



AUSCRIPT AUSTRALASIA PTY LIMITED

ACN 110 028 825

T: 1800 AUSCRIPT (1800 287 274)

E: clientservices@auscript.com.au

W: www.auscript.com.au

TRANSCRIPT OF PROCEEDINGS

TRANSCRIPT IN CONFIDENCE

O/N H-1015934

INDEPENDENT PLANNING COMMISSION

MEETING WITH DEPARTMENT OF PLANNING AND ENVIRONMENT

**RE: REQUEST FOR GATEWAY DETERMINATION REVIEW
 OF MCLAREN STREET, NORTH SYDNEY**

**PANEL: CHRIS WILSON
 WENDY LEWIN
 ALAN COUTTS**

ASSISTING PANEL: MATTHEW TODD-JONES

**DEPARTMENT OF
PLANNING AND
ENVIRONMENT: STEVE MURRAY
 AMANDA HARVEY
 BRENDAN METCALFE
 MARY SU**

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

DATE: 12.33 PM, WEDNESDAY, 17 APRIL 2019

MR C. WILSON: Thanks for coming. 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. Welcome to the meeting today on the Gateway determination review request for a planning proposal seeking
5 to amend North Sydney Local Environmental Plan 2013 in relation to 41 McLaren Street, North Sydney. The proposal seeks to amend the LEP by increasing the maximum building height control from RL100 metres to RL226 metres and increase the minimum non-residential floor space ratio from 0.5:1 to 3:1. My name is Chris
10 Wilson and I am the chair of this IPC panel. Joining me on the panel is Wendy Lewin and Alan Coutts. The other attendee is Matthew Todd-Jones from the IPC 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 transcript will be produced
15 and made available on the Commission's website. This meeting is one part of the Commission's process of providing advice. It is taking place at the preliminary stage of this 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
20 you are asked a question you are not in a position to answer, please feel free to take it on notice and provide any additional information in writing, which we will then put on our website. We will now begin. We asked - - -

MR A. COUTTS: Introductions?
25

MR WILSON: Sorry. Yes. Well, do you want to – for the record, names.

MS M. SU: Mary Su, Senior Planning; Sydney Region East team.

30 MR B. METCALFE: Brendan Metcalfe, Team Leader; Sydney Region East.

MR S. MURRAY: Steve Murray, Executive Director; Regions.

MS A. HARVEY: Amanda Harvey, Director for Sydney Region East.
35

MR WILSON: Thank you. So we have met with the applicant and council and we asked the question of both – well, we asked a different question of the applicant, why they thought this proposal had strategic and site specific merit and we asked the council why they didn't think it had strategic merit – site specific merit and I guess
40 we'll ask you why the department thinks it does have strategic merit and site specific merit.

MR MURRAY: Can I just ask a question of the panel, if possible?

45 MR WILSON: Sure.

MR MURRAY: We're trying to get an understanding from the letter of actually what council is requesting of this Gateway – review of the Gateway determination. Did they make that clear? Because when I read through this, it raises questions about our assessment but it actually doesn't - - -

5

MR WILSON: Well - - -

MR MURRAY: Doesn't conclude what they're requesting of the IPC. And because the record is not up, we were wondering if they had made that clear.

10

MR WILSON: We're going on what we've been asked to do by the request for the review.

MR MURRAY: Right.

15

MR WILSON: From the department at this stage.

MR MURRAY: Right.

20

MR WILSON: So I guess – and that's our remit. That's my understanding.

MR MURRAY: No, I just – I'm just trying to get clarity because we read the letter and - - -

25

MR WILSON: Well, the transcripts will be uploaded.

MR MURRAY: Thank you. That would be good.

30

MR WILSON: And council, we believe, in their minds, they believe they've made it clear what they want out of the process.

MR MURRAY: Okay. Great.

35

MR WILSON: Okay.

