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TRANSCRIPT OF PROCEEDINGS

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INDEPENDENT PLANNING COMMISSION

COUNCIL MEETING

**RE: GATEWAY DETERMINATION REVIEW FOR 79, 95, 100 BELLS LANE AND
457 BELLS LINE OF ROAD, KURMOND**

COMMISSION PANEL: **MR CHRIS WILSON (Chair)**

OFFICE OF THE IPC: **MS JANE ANDERSON**

HAWKESBURY **MS COLLEEN HARON**
CITY COUNCIL: **MR ANDREW KEARNS**

LOCATION: **VIA VIDEO CONFERENCE**

DATE: **3.00 PM, THURSDAY, 11 MARCH 2021**

MR WILSON: Okay. Just before we start this, do you have an opening statement which would make for your submission at all? Before we begin, I would like to acknowledge all traditional owners of the lands on which we virtually meet. I pay my respects to elders past, present and emerging. Welcome to the meeting today to
5 discuss the Gateway Determination Review for 79, 95, 100 Bells Lane and 457 Bells Line of Road, Kurmond. My name is Chris Wilson. I'm the chair of this Commission Panel. We're also joined by Jane Anderson and Lindsey from the Office of the Independent Planning Commission. Is Lindsey with us, Jane?

10 MS ANDERSON: He wasn't able to make it, Chris, so - - -

MR WILSON: Okay.

MS ANDERSON: - - - it is just me today.
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MR WILSON: In the interest of openness and transparency to ensure the full capture of information, today's meeting is being recorded and a full 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
20 sources of information on which the Commission will base its replies. It is important for the Commission to ask questions of its attendees and the clarify issues whenever it is considered 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 up on our website. To ensure accuracy
25 of the transcript, I request all members here today introduce themselves before speaking for the first time and for all members to ensure they do not speak over the top of each other. We will now begin. So should we just quickly go through? We've done the introductions on our side but maybe for the

30 MR KEARNS: Yes. Andrew Kearns. Manager for Strategic Planning.

MS HARON: Colleen Haron. Senior Strategic Land Use Planner.

MR WILSON: Okay. Thank you very much. So essentially, it's just a general
35 agenda. So we can really just discuss, I guess, the context and the issues surrounding the proposal. So I guess what we'd like to hear from you – we've read a fair bit of material, I guess, but just a summary of the process to date.

MR KEARNS: Yes, okay. So I guess to set out a bit of context. So from 2012 to
40 2013 and then continuing until 2016, Council received a number of individual planning proposals in the vicinity of Kurmond and Kurrajong. So Kurmond and Kurrajong are rural villages in LGA. Ultimately, the number of individual

- planning proposals that we did receive amounted to 25 and typically involved the demanding the minimum of size of those sites down to 4000 square metres in some instances. In 2011, Council had adopted the – what was known as the Residential Land Strategy and whilst Kurmond and Kurrajong areas were not identified as an investigation area within the Residential Land Strategy, given the fact that Council have received quite a large number of individual planning proposals particularly between 2013 and 2015, Council resolved to mount a process in terms of structure planning between Kurmond and Kurrajong.
- 5
- 10 And then balancing the undertaking that, you know, strategic and structure planning process whilst still assessing those significant number of individual planning proposals has been to be challenging to say the least. But to guide the assessment of the individual planning proposals, Council in 2015 established a set of interim principles on which to assess those individual proposals. So those development principles essentially dealt with Essential Services under the LEP had to be addressed in terms of fundamental development constraint. The scopes of sites in terms of the building apparatus, the asset protection zone was the driveways and roads had to be less than 15 per cent. The proposal had to avoid the removal of significant vegetation and minimise the fragmentation of that significant vegetation.
- 15
- 20 Additionally, building envelopes, asset protection zone was driveways and roads was to be located outside of riparian corridors and the crossings of water courses by roads or driveways was to be minimised as well. Fragmentation of riparian areas was also to be minimised.
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- MR WILSON: Just – just before you continue, can I just ask a question here. So those performance criteria, they were an interim way of dealing with proposals inside the structure plan area?
- 30
- MR KEARNS: Correct, yes. Yes.
- MR WILSON: And the structure plan area is – well, the maps that we have are a green – the green areas would be an investigation
- 35
- MR KEARNS: Yes. So there was an investigation area that was drawn up based on – loosely based on a one kilometre radius from the existing centres of both Kurmond and Kurrajong.
- 40
- MR WILSON: Yes.
- MR KEARNS: Yes.
- MR WILSON: Okay. Thank you.
- 45
- MR KEARNS: And then the last criteria was, you know, to basically – to avoid the removal of dams that contained significant aquatic habitat as well. So in terms of the structure planning work, there was obviously a number of places of work that we,

you know, Council commissioned to inform the preparation of the structure plan. That included a landscape character study and ecological and biodiversity mapping of this area and a bit wider as well. The landscape character study was specifically for the Kurmond and Kurrajong area.

