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**TRANSCRIPT OF PROCEEDINGS**

TRANSCRIPT IN CONFIDENCE

O/N H-1195781

**INDEPENDENT PLANNING COMMISSION**

**MEETING WITH DEPARTMENT OF PLANNING, INDUSTRY AND ENVIRONMENT**

**RE: CABRAMATTA TOWN CENTRE EAST GATEWAY DETERMINATION REVIEW**

**PANEL:** RICHARD MACKAY  
PETER WILLIAMS

**ASSISTING PANEL:** STEPHEN BARRY  
CASEY JOSHUA  
CALLUM FIRTH

**DEPARTMENT OF PLANNING,  
INDUSTRY AND ENVIRONMENT:** TERRY DORAN  
ELEANOR ROBERTSON

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

**DATE:** 12.52 PM, MONDAY, 11 MAY 2020

MR MACKAY: So good afternoon and welcome. Before we begin I would like to acknowledge the traditional owners of the land on which we are virtually meeting, and I would also like to pay my respects to their elders past and present. Welcome to the teleconference today to discuss the Cabramatta Town Centre East Gateway

5 determination review which was requested by Fairfield City Council. My name is Richard Mackay. I am the chair of this Independent Planning Commission panel and joining me is my fellow Commissioner, Dr Peter Williams. Casey Joshua and Callum Firth are from the office of the Independent Planning Commission and are also in attendance.

10 In the interests of openness and transparency and to ensure the full capture of information, today's teleconference is being recorded and a full transcript will be produced and made available on the Commission's website. The teleconference is one part of the Commission's consideration of the Gateway determination review  
15 request. 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 and I should say that we have reviewed the documentation provided by the department, we have inspected the subject site last week and earlier today we met with representatives from the proponent and, in a separate meeting, met  
20 representatives from council, both council staff and council's .....

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  
25 any additional information in writing which we will then put up on our website.

To ensure the accuracy of the transcript, I request that all members today introduce themselves every time before speaking and for all members to ensure that they do not speak over the top of each other, please. So in that regard, we shall begin but could I  
30 please invite the representatives from the Department of Planning, Industry and Environment just to identify yourselves and say hello, please.

MS ROBERTSON: Hi, there. My name's Eleanor Robertson. I'm the acting director Western at the Department of Planning, Industry and Environment.

35 MR DORAN: Yes, hello. Terry Doran. I'm the manager of Western and I report to Eleanor.

MR MACKAY: Right well, thank you. Thank you both. We've just got a short agenda today. There are a couple of additional questions that arise from our meetings this morning but the department did receive a letter from the Commission dated the 4th of May and it would be great if we could address the questions that were raised in that letter. But before we do that, may I invite Eleanor and/or Terry to perhaps just provide a brief introduction or overview of the department's Gateway determination, please.

MR DORAN: Do you want me to do that, Eleanor?

MS ROBERTSON: Yes, please.

5 MR DORAN: All right. The, the planning proposal was adopted by Fairfield council and sought to increase the heights and provide FSR controls, also identify the site on a minimum site area map and apply site areas that describe in that map. It also sought to introduce callers, local callers, that provides additional controls ..... on the site. Those controls relate to height and FSR and an application of the  
10 development control plan. Is that sufficient overview?

MR MACKAY: It's Richard. Thank you, Terry. That's helpful. So that – the Fairfield council request has now been referred to the Independent Planning Commission and arising out of our initial consideration there are some questions for  
15 the department. So it's probably most efficient if we move to those, please. So the first - - -

MR DORAN: Yes.

20 MR MACKAY: - - - one related to the scope of the review and without anticipating where we might land, if we were of a view to support the council's height request, which is for some lower heights, there would be a related density issue and our request was would it also then be propriety for the Commission to make a related recommendation about FSR, please.

25 MS ROBERTSON: I'm - - -

MR DORAN: Sorry.

30 MS ROBERTSON: I'm happy to take this question, Terry. It's Eleanor here. In our, in our, in our Gateway assessment report, we do acknowledge that the work undertaken between council officers and the proponent to align the height and FSR controls to, I guess, restrict the built form of the proposed development. So in the department's view it would be appropriate if – for the Commission to consider or  
35 make a recommendation about the FSR controls.

MR MACKAY: Thank you, Eleanor. That's a very clear and succinct answer. It's Richard, sorry. Can I just check? I mean, that makes it very clear to me. Peter, did you have any further query or question about that? You're muted. You're muted,  
40 Peter.

MR WILLIAMS: Muted, yes. Sorry about that. Can you hear me now?

