



New South Wales Government
Independent Planning Commission

TRANSCRIPT OF PROCEEDINGS

**RE: 355 & 375 CHURCH STREET, PARRAMATTA –
GATEWAY DETERMINATION REVIEW (GR-2022-5)**

COUNCIL MEETING AGENDA

COMMISSION PANEL: CHRIS WILSON (Panel Chair)

OFFICE OF THE IPC: BRADLEY JAMES
 PHOEBE JARVIS

CITY OF PARRAMATTA ROBERT COLOGNA
COUNCIL: JANELLE SCULLY

LOCATION: VIA VIDEO CONFERENCE

DATE: 11.30AM, MONDAY, 4 APRIL 2022

TRANSCRIBED AND RECORDED BY APT TRANSCRIPTIONS

MR WILSON: Before we begin, I would like to acknowledge the traditional owners of the land from which we virtually meet today, pay my respects to their Elders, past, present and emerging. Welcome to the meeting today to discuss the Gateway Determination Review of 355 and 375 Church Street, Parramatta which is currently before the Commission for advice. The objective of the planning proposal seeks to introduce a site-specific maximum car parking rate for takeaway food and drink premises. My name is Chris Wilson and I'm the Chair of this Commission panel. We're also joined by Phoebe Jarvis and Brad James from the Office of the Independent Planning Commission.

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In the interests of 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. This meeting is one part of the Commission's consideration of this matter and will form one of several sources of information upon which the Commission will base its advice. It is important for the Commissioner to ask questions of attendees and to clarify issues whenever it is considered appropriate. If you are asked a question and not in a position to answer, please feel free to take it on notice and provide any additional information in writing which we will subsequently be put on our website. I request that all members here today introduce themselves before speaking for the first time and for all members to ensure that they do not speak over the top of each other to ensure accuracy of the transcript. So, Janelle, I hand over to you.

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MS SCULLY: Sorry, I'm just bringing up the agenda again. So hi, I'm Janelle Scully, I am a Team Leader in the Strategic Planning Unit at the City of Parramatta Council. I'm here to answer the question today about the agenda item, discussion of council's justification for the prohibition of drive-through facilities for takeaway food and drink premises at the site. So what I'm here today to do is to stand behind the council resolution which, as you know, was to include the prohibition of the drive-through facility. The report as prepared by council officers did not include this as a recommendation to the councillors. The councillors in considering the matter in October last year made the decision, the resolution to include an additional requirement as part of the site-specific PP that the proposal not include a drive-through facility.

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Now, their reasons for that were that it would aggravate the traffic conditions in the area particularly with the new light rail down Church Street and that it was an inappropriate use on a major intersection, a key corner site in the CBD. So they were the two main ones and then there was other reasons including poor environmental outcomes on the people using that ground floor space of the building which is not just for the drive-through facilities but also parking for visitors to the building and

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occupiers. The other two reasons were that it was appropriate to include this provision in the LEP restricting the drive-through through an LEP clause and not a DCP clause because the LEP carries greater statutory weight to the DCP. They were the key reasons why it was felt that the drive-through facility was not appropriate.

MR WILSON: That's basically it?

MS SCULLY: That's basically it.

10 MR WILSON: So I've got a couple of questions, Janelle.

MS SCULLY: Yes.

MR WILSON: And look, I understand you're in a bit of a difficult position particularly with your colleagues unable to attend. There was a DA that was submitted in 2015, do you know if that had the driveway as part of it?

MS SCULLY: It did, yes.

20 MR WILSON: It did.

MS SCULLY: But the drive-through was part of it.

MR WILSON: Drive-through, sorry.

MS SCULLY: Yes.

MR WILSON: Thanks. Last year - because I was the Commissioner that dealt with the bespoke parking rate last year.

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MS SCULLY: Yes.

MR WILSON: Part of the justification from council was that the bespoke parking rate and the drive-through would not set a precedent because it was the only drive-through located on an arterial road in Parramatta CBD.

MS SCULLY: Correct.

MR WILSON: That's correct?

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MS SCULLY: Yes.

MR WILSON: The other issue that council was concerned about at the time was given that it was a joint venture between Stocklands and McDonald's that council was concerned that without the incentive of the parking rate and the drive-through that the site might not be redeveloped and it might just be kept as is or maintained as is because of – my understanding at the time McDonald's told us that at the moment it's a viable operation as it stands, is that a fair comment?

