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TRANSCRIPT OF PROCEEDINGS

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INDEPENDENT PLANNING COMMISSION

MEETING WITH DEPARTMENT OF PLANNING AND ENVIRONMENT

**RE: GATEWAY DETERMINATION REVIEW,
CANTERBURY ROAD BELMORE**

**PANEL: PETER WILLIAMS
RUSSELL MILLER**

ASSISTING PANEL: DIANA MITCHELL

**DEPARTMENT OF
PLANNING AND
ENVIRONMENT: MARCUS RAY
STEVE MURRAY
AMANDA HARVEY
BEN REID**

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

DATE: 1.07 PM, TUESDAY, 29 JANUARY 2019

MR P. WILLIAMS: Good afternoon 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. Welcome to the meeting today on the review of the Gateway Determination for the planning proposal to rezone land at 642
5 to 644, 650 to 658 Canterbury Road and 1 to 3 Platts Avenue, and 2, 2A, 2B, 2C and 2D Liberty Street, Belmore, from part 6B enterprise corridor and part R3 medium density residential to B5 business development, alter the maximum building height and identify the subject site as a key site. My name is Peter Williams. I am the chair of this IPC panel. Joining me is Russell Miller.

10 The other attendees of the meeting are Marcus Ray, Steve Murray, Amanda Harvey and Ben Reid from the Department of Planning and Environment, and Diana Mitchell from the PTC secretariat. In the interest of openness and transparency and to ensure the full capture of information, today's meeting is being recorded and a full
15 transcript will be produced and made available on the Commission's website. This meeting is one part of the Commission's decision-making process. It is taking place at the preliminary stage of this process and will form one of the several sources of information upon which the Commission will base its advice.

20 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 the question on notice and provide any additional information in writing which we will then put on our website. So we will now begin, and first I would ask the attendees from the department just to
25 introduce themselves, please.

MR M. RAY: So Marcus Ray, Deputy Secretary, Planning Services.

30 MS A. HARVEY: Amanda Harvey, director for Sydney region east.

MR S. MURRAY: Steve Murray, executive director for regions.

MR B. REID: Ben Reid, Planning Officer.

35 MR WILLIAMS: Thank you very much. Marcus, I'm not sure if you would like to start off, but any presentation or submissions you would like to make? We have questions, of course, but I - - -

40 MR RAY: Sure. So look, all I would like to say is obviously you've got out report. I don't really, you know, I'm more than happy to talk to anything in the report or answer any questions in relation to the report. The department made its decision in relation to the Gateway – you know, following quite a lengthy, you know, strategic planning process that was undertaken at a time after there were concerns about development on Canterbury Road. And we had the benefit of the council's views
45 about that. The department participated in the strategic work that eventually formed

the basis for a change in the way planning was being conducted in relation to Canterbury Road.

5 We were very keen to run a – ensure that there was a fair process in looking at the –
this particular proposal. And the reason for that is obviously a Gateway had been
issued some time before it being out for public comment, but it hadn't proceeded
because of the work that was being done and, you know, in fact, the department
received very detailed representations from the proponent after, in fact, we had made
10 the decision; just, like, a day later. And so we looked – we very carefully looked –
took the time to look at those representations. But, ultimately – and we investigated
them. They were both planning matters and legal matters and we investigated those.

15 But eventually we determined that the decision should stand and that's, you know,
also why we're here today. So I do, you know, want to acknowledge that, you know,
in, you know, it's – I can understand – I could understand the proponent being
concerned because the process started some time ago. But ultimately, you know,
we've got a more up-to-date planning strategy for Canterbury Road and there has
been a fair amount of rigour in that process, and that's why the department made the
20 decision that it – that's why I made the decision on behalf of a – of the department
that I did.