40

MR MURRAY: So your question to us is what does the department have for strategic merit. Just by way of background, it was a matter that went for rezoning review before the Sydney North Planning Panel and that panel is an independent body, such as the IPC, that is set up to determine where a council fails within 90 days to issue a Gateway determine or refuses to issue a Gateway, they can have an independent review. The department puts quite a significant bit of weight in terms of the outcomes of a rezoning review. That's – the purpose of having independent decision making bodies is that we take their advice on. So in the way of background, the department then undertook its own assessment and the reasons for our strategic merit and site specific merit are clearly outlined in our Gateway determination report. But I could ask Amanda to take you through some of the high level reasoning, which would be helpful.

45

MS HARVEY: Yes. So I think from a strategic point of view, the site was considered appropriate on a number of fronts. Firstly, council had already indicated this is part of the Ward Street precinct which, on a broader sense, forms part of the larger North Sydney CBD and it was recognised that uplift and intensification of
5 development was considered appropriate in this precinct, notwithstanding the site. It's also located very approximate to the new Victoria Cross Metro Station so specifically this site is literally across the road from one of the entries to that station and to the main station it's actually only a short work of a few hundred metres to the other entry.

10 It's also part of the councils strategic framework for the whole of the CBD. They're looking to do further reviews, I think, in the future for other areas north of this site for further expansion; again, capitalising on the metro station. So from that point of view, the precinct and also the strategic relationship to that metro station are two key
15 impetuses for strategic merit.

MR WILSON: Council put to us that they had had a letter from the Greater Sydney Commission. Is that on our web yet?

20 MR M. TODD-JONES: No.

MR WILSON: No.

25 MR TODD-JONES: We've just had it - - -

MR WILSON: So it will be going up on our web – to say that they've – they're meeting their targets and they – in their view, the planning proposal wasn't necessary to assist in achieving those targets. Is that something you can comment on?

30 MS HARVEY: Sure. So the GSC have been working with each of the councils and have, I suppose, assessed what capability or capacity each council has with regard to housing, forecasted from 2016 to 2021, and most of our councils in Sydney Region East, including North Sydney Council, are generally meeting the targets that the GSC set. Now, that target set is actually based on existing capacity that's already zoned,
35 not future pipeline proposals such as this one. It's also inclusive of those that are in the Das. So anything that has got a development application also is considered as part of that pipeline.

40 Councils are now tasked with doing a local housing strategy, which this council is doing also, and they need to derive what their longer term housing supply might be and to marry that with housing demand for the area particular to population forecasts and demographics in their area. We don't know what that might be yet – council are still working on that – but the expectation is that will be beyond the five year targets that have been set. And a target doesn't necessarily mean that councils can't exceed
45 that five year target either.

MR MURRAY: Can I also add to that. I think it's important to note that with any target that in a numerical sense you can achieve it through zoned land or current development applications. But what we have to understand is the ability of the market to deliver and we quite often have a situation – and I can't speak on behalf of
5 North Sydney but the way I approach it and have approached it throughout my career is zoning doesn't necessarily equate or turn into actually provision of house. So therefore, it's always appropriate for councils to have a buffer within their housing stocks because how housing comes onto the market is driven by a number of particular factors and in quite some circumstances, where the land is zoned, it may
10 actually not be feasible.

MR WILSON: Yes.

MR MURRAY: Now, I can't talk specific on any sites but I think you've got to
15 actually put that framework over any capacity issue because if you don't, it's theoretical capacity in terms of, like, an add up – XYZ gives me the answer to say I'm meeting my targets or not but actually does that convert, and that needs to be considered as part of any decision.

20 MR WILSON: Okay. So housing in the right places then.

MR MURRAY: Yes. And also the feasibility of turning that – turning land into housing.

25 MR WILSON: Just in terms of the master plan, it's not a master plan that requires any endorsement by the department?

MR MURRAY: Council's Ward Street master plan?