5

So the landscape character study was undertaken basically just to determine what aspects of the cultural and natural landscapes positively contribute to making the area identifiable and unique and to also provide a suite of recommendations in terms of appropriate locations, typical lot sizes and built form character that future development in the investigation area. Also at the same time, I probably should note there was the release of the Sydney Regional and Western Sydney District Plan in March 2018. And particularly relevant is obviously the metropolitan rural area that those plans introduced. And I guess it's fair to say the position in terms of – of that has been an evolving process with to the Commission and the Department of Planning.

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So at the same time as – and taking our structure work and studies, we – you know, we continue to process those individual planning proposals. And obviously the processing of those proposals was informed by that – that work that we had undertaken to exhibit the various studies. This proposal itself that we – that the Commission has been asked to look at was originally received in January of 2015. The gateway was actually received as a result of a gateway review process in 2018. The proposal was – since it was originally lodged was as – you know, as a result of ongoing discussions between Council officers and the applicant. And the changes to that proposal have been informed by a number of things. Obviously the interim principles that the Council adopted, the works that Council has done in terms of studies associated with the preparation of a structure plan and the gateway review decision as well.

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And we've essentially progressed to a point where as officers, we were comfortable with the proposal and we were about to commence the public exhibition which was when the amended gateway was received in April 2020. And then there's obviously been a subsequent process in terms of that – that matter that's led to the Commission's involvement.

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MR WILSON: So can I just ask a question. Have you got – sorry, there's probably more. So maybe you could talk a little bit more about your draft. If you – you have a bit more to talk about - - -

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MR KEARNS: Okay.

MR WILSON: we're arranging now. But maybe you might want to talk to your local planning statement and its rural - - -

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MR KEARNS: Yes.

MR WILSON: - - - land strategy area draft housing strategy.

MR KEARNS: Yes. Okay. So obviously in that intervening period, sort of Council has progressed a number of treaty planning documents. So we've had – our local strategic planning statement has now been finalised and that's been adopted by Council on the 23rd of February of this year. Having, you know, received the
5 assurance for the greater city Commission. We've also undertaken the local housing strategy which was adopted by Council on the 8th of December of 2020 and that's obviously going through a process of approval through the accredited department prior to finalisation of that. Council has also undertaken a rural lands strategy which was presented to Council on the 8th of December 2020 where Council agreed to
10 process that draft on exhibition and we're due to report back that matter to Council at the end of March of this year.

So also in the intervening period, we've presented the draft Kurmond and Kurrajong structure plan to Council in June of 2020. Having considered it at that time, Council
15 actually resolved to defer finalisation of the structure plan until the local strategic planning statement, the local housing strategy and the rural lands had been completed. Then commenced in February of this year to call for reports for Council to consider - options for Council to consider finalisation of the structure plan. That report went to Council on the 23rd of February and Council actually
20 resolved not to adopt the structure plan and to assess any remaining individual planning proposals that existed within the investigation area against the interim development constraints principles and obviously against the Sydney region plan and district plan.

25 MR WILSON: That was my next question. So - - -

MR KEARNS: Yes.

30 MR WILSON: - - - without principles were broadened to take the whole investigation, not just structure plan area. Is that right?

MR KEARNS: So the principles apply to the structure plan area to deal with those individual remaining planning proposals that exist within the structure plan area. That's what the Council's resolution was to do. Yes.

35 MR WILSON: I see. So notwithstanding native - native sorry, I'm just trying to get this correct. They deferred completion of the structure plan but at the same time or some time later, they resolved to try and resolve the outstanding plan proposals by
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MR KEARNS: Yes. And in June of 2020, Council resolved to defer consideration of the structure plan until a number of those higher level documents were completed, being the local strategic plan statement - - -

45 MR WILSON: Okay.

MR KEARNS: - - - housing strategy and rural lands.

MR WILSON: Yes. Got you.

MR KEARNS: And then on the 23rd of February, they resolved not to adopt the structure plan and for any remaining planning proposals still being processed through
5 the system, to consider those against the interim development constraints that were developed in 2015 plus the Sydney region plan and district plan.

MR WILSON: Andrew, would you characterise the performance criteria a site
10 specific issue or they're more – they're very - - -

MR KEARNS: Yes. No, I'd probably categorise the majority of those criterias are site specific. So it was basically a required individual assessment of each of those proposals against those criteria.

