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TRANSCRIPT OF PROCEEDINGS

TRANSCRIPT IN CONFIDENCE

O/N H-1413386

INDEPENDENT PLANNING COMMISSION

DEPARTMENT OF PLANNING, INDUSTRY AND ENVIRONMENT MEETING

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

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

OFFICE OF THE IPC: **JANE ANDERSON**

DEPARTMENT: **ELIZABETH KIMBELL
JANE GROSE**

LOCATION: **VIA VIDEO CONFERENCE**

DATE: **1.30 PM, FRIDAY, 12 MARCH 2021**

MR C. WILSON: Before we begin, I would like to acknowledge all the traditional owners of the lands on which we virtually meet and pay my respects to their elders past, present and emerging. Welcome to the meeting today to discuss the Gateway Determination Review for 79, 95, 100 Bells Lane and 457 Bells Line of Road,
5 Kurmond. My name is Chris Wilson. I am of this chair of this commission panel. We're also joined by Jane Anderson for the Office of the Independent Planning Commission. In the interests 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.

10 This meeting is one part of the commission's consideration of this matter and will form one of several sources of information upon which the commission will base its advice. It is important for the commission to ask questions of attendees and clarify issues whenever it seems appropriate. If you are asked a question and are not in a
15 position to answer, please, feel free to take it on notice and we will put the answer to that question up on our website. To ensure accuracy of the transcript, I request that all members 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. Jane, Elizabeth, you got the – you got the agenda? Do you want to formally
20 introduce yourselves for the purpose of the transcript?

MS J. GROSE: Certainly. Hi, and thank you for having us here today. My name's Janes Grose. I'm the Director of the Central (Western) team at the Department of Planning, Industry and Environment.

25 MS E. KIMBELL: I'm Elizabeth Kimbell, manager for The Hills & Hawkesbury at the Department of Planning, Industry and Environment.

MR WILSON: Thank you. So, we just – the first item on the agenda is a bit of an
30 overview of DPIE in relation to this planning proposal and maybe some context with some of the other planning proposals which we understand, has happened or are scheduled for this area or be in progress of in this area.

MS GROSE: Yes. Look, there has certainly been a lot of activity and there has
35 certainly been an evolution of the strategic planning context over the last several years and I think to start with today we just wanted to clarify the strategic planning context for this site as at today and as of our advice a few weeks ago and we can go into detail of some of the recent council resolutions. But you will note that in our past – our most recent piece of advice, our referral to the IPC, we did indicate that we
40 would no longer recommend that this planning proposal proceed at this point in time based on the strategic planning context and lack of strategic merit. So we wanted to step through that quickly today and hopefully not repeat what has been presented to you before regarding the strategic planning context.

45 So as at today we have a regional plan and a district plan that show this area as being in a metropolitan rural area and the implication of that identification has evolved

over time and it's unfortunate that this planning proposal has been, I guess, caught in some of that policy evolution. But what it has come to mean and the council and applicant have been advised in writing as of last year is that the metropolitan rural area is clearly not a place for significant residential development within that rural area. However, there is a pathway for the Department and council to consider development at the edges of villages and on the fringe where the environmental and infrastructure constraints allow for that and the process for that is for the opportunity to be identified in the right locations through the Housing Strategy and the Rural Lands Strategy and unfortunately for this proposal, the door has been closing steadily and as at the of last year when council resolved to exhibit the draft Rural Lands Strategy and finalise the Housing Strategy, those two documents made it quite clear that there was to be no significant expansion of the Kurrajong Local Village.

MR WILSON: Specific in that we haven't those documents just yet but it's specific in those documents it says that there's nothing beyond natural growth.

MS GROSE: That's right. That's right. So the Rural Lands Strategy is probably the best land document to have a look at. What it does is analyse the potential for growth in that centre against what it calls exclusionary criteria and finds that this location is not suitable for expansion for a number of reasons: bushfire risk, flood risk, slope, lack of services and infrastructure being some of the keys one.

MS KIMBELL: And biodiversity.

MS GROSE: And biodiversity. Thanks, Liz.

MS KIMBELL: I'd also like to note that with the Housing Strategy that was endorsed by council last year there is reference to the Kurmond Kurrajong Investigation Area but only in respect to the proposals that have been rezoned and finalised. So the draft Kurmond Kurrajong Investigation Area Structure Plan which was formally not adopted by council February this year was not referenced. There was no basis for - - -

MR WILSON: Okay.

MS KIMBELL: No justification of that strategy either.

MR WILSON: So the structure can no longer be relied on. But can we just – but can we just confirm the structure plan. So the red is the investigation area, is that correct?

MS GROSE: That's correct.