MR WILLIAMS: Perhaps a little bit more specifically, is there anything in terms of
submissions from either the council that you might – that you're familiar with or
aware of, or the proponent that you wanted to comment on?
25

MR RAY: Not – no. Look, I would rather – the report stands as our report and I
don't really have anything to add or subtract to that report. I mean, that's what I feel
– you know, I've – we looked at the situation. We then – as I said, we made a
decision following the council's recommendation that the Gateway be altered and we
30 got – the day after we made that decision, we got a very detailed representation from
the lawyers for the proponent raising a broad range of matters, both legal and
planning, and we investigated those with some detail. But ultimately, it made – you
know, we looked at them very carefully. I think it was almost two months. It took
us two months to go through them all, because they – you know, they raised a range
35 of different issues. But ultimately, we came to the view that none of those matters
that they raised would have resulted in a different decision being made by me.

MR WILLIAMS: When you say you've got a strategic framework in place now,
that's the latest plan for great Sydney from the Commission that the south
40 district - - -

MR RAY: No. I'm talking about the specific – I'm talking about the specific work
that has been done in relation to the precinct.

45 MR WILLIAMS: With council?

MR RAY: Yes.

MR WILLIAMS: Yes. So the Canterbury Road?

MR RAY: Yes.

5 MR WILLIAMS: Yes. Okay. And so that has been done by council. And – but the department basically concurs with that report and the findings and - - -

MR RAY: Yes.

10 MR WILLIAMS: Yes.

MR RAY: Essentially, we do.

MR WILLIAMS: Right.

15

MR RAY: And we've – and, you know, so the proposal raised a number of matters in relation to that with us, as I said. We looked at those matters, but broadly we remain, you know, we remain, you know, supportive of the work that council has done and the department was involved in that work. And so the decision was made in the way it was. And as I said, in this particular case, we had caused to look at that decision again because we had this additional material from the proponent, but, ultimately, there was not – there was nothing in that additional material that we felt would justify a change to that decision, which was to refuse the – which was to say that it shouldn't proceed.

25

MR WILLIAMS: I think one comment that the applicant has made is – the proponent has made is a shift. They would argue that it's irregular in terms of the change from the original determination to now. Do you want to comment on – and the change of – I think you've already started to touch on it, but - - -

30

MR RAY: Well, I would say that – look, as I have said, I have expressed the view – I'm of the view that, obviously, this matter has been going for some time. There was a particular view about development in the Canterbury Road corridor that was the relevant, you know, council, the then-council-supported view, back when the original gateway was issued. There were concerns expressed by – about the nature of development occurring in accordance with that strategy, and there was the review put in place which the department participated in.

40 The ultimate result of that – and there was a pause put on the progress of the planning proposals, you know, because of a range of issues, obviously, you know – you know, questions of traffic and various other things, whether – you know, it was whether Canterbury Road was suitable for that much development and, you know, an appropriate – so an – it was an appropriate response from the then-administrator to say, "Let's actually do a bit more work here because the results we're getting from
45 the actual development, you know, people are concerned about. We'll put the pause on, we'll do the work, we'll come up with a view about what we should be doing", and that process was undertaken, carried out.

5 The department was involved with that process, and it's resulted in a different strategy for development around Canterbury Road. It's resulted in a strategy that more broadly relates to the relationship with the future metro station as well, on the Sydenham to Bankstown line, so giving more emphasis to those, to development in, you know, along the north-south corridor rather than the east-west corridor.

MR WILLIAMS: Which I think we've got in this – we've those maps.

10 MR RAY: Yes, which, really, as I understand it, is really directed to trying to ameliorate some of the traffic impacts that were arising from the previous vision of an east-west Canterbury Road strategy, and so, yes, it has changed. There's no doubt that the planning framework for Canterbury Road's changed in the last four years, and this decision that you're reviewing at the moment is the implementation of that change from a statutory point of view.

15 MR MURRAY: And it's – I was going to add, broadly, that is not unusual circumstances like this, where we've had planning proposals and then the draft district plans came out that had a different direction. We've worked through those, and in the end we've said, "It can't proceed because the detailed strategic planning had changed from when it was first lodged", and so that's part of the planning
20 proposal process is that, you know, the gateway is to enable them to start a process exhibition and then, if subsequent detailed strategic planning comes along, you have regard for that at any time, and now we're doing that with all the planning proposals that were in the system that now have to be considered under the – how do they
25 implement the district plans the Greater Sydney Commission released or, in regional New South Wales, are they implementing the regional strategy, so we take carriage of that as we move through the process.