30 MR WILSON: Yes.

MR MURRAY: No. They could – they could if they wanted to get it endorsed as a basis for making future planning proposals a lot quicker but it's not something that would require us - - -
35

MR WILSON: There's no statutory requirement or - - -

MR MURRAY: No statutory requirement.

40 MR WILSON: Okay. Thanks. Okay. So that's the strategic merit. What about the site specific merit because there is quite a bit of discussion around impacts? The determination has got quite a number of conditions in relation to overshadowing. So is there something you can add – discuss that briefly?

45 MS HARVEY: Sure. I'll talk to that. I think when we assess a Gateway determination we're given in principle, okay. And I think what we've tried to do with this Gateway determination is provide the opportunity for council, the

proponent, to review certain aspects of the proposal and I think the key things are in relation to the height, the scale and the bulk of the development, given its proximity to other development and also future development under the master plan.

5 So, as part of our Gateway, we've looked to those things and that's to test the amenity of those future dwellings if they end up as being residential, because notwithstanding the zone could actually afford a commercial development, and also to consider that in the context of SEPP 65 and the overshadowing. So one of the things we also did was we had to consider that the master plan – when you say the
10 master plan, there's actually still two options for the master plan.

Neither are actually endorsed yet by council. So us as a department looked at the prospect of how that interrelationship would work with both options and notwithstanding the master plan hadn't been also endorsed at the time we made the
15 Gateway determination. So we tried to consider all options at the time, thinking of what could happen with the master plan one way or another; option 1, 2, and notwithstanding that council could resolve not to do anything but also too just on the merits of that.

20 Part of the other reasons were also to do with the relationship to heritage. So the site is currently heritage listed and also is supposed to – the concept is that the building as it is would stand as a podium and the building above. So there's obviously some interrelationship and how that works together as well. So we've tried to condition it to allow for further consideration of impacts and relationships.

25 MR WILSON: I'm – look, I think we were advised that option 2 was the preferred option by council and that – but its decision has been deferred pending - - -

MR MURRAY: Yes.

30 MR WILSON: - - - some further work on 45 McLaren Street.

MS HARVEY: Correct. So just be mindful that when we made the Gateway determination we weren't aware what council's preferred options - - -

35 MR WILSON: We – I read that. Yes.

MS HARVEY: Yep.

40 MR MURRAY: Yep.

MR WILSON: That comes through in your report.

45 MS HARVEY: Yep.

MR COUTTS: Do you have a different view now that you do know what council's
- - -

MS HARVEY: In terms of - - -

MR COUTTS: What the determination is in terms of where you landed with your Gateway determination?

5

MS HARVEY: No. I don't think there's any change, because, as I said before, we considered both the first option and the second option in both the gateway, so I don't think it would have changed anything.

10 MS W. LEWIN: And the possibility of it not having an overall masterplan where the masterplan is actually just site-specific approvals; was that part of the picture as well?

MS HARVEY: Well, that's the council's preference - - -

15

MS LEWIN: That's the preference, but – yes.

MS HARVEY: - - - to take forward site-specific planning proposals.

20 MS LEWIN: How would this project sit with you in real terms, in terms of its height? It's at the northern end; it's the – in term of topography and so on. It's really going to be a much more substantial proposition in form than many of the other proposed sites.

25 MR MURRAY: I think we need to come back to the purpose of a planning proposal to help answer that question. The purpose of a planning proposal is to give enough certainty for people to go and do the detailed work to see if the proposed height, floor-space ratio, is suitable for that site. Hence, the conditions of consent – sorry – conditions of the gateway are there to actually refine what will be the final building
30 envelope - - -

MS LEWIN: Sure.

35 MR MURRAY: - - - at the end of the process. So for us to contemplate without – and answer that question without council, while they have a preferred option not being adopted to not having the outcomes of this detailed work, it's very hard for us as officers of the department to say it would be the right – same outcome or whether it should be So starting the process might mean we're proposing a building of X metres. Doing the detailed studies might actually reduce site coverage, FSR and the
40 height. So I'm not trying to be a bit obtuse, but it's very hard for us to give a specific comment to that, because we don't have the evidence that we've asked the council to go and provide.