MS KIMBELL: Correct.

MR WILSON: Is the – the structure plan is all – everything inside the investigation area or is just those green areas?

MS KIMBELL: The green areas represented a proposed 4000 square metre minimum lot size and the white area is one hectare.

5 MR WILSON: Okay. Right. I got you. So that was one hectare as opposed to 4000 square metres. Okay. Now, that explains

MS GROSE: And did council take you through the council resolution of the 23rd of February on this strategy as well?

10 MR WILSON: In respect of that the strategy is being put aside - - -

MS GROSE: Yes.

15 MR WILSON: - - - until the outcomes of the draft through the Rural Lands Strategy and the residential strategy and the local planning

MS KIMBELL: That was June – that was June. So mid-last year, that was the resolution when council considered the post-exhibition report for that structure plan - - -
20

MR WILSON:

MS KIMBELL: - - - but there has been a more recent resolution February this year where they reconsidered options of how to progress with the Kurmond Kurrajong Investigation Area Structure Plan.
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MR WILSON: And the outcome was?

MS GROSE: I can read you the resolution

30 MR WILSON: I'm pretty certain we've read it but read it again for clarity.

MS GROSE: Yes. So this is after – postdates the advice. So council resolved on the 23rd of February to not adopt the Kurmond Kurrajong Investigation Area Structure Plan. Assess – number 2, assess remaining individual planning proposals within the Kurmond Kurrajong Investigation Area against the interim development constraint principles and the New South Wales planning framework, being the Sydney Regional Plan and Western City District Plan including rural area and number 3, not encouragement the lodgement of additional individual planning proposals within the Kurmond Kurrajong Investigation Area for rural residential development.
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40

MR WILSON: Okay. So let's just unpack that a little bit. So they're basically saying – resolution basically says current proposals already in the system should be considered against the current strategic contents which is these new documents: the regional plan, the district plan and the council's own strategies in terms of Rural
45

Lands Strategy and Residential Strategy. Is that what – and then how does the interim – what were they called, Jane? The interim - - -

5 MS GROSE: The development principles.

MS KIMBELL: Yes.

10 MR WILSON: The interim development principles. So how would they operate – if something – sorry. Just let me try and get my thoughts together. So if something was considered to have some strategic merit then you'd go through that process of using those principles or are they using the principles solely to – because some of the justification of this proposal is adhering to those principles

15 MS KIMBELL: So with the interim principles, they were endorsed by council in 2015 and they were, I guess, in lieu of the structure planning to occur at Kurmond Kurrajong area. Where these principles are also incorporated into the Department's review, is that – I guess that is the – one of the outstanding or one of the only continued to be adopted principles in terms of guiding and assessing planning proposals and also development. So they do go into some site specific matters. The
20 Department has also utilised those in this gateway alteration and also some of the other proposals in the area.

MS GROSE: So it's the application of these principles that resulted in the most recent amendment which had the impact of significantly reducing the number of lots
25 recommended on the site.

MR WILSON: Okay.

30 MS KIMBELL: And also the – the proposal was not seen to be consistent with the district plan. Specifically, the MRA which also led to the gate alteration that was issued in April last year. There were also – there's also another gateway alteration that was issued where the Department has been consistent in its approach to reviewing live planning proposals in this area.

35 MR WILSON: Yes. There's one – there's one in – there's on just up to the road. I think it was – was it number 42, Jane?

MS GROSE: Yes.

40 MR WILSON: That was - - -

MS KIMBELL: Sorry. The other gateway alteration for a live planning proposal is 2 Inverary Drive. There was a gateway refusal mid-last year for 42 Bells Lane which was also referred to the IPC. There was another refusal for 98 Bells Lane.

45 MR WILSON: Okay. So the one we're interested in is – well, we looked at 42 while we were there just because there's a decision on that and I guess we're just

trying to work out – because your – you’ve altered your – altered the gateway determination to enable police – the number of – so, like, one hectare lots, that’s correct? That didn’t occur on 42?

5 MS KIMBELL: 42 was referred to the Department for a gateway assessment. So we determined – the gateway determination was that it – not to proceed. Whereas this one the gateway determination was in 2018 and was it – the council requested an extension of time to complete the LEP - - -

10 MR WILSON: Okay. I see. Yes. I’ve got you.

MS KIMBELL: - - - at the end of 2015.

15 MR WILSON: Yes. I’ve got you because it has been around longer, is that right? It was - - -

MS KIMBELL: Correct.

20 MR WILSON: Okay. So procedurally it was further progressed. It’s been in the system much longer.

MS KIMBELL: Correct.