MR MACKAY: I can.

45 MR WILLIAMS: Yes, sorry. It's Peter Williams here. No, that's, that's, that's clear. That's very clear. Thanks for that. Thank you.

MR MACKAY: It's Richard again. Well, look, the second question really relates to the draft instrument as it is at present. The Gateway determination supports the introduction of a new local clause for the site, that's 7.9, and provides additional controls for the redevelopment of the site in relation to the building height and the FSR.

5 What we – I mean, the question has been provided in the letter but what we were observing is that as the draft controls are at the moment, they appear to turn off the height controls at 4.3 and 4.4. They also seem to turn off the Cabramatta specific controls. So we are just querying how clause 4.9 would achieve the height and FSR controls described in the Gateway determination, that is the controls that would be

10 provided for through condition 1, please.

MS ROBERTSON: So do you mean separately from – so there's an existing – does it – you may be aware that there is a Cabramatta – already similar style clause in the LEP which I believe is clause 7.3 relating to Cabramatta. I understand that clause 15 7.9 would be a new – would be a new clause for this precinct which would restrict the achievement of the maximum height and FSR that is specified in clause 4.3 and clause 4.4, allowed under the LEP, unless a minimum amount of residential development is provided in a proposed development.

20 MR MACKAY: It's Richard.

MS ROBERTSON: Does that – sorry. Does that answer the question?

MR MACKAY: Thank you, Eleanor. No, not quite.

25 MS ROBERTSON: Sorry.

MR MACKAY: In that 7.9, in terms, turns off 4.3 and 4.4. It also turns off 7.3. So we are understanding and acknowledging the objectives with respect to the quantum 30 of residential development, but what we can't see is where would the FSR and height controls for this height exist because they would not exist in 4.3 and 4.4 and they would not exist in 7.3. So where would they be provided for, please?

35 MS ROBERTSON: Just one moment. I just would like to look at that argument. Or Terry, if you'd like to join in.

MR DORAN: .....

MS ROBERTSON: Yes, you can.

40 MR DORAN: I think I'd like to. I think there's a misunderstanding of the interpretation of the clause, that those standards are only turned off if the development doesn't do something. It's actually, if I could describe it, as a reverse bonus clause. So if you meet a particular residential standard, you then can achieve 45 the maximum height and FSR as specified under the LEP.

MS ROBERTSON: So - - -

MR WILLIAMS: It's Peter Williams here. I think the query is where will that be in the LEP, the new controls for the site?

5 MR DORAN: Those controls are there because it – but they still exist. They're not turned off forever. They're just turned off until such time as is demonstrated that the requirement in the clause will be met. In this case in terms of a percentage of residential development. So just – once you're above that 50 per cent, the existing standards, the maximum height and FSR will apply.

10 MR WILLIAMS: And where will those maximum heights and FSRs be found?

MS ROBERTSON: They should be found on the map, shouldn't they?

15 MR DORAN: They're under the - - -

MR WILLIAMS: ..... the maps, that's all.

MR DORAN: Well, yes. Those clauses, 4.3 and 4.4, which referred to the height, the maximum heights on the map.

20 MR WILLIAMS: Right. So I think that's the point we're getting at. So the reference to the – so there'll be a general provision somewhere, presumably in clause 4.4 and 4.3 that will say that the heights that apply were those found in the height control map and the FSR control map and so - - -

25 MR DORAN: Yes.

MR WILLIAMS: ..... for those sites, these are now the new height and FSR limits.

30 MR DORAN: Yes. That – those limitations ..... so I haven't looked up the actual clauses but normally they refer to the maximum heights and the standard that's shown on the map.

MR WILLIAMS: Yes.

35 MR DORAN: And consequently the new clause they're introducing simply says if you make 50 per cent ..... you can go to those maximum standards that are specified in 4.3 and 4.4, via the maps.

40 MR WILLIAMS: Okay. And that's referred to in – I haven't got the proposed clause 7.9 in front of me, but that, that's, that's ..... in the proposed clause 7.9.

MR DORAN: Well, that, that 7.9 says if you meet that standard, you can apply the maximum heights and FSRs that are specified via 4.3 and 4.4.

45 MR WILLIAMS: Right.

MR DORAN: So it doesn't – it doesn't – just going back to your original question, if doesn't turn those standards off. It just, it just provides requirements to meet those standards. The standards always remain.

5 MR WILLIAMS: Yes.

MR DORAN: 4.9 just simply – sorry, 7.9 simply says, well, if you don't do that, here's a standard for you. If you meet the requirement in 7.9, you then can go to the maximum controls in 4.3 and 4.4.