45 MS LEWIN: I understand that, but arising from an answer to the last question, which in relation to the heritage item and how it was going to be threaded into it, I suppose, protected, it seems as though that detailed consideration was quite clear and I was wondering about the general form and proposition. So if – without it being

an overarching masterplan, was there any other consideration other than the heritage item and the overshadowing that you think that the height is a reasonable starting point for the decision to be made about site-specific merit?

5 MR MURRAY: Yes. And I suppose that's because that's the purpose of any change of zone or changing of planning controls.

MS LEWIN: Yes. I understand that.

10 MR MURRAY: There's – someone sets an envelope and the envelope - - -

MS LEWIN: Sure.

15 MR MURRAY: - - - is refined. Also, we had to have regard for the location of this precinct in regard to the new public transport facilities and the fact that it provides very logical and easy access to that, and part of the thing is, well, whatever comes through this area should actually be contributing to making best use of the state-led infrastructure.

20 MS LEWIN: preparing the report.

MR WILSON: Just in terms of the expectation when it comes to exhibition, there's some conditions in here, and I think there was a condition also of the planning panel was to exhibit this planning proposal with the masterplan options. We understand
25 from council's submission that they believe they have responded adequately to the metro in terms of uplift and so forth, and they have got a lot of bulk in the southern part of the precinct. Is that something that you would expect to be tested as part of the exhibition process?

30 MR MURRAY: Well, that's the purpose of them actually putting the whole package out. One is to inform the community.

MR WILSON: Yes.

35 MR MURRAY: So – very importantly – two, for the relevant government agencies to get an actual understanding of the potential yield that we could develop across these sites and, through that, the work that we've asked them to do is to look at that, and so, in particular, say, update the shadow diagrams. So if the shadow diagrams say we're losing – having too much impact, well, there's a couple of responses. One
40 could be a lowering of height, two could be a much narrower tower with a faster-moving shadow, so there's a whole range of ways of addressing that. The purpose of exhibition is to seek all types of feedback - - -

45 MR WILSON: Yes.

MR MURRAY: - - - and to see – while we’re asking for comment on this site, we’re saying to everyone, “Well, note, council is going through a broader planning exercise around it and you should also be aware of that to inform your comment.”

5 MR WILSON: Well, I guess my question is coming from, well, we’re trying to test the precinct and its ability to absorb additional floor space, and I guess council has a proposal, and it’s this proposal and they need to be considered as a package, I would have thought.

10 MR MURRAY: But, also, at the same time, as council has chosen to deal with each of the sites within whatever their master-planned outcome - - -

MR WILSON: Yes.

15 MR MURRAY: - - - it actually – you’re going to get variations within that and – because the masterplan says indicative heights – space.

MR WILSON: Yes.

20 MR MURRAY: So the fact is that if they were doing a true masterplan, they would uplift the whole site at once and deal with it in its entirety, where they’re, for whatever reasons, and they’re entitled to as the local planning authority, doing it on a piecemeal basis and therefore – well, on an individual basis, not a piecemeal, wanting to do deal with individual planning proposals, which is going to create the
25 same issue on every potential site through there if any of those landowners, including themselves – I think they own land in the precinct – seek to have an uplift greater than the masterplan.

30 MR WILSON: Just – the panel in its deliberations recorded in its findings that it’s difficult to provide separation in North Sydney. Any comment on that in terms of the precinct and this building?

MR MURRAY: So when - - -

35 MR WILSON: I guess it formed – part of their decision-making process was that, retrospectively, they can’t see – it’s difficult to put in new buildings and achieve additional capacity - - -

MR MURRAY: Yes.

40

MR WILSON: - - - because of the constraints in terms of overshadowing generally.