25 MR WILSON: Just another question, this one was – the first gateway determination back in 2018 – I think it was June 2018 – was made several months after the district plan and regional plan were adopted. Was the consideration of those policies in those two plans at that time? Because I presume the MRA is not a late policy issue. It was released in 2018. Was there consideration in the first determination of those matters?

30 MS GROSE: Yes. So the district plan and the region plan provide broad, you know, objectives for the metropolitan rural area and they - - -

35 MR WILSON: Yes, yes.

MS GROSE: - - - there’s a specific action for managing the rural lands.

MR WILSON: Yes.

40 MS GROSE: At the same time, however, when you were aware of council’s intent to explore development opportunity in these local centres where the impacts on the scenic character and environmental quality of the areas could be managed and that was through the Kurmond Kurrajong Investigation Area Strategy - - -

45 MR WILSON: Okay.

MS GROSE: - - - which has been around for a number of years.

MR WILSON: So - - -

MS GROSE: As far back as 2015.

5 MR WILSON: Yes. So what you're saying, basically, is at that time the police context was in place but the – you say the overriding strategic comments haven't actually be set in stone, is that right? Or you had an existing council strategy that was doing the work, is that right?

10 MS GROSE: Well, council were undertaking investigations.

MR WILSON: Yes.

15 MS GROSE: And had, you know, expressed the – we understood that they had the intention of exploring the opportunity of some development potential in those village.

MS KIMBELL: I would also like to add that in the gateway determination there was a condition referring to the review of minimum lot sizes and also to address the
20 – to provide an assessment against the district plan as this planning proposal was not considered by council. It was – it came to the Department through a rezoning review and I guess that – you know, one of the reasons why an extension of time was required as part of council's submission at the end of 2019 because the lot size condition had not been resolved.

25 MR WILSON: Okay. So – okay. So the condition was in there basically and they were required to consider the district plan and implications for it. Okay. All right. I understand now. So was conditioned as opposed to being refused.

30 MS GROSE: That's right.

MR WILSON: Okay. All right. Now, I interrupted you. I'm sorry. Do you want to keep going?

35 MS GROSE: That's okay. I don't know – I think that's the key overview of what
- - -

MR WILSON: Yes.

40 MS GROSE: - - - I can provide you with and it really is, I guess, the advancements in the policy planning framework since the issue of the last gateway determination. Is there – are there any other details about the site or the previous decisions or timeline that you needed information on?

45 MR WILSON: Well, we might just want to talk about 100 Bells Lane because you recommend that that not proceed as part of the planning proposal and I'm just – I

gather that's just in relation to its distance from Kurmond in terms of natural growth or are there are other reasons why it's been taking out of this planning proposal?

5 MS KIMBELL: Yes. Correct. So that was one of the main reasons that it was removed from the gateway. That it was considered to be too far from Kurmond Village. I also wanted to mention that this Kurmond – this structure plan had not been referred to the Department - - -

10 MR WILSON: Yes. It's not an approved - - -

MS KIMBELL: - - - for review.

MR WILSON: - - - not an approved strategy yet.

15 MS KIMBELL: So – yes. Just in that context that we hadn't formally received it for review so we made the decision to remove 100 Bells Lane from the gateway. There was also the landscape character analysis to take into consideration, being that that site was in a – in the view corridor of a medium to high significant view
20 corridor. But understanding that that landscape character analysis – and, sorry, that the view analysis forms part of the structure plan material.

MR WILSON: Right. Okay. Okay. Jane, have you got any else to add at this stage?

25 MS GROSE: Me Jane or Jane Anderson?

MR WILSON: Sorry.

30 MS GROSE: No, sorry.

MR WILSON: Jane Anderson. My colleague. Sorry.

35 MS J. ANDERSON: Thanks, Chris. I guess it was just – just to clarify with the landscape character study, I just noticed in the report one of council's comments is about the ridgelines and they say that the landscape character along ridgelines is predominantly urban and the elevated position provides views of Richmond Lowlands and the Blue Mountains and then further along in the document there's a comment under, I think, the Department's view saying that in assessing consistency with the district plan, enhancing scenic and cultural landscapes is relevant and that
40 ridgelines are highly valued. Elements of scenic landscape and development should not diminish their scenic quality. So I just wondered if there's a bit of a contrast here and whether the intention of council is also to preserve those scenic ridgelines.

45 MS KIMBELL: I guess with 100 Bells Lane, that was in the pastoral valleys landscape analysis. So guess there was two. There's the landscape analysis and also the views. So, yes, while it might have been their intention to preserve both views, one of the – I mean, I guess, you know, the assessment of this planning proposal has

progressed but one of the considerations is that the planning proposal did not provide sufficient justification as to how those views and that landscape character would be maintained.