10 MS SCULLY: Yes. Certainly the part about the bespoke car parking rate being necessary for the commercial viability and whether that – and I know that that was part of recent discussions with McDonald's around the drive-through being necessary for commercial viability. I'd have to take on notice about whether that was the original IPC and council report at the time.

MR WILSON: No, that's fine. I'm just trying to understand how they worked. I'm just trying to understand, without the drive-through do you need the bespoke parking provision? Maybe that's more appropriate for the applicant as opposed to council but I'm just trying to understand the relationship between those two. Do you have any thoughts on that?

20 MS SCULLY: Well, the bespoke parking rate is related to people that, you know, come to the McDonald's restaurant and park their car and go into the actual restaurant.

MR WILSON: Yes. Okay.

MS SCULLY: The drive-through itself, you know, accommodates those 30 vehicles on that ground floor, it wraps around it.

30 MR WILSON: That was the concept plan they provided, wasn't it?

MS SCULLY: Yes.

MR WILSON: So they're not mutually exclusive, am I saying that correctly?

MS SCULLY: Are they mutually - - -

MR WILSON: Because my understanding is at the moment there's so much – it's 50 per cent of what's currently provided on site at the moment.

40 MS SCULLY: Correct, yes.

MR WILSON: That's what would be provided.

MS SCULLY: Yes.

MR WILSON: So that would be separate, I guess, that parking so then the driveway is a different function to the people who go and stop and park to those who just want to keep going?

10 MS SCULLY: Yes. And council had asked them to show a scheme where if the drive-through was removed in an alternate use so that drive-through area then becomes part of this alternate use in the future if it was decided that that was no longer necessary for their operation.

MR WILSON: In terms of aggravating the traffic there was no information that supported the council's resolution?

MS SCULLY: None that was cited in the resolution of the council, no.

20 MR WILSON: So if we were to prohibit – look, it may or may not be that such a facility or drive-through, which I presume is an ancillary use, I presume, is appropriate at that corner but if you prohibit it now and it is appropriate would it not then need to go back through a planning proposal to enable it?

MS SCULLY: Yes, if it's part of the LEP clause and they're wanting to – sorry, is the question that if the LEP - - -

30 MR WILSON: If we were to support council's resolution and prohibit the drive-through in the LEP and should they be able to demonstrate the drive-through is an appropriate use, notwithstanding we understand it's on the corner and near the light rail and so forth, and they demonstrate that it is functionally possible and those sort of things they would then – the only way they could achieve it would be to seek another rezoning?

MS SCULLY: I believe that would be necessary, yes, because it's part of the clause, yes.

MR WILSON: So if a DCP was prepared for the site, who would prepare that?

40 MS SCULLY: Well, we prepare it in conjunction with the applicant. So typically they prepare it and then we review it and made suggested amendments and then we come to

an agreement. Where, you know, elements can't be agreed that's then noted in the report back to council.

MR WILSON: How would you resolve – I mean, you know, even if – if we weren't to agree to council's suggested changes in this instance how would the matter be resolved through the DCP process?

MS SCULLY: So the DCP needs to – the resolution of the council included some additional words or principles to guide the preparation of the DCP. One of those – I'm
10 just going to bring it up so I get it correct. Unless you have it there. So we are in the process of working with the applicant to prepare these controls and we haven't landed on a set of controls yet.

MR WILSON: And they'd also have to demonstrate design excellence, wouldn't they?

MS SCULLY: Yes, they would, yes. So through the – if they weren't – well, they have to do it anyway but, yes, that's right, yes.

20 MR WILSON: So even if there was a driveway proposed that would have to be factored into them demonstrating design excellence as well as obviously not having a significant impact on the surrounding road network and so forth?

MS SCULLY: Yes, correct. So the driveway as, you know, exists, that will remain for, you know, occupiers and visitors to the building.

MR WILSON: So it's just whether or not it can be used - - -

MS SCULLY: Used as a, yeah, as a drive-through with those then drive-through
30 facilities internally within the building, you know, the – I understand, like the - you know, the staff serving people in vehicles coming through, yes.

MR WILSON: Yes. All right.