MR WILSON: Thank you. But it was a means of continuing to – I mean, they all had end dates, didn't they? So I guess Council were obliged to continue to progress them then. To progress them.

MR KEARNS: Yes. We – and as I say, we ended up with 25 individual proposals
20 overall and a number of those have been finalised to date. And currently, there's six remaining proposals at hand.

MR WILSON: When you mean the majority of the – say there's 19 that have been finalised, do they all – they all progress?
25

MR KEARNS: Not all progressed.

MR WILSON:

MR KEARNS: So some – some were withdrawn and others just haven't proceeded.
30

MR WILSON: Okay.

MR KEARNS: But a number did proceed, yes.
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MR WILSON: Okay. All right, thanks. So what about in terms of what – what your local planning – sorry, the three documents went through – in terms of what they say, I mean, we will obviously look at them but presume they're consistent with the – the draft is – sorry, the district plan is adopted and the region plan. The region
40 plan, district plan go down. Are they generally consistent?

MR KEARNS: That's correct, yes. So to get that assurance through the register and the Commission would mean to obviously demonstrate consistency with those – the region plan and the district plan and additionally, our local housing strategy is also
45 reflective of that in that, you know, our housing targets are relatively modest. Our housing target is 1,150 dwellings and that's reflective of the fact that Hawkesbury has a number of significant constraints to development by way of floods, bushfire,

environmentally sensitive areas, the RAF base in terms of noise attenuation and so forth there. So yes, we don't have extensive housing targets our housing strategy has to address and we have a number of existing greenfield developments, whether it's assisting commitments in terms of zonings. So we've got part of the north west
5 grove area and stage 1 which is water at 2,500 lots. We've got the Redbank development area at which is 1,400 lots. We've got a greenfield site at which was 580 lots and then we've got a balance of residential development that's occurring at Town.

10 So within those existing development sites, commitments, if you like, the - - -

MR WILSON: Yes.

15 MR KEARNS: - - - development has needs.

MR WILSON: What does it say – what does the housing strategy say about rural and residential properties? I guess, it doesn't really say anything, probably, does it?

20 MR KEARNS: So the housing strategy identifies that that – at the time, Council was undertaking structure planning processes for the - - -

MR WILSON: Yes.

25 MR KEARNS: - - - new investigation area. And I guess it really highlights that we were not relying on those, any numbers out of that structure planning process to meet housing targets at all. No.

30 MR WILSON: And putting aside housing targets, I'm interested to disputed about whether rural, residential or lifestyle, was supported or not supported or – I haven't - - -

MR KEARNS: I'm

35 MR WILSON: I'm sorry, Andrew, I haven't been - - -

MR KEARNS: Yes. So in terms of district plan, obviously there's the metropolitan rural area. Context - - -

40 MR WILSON: Yes.

MR KEARNS: - - - discusses rural residential and sort of highlights that it's generally not supported within the metropolitan rural area. So I guess it's not saying it's completely out of the question but as a general rule - - -

45 MR WILSON: Yes.

MR KEARNS: - - - we're not looking at widespread rural residential areas. So the number of areas that we can look at, it's not all opportunities.

5 MR WILSON: Can I ask another question. I mean, the timing of this one is interesting to me because when the first gateway – and I might be wrong here so correct me if I'm wrong – when the first gateway determination was made an issue with Commissions, the district plan and the region plan had been adopted. Is that correct?

10 MR KEARNS: So we'll just double check the date of the gateway. So obviously the district plan came in in March - - -

MR WILSON: March.

15 MR KEARNS: - - - 2018. I'll just double check the date of the gateway.

MR WILSON: Well, I have it here. The gateway is – look, well, I have it here. What we think it is is that the gateway determination on the 23rd of June.

20 MR KEARNS: 23rd of June. Yes, correct. Yes.

MR WILSON: So I guess my question is: was the Council – did the Council and was the proponent asked to consider those documents at the first gateway determination?

25 MR KEARNS: So when the gateway review meeting happened, the – the district plan hadn't been - - -

MR WILSON: Okay.

30 MR KEARNS: - - - released at that stage. Yes. So - - -

MR WILSON: The department, once - - -

35 MR KEARNS: Yes.

MR WILSON: - - - there was – I note there's several months between the documents coming out and the gateway determination, but - - -

40 MR KEARNS: Yes.

MR WILSON: - - - it didn't ask for – they asked them to – asked the proponent - - -

MR KEARNS: No. No.

45 MR WILSON: Okay. All right. Jane, do you have any questions at this stage?

MS ANDERSON: Chris, my main question was just about those housing targets but I think, Andrew, you really clearly explained that they are met in other areas and aren't reliant on these planning proposals to achieve the 1,150 target.