10 MR MACKAY: It's Richard. Thank you, Terry, that's clear. And is it then presumed that the maps to which 4 – whichever the height control map is, will be amended to reflect the outcome of this Gateway determination process?

15 MR DORAN: Correct.

MR MACKAY: Got it.

20 MR DORAN: Correct. Sorry, I'll have to go back and look at the ..... but I'd assume that would be the case. And also, as pointed out earlier, that control already exists in the LEP so they're actually bringing this – sorry. Those clauses already exist in the LEP so consequently they're bringing it to this new precinct, precinct area E, as described in the planning proposal.

25 MR MACKAY: Yes.

MR DORAN: So what I'm trying to say is it's not a – it's not a – while the ..... new clause and it is, because it varies slightly, it's the same – it's essentially the same clause that's in the LEP now to ..... Cabramatta Town Centre.

30 MR MACKAY: Terrific. Terry, thank – it's Richard. Terry, thank you. That's clear and I think that answers the Commission's questions. So thank you for that.

MR DORAN: Thank you.

35 MR MACKAY: While we're on the sort of structure of the documents, it was brought to our attention by the council officers that council has adopted a new local strategic planning statement on the 30th of March and they were putting to us that it would be necessary for the planning proposal to be amended accordingly so that it 40 has regard to that statement in terms. Would it be possible for one of you to just step us through how that process actually works from here, please? We will – they are going to send us the planning statement and we will have regard to that in terms of our decision. But just how does it actually operate in relation to the planning proposal, please?

45 MS ROBERTSON: Sorry, I'm just – I'm not clear on what council's asking – so if you could just explain that for me again, Richard? Sorry. I'm just not clear on what

council's – is it the planning proposal that would need to be amended? Is that what they're saying? So that it's consistent with the LSPS?

MR MACKAY: Yes. This is Richard. Yes, that's what they're saying.

5

MS ROBERTSON: Okay.

MR MACKAY: And we are not aware of any inconsistencies, let us say. We're yet to look at the recently adopted planning statement but council was highlighting for us 10 that the planning proposal would therefore need to be amended or aligned.

MS ROBERTSON: I don't know, off the top of my head, exactly what the LSPS says exactly with regard to that site. So we'd probably need to – we'd properly need to check that with regard to then how that – how the planning proposal might need to 15 be amended. Terry, do you have any other comments?

MR DORAN: Yes, so – can I just offer the comment. In terms of the department assessing a planning proposal, it's required to look at ..... look at particular aspects. One is the strategic, how it complies. So originally we would have looked at it in 20 terms of the district plan. So the LSPS needs to be consistent with the district plan. So it would not be anticipated that the – that it would be a great deal of change. The LSPS, however, would provide more detailed information regarding its consistency with the district plan.

25 So certainly, if we were – were viewing the proposal and issuing a different Gateway condition, as a matter, just to ensure consistency, we probably would look at the LSPS now that it's been through that particular process. But I wouldn't be – because LSPSs are consistent with the district plan, or they're required to be, I could not anticipate there would be any major changes to the planned proposal. I hope that 30 helps.

MR MACKAY: Richard. Yes, Terry, I think that's really clear and it's very helpful to us. And as I said, we need to actually receive and review this recently adopted statement but that provides really helpful context of where the – what the 35 department's considered and as you say the fact that the LSPS is consistent with the district plan that's already been considered is highly relevant. Thank you.

MR DORAN: Thank you.

40 MR MACKAY: There is one other question that arose out of our engagement with council officers and consultant this morning and that simply related to a visual impact assessment. The proponent provided us with a visual impact assessment last week and we did raise some queries with the proponent this morning which were answered. The council consultant advised us this morning that he was only in receipt 45 of that visual impact assessment last week and so I just wanted to query with the department, was there a particular reason that that was not provided as part of our original set of documents as part of the referral to the Commission, please?

MR DORAN: Do you want me to answer that one?

MS ROBERTSON: Yes, please.

5 MR DORAN: Yes. Quite frankly I'm not so sure. The – all the documents that we had received at the time of the preparation of the assessment report to the Gateway were provided to the IPC. Is this a more recent analysis provided by the applicant?

10 MR MACKAY: It's Richard. Yes. My understanding is the applicant submitted this to the department in December.

15 MR DORAN: I'm just looking at our attachments. We had attachment E2, urban design review, but that was – if that was the December one. But certainly that was provided, I understood, to the IPC. I'll go back to our work document.