MS SCULLY: So just to go back to the question on the resolution of the council about the DCP and how that is going to address the drive-through. So I've included
10 principles and these were amended from the officer recommendations slightly. So one of them was around resolving traffic issues, that was part of it but it was – the other one was around requiring that no – this is 4, requiring that no drive-through
40 facility is provided at the site and there's another one that's relevant.

MR WILSON: So the bottom line is there's still - - -

MS SCULLY: Sorry, it was removed. Sorry, the one that I was thinking of was part of the officer recommendation was about demonstrating adaptive reuse of the potential drive-through facility and at least some of the parking spaces so, yes.

MR WILSON: So the next question is, I guess, is if the bespoke parking rate falls away after five years what happens to the drive-through, does that remain? Because they're not aligned.

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MS SCULLY: So the bespoke parking rate is to ensure they – has Robert just joined the meeting?

MR WILSON: No, I understand why because what happens after five years is a sunset clause. So after five years - - -

MS SCULLY: It's a sunset clause, yes.

MR WILSON: Yes. The rate becomes – it falls back to the rate that covers the whole
20 of the CBD, yes? They become consistent?

MS SCULLY: Yes, but provided they have – if they haven't started or got a DA consent for that use, yes.

MR WILSON: I got you. So they can get consent for that rate for – yes, okay.

MS SCULLY: Yes.

MR WILSON: So it can be inconsistent – it doesn't fall away after five years after - -
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MS SCULLY: No, they just have to get a DA approval for the - - -

MR WILSON: Within five years.

MS SCULLY: - - - use that they're – yes.

MR WILSON: They've got access to that rate for five years provided they get
40 consent?

MS SCULLY: That's right, yes.

MR WILSON: All right.

MS SCULLY: I believe Rob is trying to join the meeting. Is he sitting in the waiting room? Can anyone see?

MS JARVIS: He's not in the waiting room.

10 MS SCULLY: Unless he's tried to join via Teams. He did have a – what do you call it, a hold meeting in there. I think he might be there.

MS JARVIS: Do you want me to resend the meeting invite to him?

MS SCULLY: I did send it to him. I'm just going to jump into the Teams, is that okay, and tell him to come out of that and join the Zoom? Actually no, he's left that one. He must've realised. Sorry, technology.

MR WILSON: So just in terms of – let's put some – while - - -

20 MS SCULLY: Sorry, I've just got Rob on the line. Just one second, I'm sorry. Rob is joining the Zoom link so he may be in the waiting room soon. Just having some issues at his end.

MR WILSON: Here he is.

MS SCULLY: Here he is.

MR WILSON: G'day. How are you, Robert?

30 MS SCULLY: You're on mute, Rob.

MR COLOGNA: My apologies I'm so late.

MR WILSON: No problem. Look, we've been through a few things, Robert. We've discussed council's position. I've asked a few questions in relation to council's position last year in relation to the initial review and I guess we were just discussing preparation of any DCP that might be prepared for the site in the future and that's basically where we're up to. So I don't know if you want to add anymore to that in relation to the council's resolution and recommendations.

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MR COLOGNA: Yes. Look, certainly council has the power to pursue a resolution. I will admit to you I'm going to have to probably rely on Janelle for some of the detailed history here because I know we were doing a DCP at one time for this site, a site-specific DCP and I'm not sure whether we decided not to – no, sorry, the resolution was to proceed with that and so I acknowledge that council would be able to deal with any of these sorts of issues in a DCP but the elective representatives, you know, asked that question of council officers. We said that that's something they could do but they still chose to try and pursue controls through the LEP which they think has more statutory weight than a DCP.

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MR WILSON: Well, it does, we know that but, yes, of course. So where we were when you joined I think I just asked Janelle whether or not – what would happen in terms of disagreement in relation to the preparation of – obviously if the Commission was to recommend that that prohibition not be included in the LEP then it will come down to negotiations between you and the applicant in relation to the DCP, is that correct?

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MR COLOGNA: Yes. Negotiations and discussions but the DCP's a policy of council and so we might consult with the applicant but the council would have the right to put in place its own policy. The only difference – and I'm again telling you how to suck eggs. The only difference with a DCP is the applicant would be more comfortable that they would be able to challenge that at DA stage through a simpler process. So the applicant might be more comfortable, I believe, with a DCP requirement and as I said earlier, council has the power to do so without necessarily the agreement of the applicant.