5 MR WILSON: But the urban – when you say the urban ridgeline – the ridgeline has been urban or there’s some urban development on it, the ridgeline – you mean basically Bells Line of Road?

10 MS KIMBELL: Correct. So on – so 457 Bells Line of Road is wholly within the ridgeline - - -

MR WILSON: Yes.

15 MS KIMBELL: - - - landscape character and the other three majority, if not all, pastoral valleys character.

MR WILSON: Right. Okay.

20 MS ANDERSON: Okay. That clarifies things because when we were on site we were wondering whether Bells Lane could be considered a ridgeline as well and whether it falls into that character.

MR WILSON: No.

25 MS ANDERSON: You’re saying it’s just Bells Line of Road?

MS KIMBELL: The majority of Bells – sorry. Yes. Majority of Bells Lane is considered pastoral valley character.

30 MR WILSON: And is that acknowledge by council as well?

MS KIMBELL: It’s in their strategy. It’s quite clear the image of where the different landscape characters are located.

35 MR WILSON: Okay. All right. Okay. When was the last time a planning proposal was approved, I guess, consistent with these principles?

MS KIMBELL: In terms – the most recent finalisation - - -

40 MR WILSON: Yes.

45 MS KIMBELL: - - - of a planning proposal in this area would be 631 Bells Line of Road which, I think, is referred to in our gateway determination review package. 631 Bells of Line Road has been – had been around for many years and as part of the Department’s review of live planning proposals in the Kurmond Kurrajong Investigation Area Structure Plan, we altered that gateway so that it had to demonstrate consistency with council’s 2015 interim development principles.

MR WILSON: Right.

MS KIMBELL: So noting that this – look, we noted that the development would
5 have been consistent with the – sorry – inconsistent with the district plan in terms of
the - - -

MR WILSON: Yes, yes.

MS KIMBELL: - - - metropolitan rural area, the fact that this planning proposal had
10 been around for so many years. I think it might have been about 2013. It had been
around for a while. That is why we conditioned it to comply with the interim
development principles and as a result it went from 10 lots into three lots.

MR WILSON: Okay. All right. Okay. I'm just coming back to 100 Lane, the
15 difference. So fundamentally the difference between 79 and – 79, 95 and 100 is its
location within the valley.

MS KIMBELL: Yes.

20 MR WILSON: It's location within the pastoral valley, is that correct?

MS KIMBELL: Yes. Location from Kurmond Village and also - - -

MR WILSON:

25 MS KIMBELL: - - - pastoral valley - - -

MR WILSON: Yes.

30 MS KIMBELL: - - - and also the fact that it is in a significant – a medium to high
significant view corridor.

MR WILSON: Okay. All right. Kurmond's a very well-articulated little village it's
..... and there's quite significant – the investigation area is quite significant, isn't it?
35 That's okay. You don't have to answer that. Look, I think that's – I mean we were
interested in the structure plan in a sense because one of the things we noted looking
at the plan is that the sites for 4000 square metres around Kurrajong are very
contiguous with Kurrajong and if you look at Kurmond, it's a little bit less

contiguous in the sense that it seems to follow the ridgeline or Bells Line of Road
and in those days, I guess, supporting those lot sizes. I don't think I have any more
questions. If we do though, what we might do is get – put them in writing if we have
any further question. The timing of – just want to go back to before we leave. So the
5 residential – the draft Residential Strategy, has that been adopted?

MS GROSE: The Housing Strategy. Yes.

10 MR WILSON: The Housing Strategy is adopted and it doesn't indicate that rural
residential development is supported anywhere else – anywhere in the LGA?

MS GROSE: It supports organic growth of the existing centre.

15 MR WILSON: Which I think in a past discussion with the Department last year on
another subdivision is incremental growth of a very insignificant percentage around
the edges of the village, is that a fair comment?

MS GROSE: That's right. So it does talk about those very low – I think it's 0.7 per
cent - - -
20

MR WILSON: Okay

MS GROSE: - - - very low growth rates.

25 MR WILSON: I thought one per cent but that's okay.

MS GROSE: Yes. And so the Rural Lands Strategy talks about growth at a
continued rate whilst maintaining the environmental values and - - -

30 MR WILSON: Okay.

MS GROSE: - - - scenic quality of the village.

35 MR WILSON: Right. Okay. And – okay. That's fine. I don't think I have any
other question and thank you very much for your time today.

MS GROSE: Thank you for having us.

40 MS KIMBELL: Thank you.

MR WILSON: Thanks.

MS ANDERSON: Thank you.

45

MEETING CONCLUDED

[1.55 pm]