MR WILLIAMS: Thanks for that.

30 MR RAY: I think it's important that it's – though, in this particular case, development was actually happening in accordance with this strategic vision for an east-west Canterbury Road, and that was causing concern, and, you know – so the process – it wasn't, like, an entirely esoteric process about – in people's heads about
35 the strategic – you know, "What's the strategic vision, like, does it ever, you know, materialise?" Here, we were faced with, you know, concerns about how it was actually rolling out in practice.

MR WILLIAMS: Just got one more question, if that's all right, and then I might
40 have to – I know Russell's got a couple of questions that I think relate to the maps in front of you. RMS had some concerns as well, I think most particularly the most recent letter of 2016, I think, so how much weight have you placed on RMS concerns and how can they eventually be rolled out and resolved with what's being proposed now, in terms of the strategy for Canterbury Road?

45 MS HARVEY: I can answer that.

MR WILLIAMS: Thank you.

MS HARVEY: So the RMS did raise concerns with the regional planning proposal when it went on exhibition. They were matters that were asked of the proponent to
5 be addressed, but at that time the submissions came through but the council didn't actually review those submissions in great detail, but part of the Canterbury Road Review was to look at that more holistic review of traffic and transport for the whole corridor, not just for this component, and so, in doing the Canterbury Road Review, they did review the whole transport and traffic for that, and that has underpinned the
10 Canterbury Road Review that you see now.

MR MURRAY: One of the – when the – Mark has mentioned the administrator came in, and one of the concerns that was raised was the impact of the corridor of development, and all intersections requiring some level of upgrade, or people
15 entering and leaving the main Canterbury Road mid-block to suit the development, and that got – that's where the department went to council and said, "Well, what do we do", and we pulled the relevant agencies in just to look at the traffic, which then went into the strategy, so that's one of the main drivers, initially, that sat behind it, and then, obviously, the ability to link in with the government's investment in the
20 metro.

MS HARVEY: The other thing to note is that the gateway also asked, if it proceeded further down the chain to the finalisation stage, that it also addressed the traffic impact assessment done by council at that time, which was for the residential
25 development strategy, but you could probably say that, given that has now been superseded by the Canterbury Road Review, that that would also be one and the same.

MR WILLIAMS: Thank you. Russell, did you have some questions about that?
30

MR R. MILLER: Plan 01, which is in front of you, is a plan that was provided to us by the applicant, and the argument that was put, which would be useful to have your response on, was that its site, if the compatibility certificate development across the road is – proceeds, its site will be an orphan B6 site. Do you have a view about that,
35 because I can see from the plan – this is figure 2 in your report, Marcus – there are areas of B2, B6, B2, B5, but this looks to be a hole in the middle of a B6 zone or proposed B6?

MR RAY: Well, I mean, I suppose the first thing I would say is that the site
40 compatibility certificate is only – has been out for quite some time, and again it was very much of a – the determination on issuing that was very much in line, I think, with what the planning for the corridor was in 2014, and I think it's only got five or six months to run and it hasn't been taken up, so there is, you know – I mean, I suppose it's – you know, I don't have any further information about that, whether it's
45 likely to or not likely to, but you could see that there would be a different scenario if it lapsed. There could be a different scenario if it lapsed to if it's actually taken up, and I don't think a development application's been lodged, has it?

MS HARVEY: Not that we're aware of.

MR RAY: Yes.

5 MR MURRAY: Not that we're aware of, so - - -

MR RAY: Okay, so while, you know, I understand the argument, I'm not entirely sure that that's what's going to actually come to pass, and the other thing that it seems to me to be is there's, you know, a number of – there's still a number of issues
10 with the proponent's proposal that haven't been fully addressed, and whether it's appropriate, given the circumstances, to go forward with some sort of reduced proposal, that's something that's not been put, you know, in a – or has not come to the department in a formal sense, so, you know, it would depend very much, you know – I mean, we would like council, I mean, obviously, at first instance, if there
15 was going to be some, you know, different proposal or, you know, a reduced proposal for the site then we would expect to see council's views, and council have a view about that, before we offered one.