MR MACKAY: Look, I think this is a different document. It's Richard. I think this is a different document, Terry. If it's easy for the department to do, I think it would be helpful for us to just understand where this document fits in the sequence. The bottom line - - -

20 MR DORAN: Right.

25 MR MACKAY: - - - it's been sent to us by the applicant. It's going to be up on our website imminently and we have already discussed it with the proponent and with the council officers and we've offered the opportunity for the council to have some time, if they want to make some further representations about it. So it would, for completeness, it would be helpful to just understand where it sits in the department's process. But from our point of view, it's in play as a document to which we'll have regard in making our decision.

30 MR DORAN: Yes. Sorry, it's Terry again. I – but certainly – it's on the Gateway review ..... sits on the delegate – I'm just looking back now. The – our Gateway ..... was based on the information we had at the time and that particular one I think was March 2018. So it's certainly a later – a later document. But - - -

35 MR WILLIAMS: Yes, Terry. It's Peter Williams here. Yes. It was lodged – submitted by the proponent I think it was dated the 9th of December and the - - -

40 MR DORAN: Right.

MR WILLIAMS: - - - study of the visual impact assessment was prepared by GLN for them.

45 MR DORAN: Right.

MR WILLIAMS: Yes. Yes. So obviously that's post the Gateway review – sorry, the Gateway - - -

MR DORAN: Yes.

MR WILLIAMS: Yes.

5 MR MACKAY: Okay.

MR DORAN: Yes. So then we acknowledge that but our determination was based on the information we had at the time and interestingly enough, our determination, as you know, was to be seen on the council officer's recommendations for the higher –  
10 higher building height, so we were satisfied at the time that information that we received supported that recommendation.

15 MR MACKAY: It's Richard. Terry, thanks. Look, I think – I think that's – you're most welcome and you're invited to provide us with some supplementary advice about the sequence should you wish, but it does seem to me - - -

MR DORAN: All right.

20 MR MACKAY: - - - that actually what's happened is you've made the determination; you've sent us the documents on which that was based. The proponent has put this report in play during that process. It's now been provided to the council. Because it's in play, we'll have regard to it but that's how that's come about.

25 MR DORAN: Yes. I think that's fine, yes.

MR MACKAY: So, look, thank you.

30 MS ROBERTSON: Richard, Eleanor, here. I just also note that our – that our Gateway assessment report noted that we recommended that prior to public exhibition, that council prepare a visual impact assessment for the planning proposal so that the visual impacts on the surrounding area could be appropriately considered.

MR MACKAY: It's Richard. Thank you for that advice, Eleanor.

35 MS ROBERTSON: That's okay.

MR MACKAY: Now, can I just check, firstly, with Peter Williams, if you have any other questions for the department representatives, please, Peter?

40 MR WILLIAMS: No. I think that's all, Richard, thanks very much. Thank you.

MR MACKAY: And with the IPC staff, Casey and Callum?

45 MS JOSHUA: No questions from me, thanks.

MR FIRTH: No, thanks, Richard.

MR MACKAY: And then Eleanor and Terry, is there anything else that the department would like to draw to our attention while we're speaking to you on the matter?

5 MS ROBERTSON: Nothing – nothing from my perspective, Richard. Eleanor here, sorry. Terry, would you like to add anything?

MR DORAN: Yeah. Terry. Nothing from me, thanks.

10 MR MACKAY: Okay. Well, can I – I mean, I'm conscious of the challenges of the technology so thank you both for making yourselves available. It's very helpful to just have this engagement as part of our process. I've already summarised at the beginning of this discussion what we've done. We will be giving a short amount of time, a matter of days, to the council if they wish to come back with any further  
15 comments to us, especially in relation to this visual impact assessment. I'll ask the Commission officers to disclose the link with the department. Please don't feel you have to say anything more than has been said in this meeting, but if you did want to clarify anything, again, that would be a matter of days.

20 We are expecting that we will make our decision on this matter within the required time frame. It will be published and then you, of course, will hear about it directly. So I think there being no other waving on screen, it remains for me to just say thank you very much. Good luck in these strange times and we will get on with making our decision.

25

MS ROBERTSON: Thanks. Thank you, Richard.

MR DORAN: Thank you.

30 MR MACKAY: Thanks, Terry. Thank you.

MS ROBERTSON: Thank you.

MS JOSHUA: Thanks Peter. Thank you. Casey and Callum. See you later.

35

MR DORAN: Bye bye.

MS ROBERTSON: Bye.

40

**RECORDING CONCLUDED**

[1.16 pm]