway and dealt with at a subsequent stage.

40 MS TUOR: So some of the studies that were asked for such as the bushfire study and things like that, were not really issues in your decision that you made because it didn't get over the strategic merit test.

45 MS METCALFE: That's right. We formed the view that there was some inconsistencies with the 9.1 directions that could be resolved in principle, in future, with further detailed investigation.

MS TUOR: And you had enough information before you in the planning proposal and the supplementary information that the applicant submitted with its review application to make a decision on the strategic merits of the proposal.

5 MS METCALFE: Yes, we did.

MS TUOR: All right. And any comments you want to make about the merits of the proposed lot size? You've already commented on that you've got concerns about the 400 or the one hectare, that both of those would be inconsistent with the – what
10 seems to be envisaged under the District Plan, so anything further you wanted to add?

MS METCALFE: Yes. I'll ask Elizabeth Kimbell to comment on that. Thank you.

15 MS TUOR: Yes. She had put up her hand. Yes, Elizabeth.

MS E. KIMBELL: Elizabeth Kimbell from the department. The only comment that I would make to add to Gina's commentary previously is that in terms of the lot sizes, we would also have considered if the Gateway was successful, to look at
20 council's development principles for the Kurmond Kurrajong investigation area. So they're a set of principles that weren't taken into consideration when the subdivision plan for the 4000 lot size was put forward.

MS TUOR: Okay. And just looking at the actual lot size map for that area, there
25 have been quite a lot of planning proposals that have already gone through with smaller lots. So it does, just when you look at it as a mapping exercise, it does look as if it's an area that, perhaps, does need to be reviewed in terms of, you know, it's – whether it's appropriate to be that – the zoning that it is and whether the lot size is appropriate. So is that something that you envisage will come out of the rural land
30 strategy and the Housing Strategy that council is doing or is it something that you envisage that there is just going to be this continual pressure for one off planning proposals?

MS METCALFE: We do envisage it will come out of the strategic planning work
35 council is doing in collaboration with the department. So, in particular, we've spoken with their consultant who is preparing a rural lands study and we've invited council to have that considered and endorsed by the department which would provide a framework for future planning proposals to be considered. The finalisation of the Local Strategic Planning Statement and the finalisation and review and endorsement
40 of council's Housing Strategy will also provide evidence for a precinct wide review of Kurrajong Kurmond.

MS TUOR: And if those strategies are silent on that, then it will just stay as being
45 what it is now with this, sort of, hotchpotch of, you know, something – planning proposals that have got through in the good old days, and some that didn't get through.

MS METCALFE: Yes. Look, the planning proposals that predated the District Plan lacked that strategic framework, and so the District and Region Plan has introduced clarity around the role of the metropolitan area and provided more guidance for proponents on what is encouraged and what is not. And we are working with the
5 Greater Sydney Commission to provide either a planning circular or greater direction on interpreting the District and Region Plan for rural/residential development in particular.

MS KIMBELL: Elizabeth from the department. I'd also like to add, looking at the
10 history of the Kurmond Kurrajong investigation area and the number of proposals, yes, there have been a number of proposals and amendments to the land use – not the land use zones, sorry – the minimum lot size, not all of them have come to fruition, not all of them have development applications on there. And those proposals were – it would appear that they were consistent with the previous – well, council's former
15 Residential Land Strategy from 2011. But since the District Plan has come into effect, and it's very clear from our determination, we were quite clear on what – in why we made our decision, and also to assist council moving forward with their Kurmond Kurrajong Investigation Area Structure Plan and to provide them with some clear guidance about the department's approach.

20 MS TUOR: Good. All right. Well, I don't have anymore questions. Lindsey, do you have any questions?

MR BLECHER: Just one point, Annelise. Just in the reasons for the Gateway
25 Determination not proceeding, one of the reasons given was the, I think, the agricultural potential of the site not being demonstrated to be known – well, nil, sorry; could you comment on that?

MS METCALFE: Liz, would you like to answer that one?
30

MS KIMBELL: Sorry, I couldn't quite hear the end of it, but, yes. Can you repeat the question, Lindsey?

MR BLECHER: One of the reasons for the Gateway Determination not proceeding
35 given by the department was that the applicant hadn't demonstrated that the site did not have any agricultural potential; do you have any comments on that or would you like to elaborate?

MS KIMBELL: Yes. Yes, yes. I can elaborate. Yes, that was a reason for the
40 refusal. We acknowledge that the current land use zone may not represent the development that is happening on the site, so it is rural/residential at the moment. There was not sufficient evidence provided that would – to confirm that that site could not be used for further agricultural uses. However, we also acknowledge in council's report, they made the same statement. What we would be – what we would
45 look for is the recommendations that come out of the Rural Land Strategy that council were – well, are in the process of undertaking, this is obviously a key area and that's something that we made clear to them that we would like them to look at,

if this land use is appropriate for this area, and also considering the work done for the Kurmond Kurrajong Investigation Area.

5 MS TUOR: In our discussions with council yesterday, one of the things that they emphasised was potentially not the use of the land for agricultural purposes, but more the character of the area as being a rural character based on their visual analysis that they've had done that identified it as being pastoral valley character type, and that a reduction in the size of allotments and an increase in density would potentially impact on that character. The applicant's position on that is that they think from the
10 viewpoints that you wouldn't be able to see development, and, therefore, there wouldn't be an impact on the character; is that something that was considered in your assessment or is it more – too site specific or - - -

15 MS METCALFE: We did consider it, not explicitly in the report given that the overriding inconsistency was our primary reason for refusing it, but in – going on a site inspection and looking at the area and reading the strategies and background information that council produced in support of the draft Structure Plan, it's clear that there are a number of local views within the area that the community values and it's not just the views along Bells Line of Road and the ridgeline roads. There are
20 views from other properties in between those ridgeline roads. And the other part of the agricultural productivity question relates to how rural land is viewed in Sydney. And the Commission, the Greater Sydney Commission, has changed the view of rural land from land waiting to become urban to having agricultural and rural qualities in its own right. And Hawkesbury in particular has food production – a
25 food production function and other productive functions apart from being a source of residential land. So the planning decisions we take on a site specific basis have an impact on how rural land is viewed strategically. So while that site may not be a mushroom farm or be productive at the moment, the preservation of it as the size it is now means that adjoining properties can readily be developed for small scale
30 agriculture that has potential rural impacts, odours and visual issues, because it's clearly rural. Once that is fragmented and becomes semi-urban, it then makes it more difficult for the agricultural – small scale agricultural activity to exist in that area.

35 MS TUOR: Because of inherent land use conflicts that would arise.

MS METCALFE: Exactly. Yes.

40 MS TUOR: Okay. So in terms of the other views that you've identified, is that something that you would have a list of those viewpoints that we can either look at onsite or try and look at on Google Maps?

45 MS METCALFE: Viewpoints, we hadn't done a view analysis, so I don't believe we used the impact on rural landscape per se as a reason for declining this particular Gateway, but we considered a cluster of proposals concurrently, as well as providing advice to council on its Local Strategic Planning Statement and draft Rural Land Study as a policy position at the same time.

MS TUOR: Okay. All right. Any other questions? Jane, did you have any questions?

5 MS J. ANDERSON: Nothing from me, Annelise, thank you.

MS TUOR: And anything further from you, Lindsey?

MR BLECHER: Thank you.

10 MS TUOR: All right. Well, I think that's all. Thank you very much.

MS KIMBELL: Thank you.

15 MS TUOR: All right. Thanks.

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[3.24 pm]