I mean, I see the – I see the argument. I still, you know, stand by the department's
20 decision, broadly, that it was consistent with the strategy. And whether, you know, if the proponent – I mean, I do wonder if, given the history of the matter, if the proponent was proposing some change to the – to the – to what was proposed there. Then the most appropriate case would be to go back and lodge it as a revised planning proposal so that everybody could have the benefit of all the work that has
25 been done in the interim and review the process – review the proposal in that light. So I'm just not – I'm not entirely convinced it will be an orphaned site.

MR MILLER: The second issue is – this is the only other issue I wanted to raise. The proponent says that they've gone – they've lodged a development application –
30 or a draft development application in advance of this consideration to demonstrate that the site is capable of maintaining the level of employment use that would be required for the zoning. Now, in your report, it seems it was – that hadn't been clearly explained to you in relation to the particular gateway application. Has that since been sorted out?

35 MS HARVEY: So, the proponent had indicated a number of – or a general floor space that could be achieved on the proposal in its original form when it came to us for gateway.

40 MR MILLER: Yes. 2490 square metres.

MS HARVEY: Yes. Over the time, I noticed when we were preparing this, that number has morphed at different times and changed, and it probably also changes depending – the DA, just to be clear, doesn't actually include the whole proposal site.
45 It actually excludes the corner site which – maybe it would - - -

MR MILLER: Correct. Correct.

MS HARVEY: - - - meddle with the numbers, but in all honesty, the scheme that we saw for the development application really only related to a mixed use development shop top housing, lower floor, and, above, residential, but we don't have any other detail to qualify the numbers that they've had and it has changed over the time.

MR MILLER: So, Amanda, what would the attitude be if the – if their proposal did actually deliver 2400 square metres in employment space?

10 MS HARVEY: I think - - -

MR MILLER: Would that impact on the view of – I guess it's the Greater Sydney Commission, and Marcus is the - - -

15 MR RAY: So – yes. So the Commission's policy – and so – so let me get this right. Jump in, guys, if I don't quite get this right.

MR MURRAY: Yes, we will.

20 MR RAY: this right.

MS HARVEY: Happy to.

MR RAY: But the Commission's policy is it retain and manage employment lands - - -

MS HARVEY: Yes.

MR RAY: - - - particularly in this area, and so the question – and that – they're particularly concerned about urban services land, so, you know, land that might not be – you know, that might be used, obviously, for, you know, a range of things to deliver at urban services. So they're very strong on retaining employment land. So the question for those – so that services can be delivered, so that the city works. So that policy does not equate a mixed-use rezoning - - -

35 MS HARVEY: Correct.

MR RAY: - - - which provides additional employment as equivalent to the underlying employment zoning, because it's the nature of the employment uses that they are trying to protect, not just employment, sort of, as a broad-base thing. So the Department – they've published a note. It's called an information note.

MR MURRAY: Information note, I think, number 1.

45 MR RAY: Yes. Which talks about their views and their approach on these rezonings. And, indeed, they – there were – so they're very strong about it. Now, whether that – so if the Commission – I mean, if the Commission was of a view to

allow the re-zoning with some conditions, there would be an issue about the transitional nature of – or how to apply that new policy that came in with the district plans when the district plans were finalised last year, because, obviously, this matter has been running for some time. But, certainly, it has been made very clear to us that
5 the Commissioner’s intention is that there be no rezonings of new planning proposals that do not accord with their policy of retain and manage.

MR MURRAY: And the Act clearly now requires all planning proposals to give effect to the district plan. So it’s the first time, in March, that we’ve actually linked
10 the future rezoning of land to the actual strategic concept, and so we have to work through that as a requirement in the department.