MS HARVEY: I think it was also – just to step in – part of that is also just the density. So when we look at CBD centres - - -

45

MR WILSON: Yes.

MS HARVEY: - - - generally achieving the required separation under the ADG in its purer sense is sometimes difficult, and we do try and apply that in its purer sense, so 12 metres from boundary to, you know, properties or what have you is generally how we apply it. But, of course, through, you know, refining the design and through
5 other measures, sometimes those separations can be reduced, but I think also the comment that came from the panel, not necessarily on their behalf, was that they recognised that it can be tricky to do that and had other precedents in North Sydney and probably in the city to demonstrate that fact.

10 MR MURRAY: Because there's certain – the design guideline isn't a statutory document - - -

MS HARVEY: Correct.

15 MR WILSON: Yes. No. I appreciate that.

MR MURRAY: - - - and the department has put out very clear advice to assist councils in their interpretation on that.

20 MR WILSON: Okay.

MR COUTTS: One of the things that council seem to be particularly concerned about is – and the reason they didn't – say they didn't put an uplift on that site was because of the potential impact of those two towers – I can't remember the names of
25 them now – but the residential towers that currently have views across to the east.

MR WILSON: Yes. There's two towers just generally to the south-west of the current site, which would be, well, impacted by any tower on this site at 41 McLaren Street.

30 MR COUTTS: And that seemed to be a pretty strong driver for council's decision around the master-planning process to not give an – ultimately not to give an uplift on that site and presumably taking the view that it expressed to us that that was a consideration following the comments they received in response to the first option to
35 the masterplan.

MS HARVEY: It's interesting you say that, because the council's reporting in the – that was for the masterplan indicated an uplift on those sites, so maybe have a look back at some of the information that they prepared for that masterplan.

40 MR COUTTS: Is this the first masterplan or the second masterplan?

MS HARVEY: This is the second version of the masterplan document.

45 MR WILSON: Option 1.

MS HARVEY: So not just option 1 and 2. So council initially did stage 1 masterplan and then this – these two options that you have now are the stage 2 options 1 and 2.

5 MR COUTTS: Yes.

MS HARVEY: So in the documentation that they have done for stage 2, it actually talks around expectations for those sites to actually have an uplift. They don't express to what degree, or beyond what may be afforded now. I think the other thing
10 to note is when we say council didn't want to see an uplift for 41 McLaren, option 1 actually considers uplift. So I'm not - - -

MR WILSON: Option 1, my understanding, was a response to stage 1 which identified – my understanding, that stage 1 identified that there was a lack of
15 feasibility in terms of what was proposed and there was a response and that response was option 1 of stage 2, but – then option 2, my understanding, was adopted by council for other reasons.

MS HARVEY: Well, it hasn't technically been adopted yet.
20

MR WILSON: Yes. Well – sorry – recommended.

MS HARVEY: So option 1, is my understanding, was based on the different arrangements for the open space.
25

MR WILSON: Right.

MS HARVEY: So part of the ability to move the internal open space – so council wanted to prepare the plaza – was actually shifted on towards Miller Street so that it
30 would actually have a different space and relationship. There was still to be some space in the central part of the Ward Street Masterplan, but it wasn't as big. The other thing to note is when we looked at the work that council had also done for options 1 and 2, it actually showed that the car parking site south of 41 McLaren Street actually had overshadowing to this plaza as well and it was questionable
35 whether or not some of the expected overshadowing from 41 wasn't actually all 41, but perhaps also that of the council's own development.

MR WILSON: Okay.

40 MS HARVEY: So I thought I would just clarify some of the things that we picked up in the council's work.

MS LEWIN: Sure.

45 MR WILSON: Okay. Look, I think that's all I have to ask. Thank you for coming.

MR COUTTS: Thank you.

MR MURRAY: Thank you.

MS HARVEY: Thanks.

5

RECORDING CONCLUDED

[12.56 pm]