5 MR KEARNS: That is our primary target, yes. Yes. And even our – the population projection – so our local housing strategy is based on the 2019 Department of Planning projections which has an increase of population of 10,000 in Hawkesbury LGA to 2036. So again, even with that population increase, those existing commitments and zonings, if you like, more than meets that – those projections.

10 MR WILSON: So Andrew, just a couple of other questions. Obviously there was a determination by the Commission last year in relation to number 42 that was made. Does that - - -

15 MR KEARNS: That - - -

MR WILSON: Jane? That was made?

MS ANDERSON: That's right.

20 MR WILSON: And we're trying to work out what's so fundamentally different between that one and this one in relation to not so much the – not so much the site specific or the performance criteria, which, you know, emerge, but in terms of strategic area. Because my understanding is 42 – so 42, 79, 95 all – all sit outside the structure plan. 42 wasn't deemed to have any merit whatsoever for any substitute but 25 79, 95 and 100 by the Department that consider it has some merit to the structure issue. What's fundamentally different between those – fundamental difference between those lots? To me, they're - - -

30 MR KEARNS: So - - -

MR WILSON: - - - very similar.

MR KEARNS: So between this planning proposal and the proposal that was went 35 through the – that 42,000

MR WILSON: Yes.

MR KEARNS: Yes. So - - -

40 MR WILSON: If – Andrew, if you weren't on that one and you weren't involved in that one, please – I'm not expecting you to answer. I just – but I guess if there's – if you understand what the key differences are between why the Department allowed subdivision on these ones – it's not just size, obviously. I mean, I'm just talking 45 about they're allowing at least some subdivision.

MR KEARNS: Some – yes.

MR WILSON: But whereas on 40, they've said no, none. I just want to understand why.

5

MR KEARNS: That's right. So this particular proposal was originally lodged back in 2015.

MR WILSON: Yes.

10

MR KEARNS: The beginning of 2015. There's a whole lot of reports. It's more - well, a lot since you know, reflect our interim constraints plus also the work we did in terms of our character study and our works associated with the structure plan. We – the 42 Bells Lane matter is a matter that came in in 2016 and the applicant probably at the time hadn't really amended the proposal to – to, you know, reflect the interim constraints. That sort of proceeded with the proposal based on what they wanted to continue with. So the – when officers inspected in terms of this matter, you know, given there had been a lot of ongoing meetings and discussions with the applicant in terms of amending it, as I say, to reflect the interim constraints and our total work, you know, we were in a position where we were comfortable with the proposal as we had and we were actually about to commence public exhibition of our proposal.

15

MR WILSON: And in terms of strategic context, whatever that context may be, it would be fairly similar. It's just really the work that was done on the - - -

25

MR KEARNS: Well, obviously – yes, they were obviously very similar areas but our assessment of the – of this proposal against particularly our landscape character study - - -

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MR WILSON: Yes. Yes.

MR KEARNS: - - - and sort of indicated to us that we were – we were comfortable with that.

35

MR WILSON: Okay. That's – that answers my question. In terms of what the Department has recommended, there's a comment I think – I don't know whether this is the applicant or yourself – that seems somewhat arbitrary. Can you discuss that a bit further? You know, they've recommended that they have two – I think it's – I think we've worked out that it was – that each site would get two and 100 would get nothing.

40

MR KEARNS: That's in the gateway – in their review.

45

MR WILSON: Yes.

MR KEARNS: Yes. So I mean, I – our assessment as officers if there was more potential for the sites, having considered the various bits of strategy and work and studies that we had undertaken which was, you know, the position that we had arrived at.

5

MR WILSON: Okay. All right. But I'm – no, I – okay. I understand where you've landed that and it's – that's reasonably articulate. The Department's landed on an alternative subdivision number which I think has been criticised as being arbitrary and said it's not really necessarily – so what you're saying, basically, whoever said that comment basically said it's not based on constraints.

10

MR KEARNS: So I guess the Department's drawn on some of what the Council with the structure plan that it was leading towards a one hectare minimum lot size

- - -

15

MR WILSON: Yes.

MR KEARNS: - - - for the landscape character matters that – as the pastoral landscape.

20

MR WILSON: Yes.

MR KEARNS: So that's – that's what they would have drawn upon in terms of that.

25

MR WILSON: Just in terms of looking back on the structure plan and the investigation area, Kurrajong had three areas which were continuous with Kurrajong in terms of the stature, in terms of investigation into the structure plan, yes? Sorry, I'm probably asking you questions that you're not prepared for.