MS HARVEY: And council has been very clear in their reporting about the Canterbury Road Review that it does align with that district plan. So that – even
15 though the district plan came into force last year, the draft district plans prior have been clear about trying to maintain and – and manage that land.

MR RAY: But it is true that the – that the original – at the time the Gateway Determination came in, that was – there were no draft district plans.
20

MR MILLER: Peter, that was all I - - -

MR WILLIAMS: Sorry. Just to pick up one of the points that you’ve made about the possibility of a revised or amended or a new planning proposal, my
25 understanding is there are several planning proposals along the corridor. I think pretty well all of them were given the offer of amendment or review, and I think no one else has taken up the offer, so this is basically an unamended, unchanged planning proposal is the way - - -

MR RAY: Yes. I suppose the issue is that it would have to comply with the district plan now and it would be difficult for that to see away, because the district plans come in with such a strict policy of retain and manage it would be difficult to see how any planning proposal would be consistent with – be seen to be consistent with
30 the district plan that resounded to mixed use. So that’s the – I suppose that’s potentially practically why we’re here.
35

MS HARVEY: Council did provide all of the proponents that had an active planning proposal to make amendments.

40 MR WILLIAMS: Yes.

MS HARVEY: But we note that in this case the proponent didn’t take up the offer to do any amendments, and that was some time before they endorsed the Canterbury Road Review as well.
45

MR WILLIAMS: Right. Yes. I mean, so, obviously, it's a bit hard to divorce the planning proposal with the DA that's there as well. I mean, we're just looking at the planning proposal - - -

5 MR RAY: That's correct.

MR WILLIAMS: - - - but obviously you've got to look in terms of, I guess, the site-specific aspects of the proposal - - -

10 MR RAY: Sure.

MR WILLIAMS: - - - and you look at the DA itself.

MR RAY: Does the DA require the rezoning?

15

MR MURRAY: Yes.

MS HARVEY: Yes.

20 MR WILLIAMS: Yes.

MR MURRAY: The DA requires – yes.

25 MR RAY: So if the rezoning doesn't go ahead, the DA would be refused or withdrawn?

MR WILLIAMS: Yes.

30 MR MURRAY: And the DA, depending on the value, would either go to the local planning panel for determination?

MR RAY: Or to the regional - - -

35 MR MURRAY: Or to the regional panel, subject to the – if the land was rezoned.

MR WILLIAMS: I think it's currently before the relevant Sydney South Planning Panel.

40 MR MURRAY: Yes. But they can't deal with that.

MR WILLIAMS: They've deferred it until - - -

MR MURRAY: Yes.

45 MS HARVEY: Correct.

MR WILLIAMS: - - - this matter is resolved.

MS HARVEY: Yes.

MR WILLIAMS: Yes, yes. Council also suggested that they would be doing a review of their LEP in the next two years anyway, and will be looking at all sites.

5

MR RAY: That's true. So all councils have to do a local strategic planning statement, which will require them to set the broad strategy for their council area and will, hopefully, drive – I mean, obviously it won't drive wholesale review of all – at all parts of their council area, but it will identify those – those parts of the council area where there does need to be some more detailed strategic planning, and that should result in some changes in certain parts. Now, that's at an early stage - - -

10

MR WILLIAMS: Yes.

MR RAY: - - - and so we don't really know where that will be for Canterbury-Bankstown. Like, I mean, we don't know whether it will be looking at here in detail - - -

15

MR MURRAY: We're not all - - -

20

MR RAY: - - - or not. So I just – while that's true, you know, it may be that council just decides not to change the controls in this area but change the controls somewhere else in order to meet housing targets.

MR WILLIAMS: I think I'm about done. Have you any questions that you want to ask?

25

MS MITCHELL: No. No additional questions, no.

MR WILLIAMS: Thank you. If there's anything else you want to add just in conclusion.

30

MR RAY: No. I think we're right.

MR WILLIAMS: Okay. Well, thank you very much for your time today. We appreciate that, and we will leave it there. Thank you very much.

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[1.34 pm]