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MR WILSON: I got you. There probably needs to be some forensic somewhere whether or not this is an appropriate ancillary use or not at some stage in terms of traffic and so forth?

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MR COLOGNA: Yes. There is an issue around what is ideal and, you know, what is possible but then has to be managed through conditions of approval and those sorts of things. So I think, you know, our own transport officers and I think Transport for New South Wales are both of the view that if you're looking at a 20, 30, 40 year vision then this is not the right place for a drive-through facility in terms of the way movement is going to happen in this precinct but you've got a bit of a temporal issue here. If they lodge the DA tomorrow there probably aren't a lot of technical, you know, issues at a DA stage where you could categorically say it's unacceptable is just not preferable and then you get into the realm of conditions of approval and all those \sorts of things to manage impacts.

MR WILSON: I understand McDonald's in their submissions last year to the original review said it's going to take a significant amount of time before McDonald's facility at that site or any new facility to rely on pedestrian trade and so forth to the point where the drive-through becomes unnecessary or, you know, it doesn't prop up the facility financially but that's part of this future design character of the CBD and it's on the edge, it's going to take time. That was their submission last year? That's similar to what you're saying now, I would suggest.

10 MR COLOGNA: In terms of the – you know, if you got a DA tomorrow, right, even without any changes of planning controls, let's say you just wanted to knock down and rebuild and lodge a new DA, you know, nobody from a traffic point of view would categorically be able to say well, we would never be able to approve that.

MR WILSON: That's right. So if you prohibit it and they can justify – this is what I asked Janelle. If we were to prohibit it now and they were able to justify - in the interim for the next five or 10 years that it was justifiable, they would need a rezoning review to be able to make - - -

20 MR COLOGNA; They would need a rezoning, yes, to be - - -

MR WILSON: I'm sorry, a rezoning to make it happen.

MR COLOGNA: Yes.

MR WILSON: Anyway, these are just things we need to consider.

30 MS SCULLY: I mean, that issue of, you know, the drive-through no longer becoming, you know, a necessary part of the business, that was part of the original thinking with that adaptive reuse, you know, they we'd ask them to show. You know, if you no longer need it what could you do with it, and that was the point of that. It was about this transitional temporal issue that we talk about.

MR WILSON: Yes. So it's been acknowledged that in the long term the drive-through is probably not necessary and probably not desirable?

MS SCULLY: Yes. But the resolution of council as it is now is it's not appropriate right now.

40 MR COLOGNA: And the issue with that temporal issue is the way the planning system works. If you could put in place a clause that says, you know, the drive-through can operate for 10 years and then needs to be reviewed and potentially

transition to that other use you can then set up some – a review mechanism to say, well, when is the right time to require this to close down because this area has become much more reliant on public transport and pedestrianised than it is today.

MR WILSON: Yes. Food for thought.

MR COLOGNA: And I think that is the – if I'm to defend the position of councillors which is essentially what I'm here to do, they're concerned that essentially once they get a consent it's there in perpetuity and so you've got that long term objective not met
10 because you've got no mechanism to make it stop if it does become inappropriate. Essentially it's not the public good that then determines whether it stops, it's the commercial interests of McDonald's that do so and that's not in the public interest.

MR WILSON: Just in terms of Transport, to be fair, initially said last year that they didn't have any concerns but I think that was more to do with the parking rate as opposed to the drive-through. In their previous advice to the department they said that they do have concerns but they'll leave the mechanisms to the department. So I guess we're at the stage where we don't really know what those concerns are from a
20 technical and scientific perspective but everyone seemed to acknowledge that it could be a problem, yes? Yes. Okay. I don't know if there's too much more unless there's anything else you want to – I understand the situation, Rob, Janelle, and I appreciate you coming along today. Phoebe, Brad, do you have anything else to add?

MR JAMES: Nothing from me, Chris.

MR WILSON: I did ask Janelle that 2015 DA, was it, had the drive-through on it? Or in it, sorry, as part of it. Yes. Okay. Although that's six, seven years ago now, it's a long time. Well, look, I really appreciate you coming along today and thank you for the frank discussion. We've met with the department, they put their view forward and
30 helped me understand your council's position and we will consider that. We're meeting with the applicant next so, yes, I appreciate your time today.

MR COLOGNA: No worries.

MR WILSON: Thank you very much.

RECORDING ENDS