30

MS ANDERSON: Andrew, just as a note, I guess, the map that we do keep referring to is on page 2 of the Department's assessment report.

MR KEARNS: Page 2. Yes.

35

MR WILSON: Sorry about that, Andrew.

MR KEARNS: That's all right.

40

MR WILSON: So if you look at – look at Kurrajong. But the areas – the areas that have been identified by Council are quite meticulous. And seemingly - - -

MR KEARNS: Yes.

45

MR WILSON: - - - on face value - - -

MR KEARNS: Yes.

MR WILSON: - - - on face value, by logical expansion from the township or the

MR KEARNS: Yes.

5 MR WILSON: But if you - - -

MR KEARNS: So - - -

10 MR WILSON: - - - look at – if you look at Kurmond, it’s quite an extension – expansion to the – I don't know, it’s east, east south. South east. I presume this is north. Is that because of the road on the – developed along the road?

15 MR KEARNS: Yes. So the areas that I've identified in that – that land that you're referring to are the areas that are – were proposed at 4000 square metre allotment sizes.

MR WILSON: Okay.

20 MR KEARNS: As you say, in terms of Kurrajong, it was the areas that were adjoining existing, built up areas, if you like. So it was a sort of natural – there was a natural progression of the Kurrajong village relative - - -

MR WILSON: Yes.

25 MR KEARNS: - - - yes, contained, you know, at close proximity to Kurrajong. In terms of Kurmond, that was really informed by the character study which – which had the landscape character element of the ridge line and was sort of highlighting that. I guess the viewsapes particularly were down towards the pastoral landscapes and beyond and - - -

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MR WILSON: Can I just ask what the ridgeline is? There’s a ridgeline at Bells Line of Road?

MR KEARNS: Yes, the ridgeline is - - -

35

MR WILSON: Okay.

MR KEARNS: - - - Bells Line of Road, yes. Correct.

40 MR WILSON: Because there's a separate ridgeline that runs – we’re a bit confused. Somewhere it says that the ridgeline is urbanised and then we went along Bells Line of Road and we thought, “Well, this can't be the ridgeline.” Because Bells Lane is on a ridge as well.

45 MR KEARNS: Yes. But no, Bells Lane comes down off of the – off of the - - -

MR WILSON: It’s lower than Bells Line of Road.

MR KEARNS: Yes. That's right, yes.

MR WILSON: Okay.

5 MR KEARNS: Yes. Yes.

MR WILSON: Okay. Now I understand.

10 MR KEARNS: Yes. It's just in settlement along Bells Line of Road is – represents closer settlement that that.

MR WILSON: Yes.

15 MR KEARNS: Yes. So we do have some lots down to probably two, two to 3000 square metres along that. Yes. So the landscape character study was identifies in terms of the escapes and it – it didn't necessarily hinge on the escapes but, you know, being on that ridgeline.

20 MR WILSON: Kurmond is quite a – quite a small village, isn't it? It's – it has very distinguishable edges.

MR KEARNS: It does, yes. Yes. Much more so than Kurrajong. So Kurmond is really restricted to a couple of shops and a service station and - - -

25 MR WILSON: Yes.

MR KEARNS: - - - a post office, really. Yes.

30 MR WILSON: Okay. Look, I don't think I have any other questions. Jane, do you have any questions?

35 MS ANDERSON: No, I don't think so, Chris. But if Andrew and Colleen are happy for us to reach out to them in the next few weeks if we do have any further questions, that would be great.

MR WILSON: Any idea on the timing of your strategic documents?

40 MR KEARNS: So obviously local strategic plan statement is adopted. The – the housing strategy is adopted by council but is going through a process with the Department for – for verification, if you like. The rural lands strategy has recently come up public exhibition and we're reporting that to Council at the end of this month for adoption.

45 MR WILSON: And you – well, I suppose you can't answer that. No. I would ask you if there would be fundamental changes, but I take that – so - - -

MR KEARNS: So in terms of the rural lands strategy?

MR WILSON: Yes.

MR KEARNS: Yes. There's not that it – not that it would affect this area, no.

5 MR WILSON: Okay. All right. That seems like it. All right. Look, that's – I really thank you of your time. I appreciate your time. That's cleared up a number of issues with myself and Jane. So thank you.

MR KEARNS: Okay. All right.

10

MR WILSON: So as I said, if we have any more questions, we'll get Jane to give you a call and we might get you to write it.

MR KEARNS: Okay. Sounds good.

15

MR WILSON: Thank you for your time.

MR KEARNS: All right. Thank you.

20

MS HARON: Thank you.

MR KEARNS: See you.

MS HARON: Thank you so much.

25

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[3.33 pm]