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O/N H-1490477

**INDEPENDENT PLANNING COMMISSION**

**GATEWAY DETERMINATION REVIEW – 2 INVERARY DRIVE, KURMOND**

**MEETING WITH APPLICANT**

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

**OFFICE OF THE IPC:**                      **JANE ANDERSON**  
**LINDSEY BLECHER**

**APPLICANT:**                                **GLENN APPS**  
**DAMIEN McCANN**  
**KEN HARDAKER**

**VIA VIDEO CONFERENCE**

**12.03 PM, THURSDAY, 10 JUNE 2021**

MR C. WILSON: Before we begin, I would like to acknowledge all the traditional owners of the lands on which we virtually meet, pay my respects to their elders past, present and emerging. Welcome to the meeting today to discuss the Gateway Determination Review for 2 Inverary Drive, Kurmond. My name is Chris Wilson,  
5 I'm the Chair of the Commission panel. We are also joined by Janae Anderson and Lindsey Blecher from the Office of the Independent Planning Commission. In the interests 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 and made available on the Commission's website.

10

This meeting is one part of the Commission's consideration on this matter 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 clarify issues whenever it is considered appropriate. If you are asked a question and  
15 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. For accuracy of the transcript I request that 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 not begin. So Glen, Ken, who  
20 is going to speak on behalf – give your presentation?

MR G. APPS: That will be me, Commissioner.

MR WILSON: Okay. Glen then will – you've got the agenda. Then we will move  
25 straight to item two on the agenda, if you don't mind.

MR APPS: No. Thank you. Just before we start, I would just like to introduce my team. I have Mr Ken Hardaker with me, who is the Proponent, and Mr Damien McCann, who is our ecologist. And they will be available for questions at the end  
30 too.

MR WILSON: Thanks.

MR APPS: Thank you. I will get started. The background to the planning  
35 proposal: the planning proposal has been prepared in response to the Hawkesbury Residential Land Strategy, which was adopted by Hawkesbury Council in May 2011. In particular, that strategy recommended rural residential development be located within proximity to existing rural villages, services and facilities and comprise low density, large lot rural residential development. The Residential Land Strategy also  
40 found that rural residential living is a popular lifestyle choice within the LGA and particularly within the Kurmond Kurrajong area.

The proposal avails itself of the findings of that land strategy and aims to realise the recommendations of that report. So what we're looking at is to provide large lot  
45 residential development which is within one kilometre of the existing village of Kurmond and that's consistent with our strategy. The planning proposal follows a

similar proposal by the same Proponent to allow lot sizes of a 2,000 square metre minimum next-door at 396 Bells Line of Road, which has led to the creation of a rural subdivision estate containing 33 lots.

5 The planning proposal was being supported by the Sydney Western City Planning Panel at its meeting of 27 February 2018. It was concluded by the panel that the planning proposal demonstrated both strategic and site-specific merit. The proposal then moved to a positive Gateway Determination in June 2018. Over the last three years the planning proposal has taken a somewhat protracted course, which is demonstrated by the timeline. In that time, particularly the Kurmond – Kurrajong Kurmond Structure Plan has been prepared, finalised and then not adopted by Council. I will come to that document later.

15 I will now move to discuss the site and location in more context. The site is located at 2 Inverary Drive, Kurmond. It is legally known as Lot 2 in DP 600414. The site is situated in the suburb of Kurmond, is approximately five kilometres from North Richmond, which is the most proximate major town, three and a-half kilometres to Kurrajong village and one kilometre to Kurmond village. The site has a rectangular shape with an approximate size of 11 hectares. The land has a battle-axe frontage to Inverary Drive, which contains an existing dwelling which will be excised under any future subdivision of the land.

25 The land is zoned RU1 primary production under the Hawkesbury LEP 2012 and had previously been used for animal grazing and part of the site has still continued for animal grazing purposes of beef cattle. The site comprises a mix of managed pasture and scattered vegetation. There is a riparian corridor across the middle of the site. Outside of the riparian corridor there is very little understorey due to the grazing of cattle over the years, other than, obviously, pasture grasses. The riparian corridor through the centre of the property is a key feature which supports a dense of vegetation, which is representative of the Shale Sandstone Transition Forest, which is recognised as an endangered ecological community under the Biodiversity Conservation Act 2016.

35 The land slopes towards the riparian corridor both from the north and south with an average tie up between six per cent and 10 per cent. The broader area predominantly comprises rural residential development. The area is undergoing some change, which is noted from the adjoining 13-hectare lot at 396 Bells Line of Road, which also has a 2,000 square metre lot size – minimum lot size imposed other than the riparian corridor. That subdivision next-door involves the dedication of new public roads and also a reticulated sewer system which have been designed with capacity to be extended to serve the development of 2 Inverary Drive in the future.

45 Land adjoining the site with the south-west along Bells Line of Road comprises residential lots also approximately 2,000 square metres. Otherwise, there is a mix of lot sizes in the area ranging from your traditional rural holdings of 10 hectares down to smaller lots as low as 700 square metres to the north in Silks Road. There's a number of non-residential activities fronting Bells Line of Road, including

restaurants, a childcare centre and a veterinarian clinic. Despite the rural zoning, agricultural activity is limited to a commercial flower nursery, which is located to the south-east at 211 Slopes Road, North Richmond. Otherwise, agriculture in the area is limited to light animal grazing for hobby farm purposes as opposed to food production.

There is no intensive agricultural cropping or market gardens carried out in the immediate area. The site itself is well-connected to Richmond, which in turn is connected to the metropolitan area by road and rail, with convenient road access to Windsor, Penrith, Blacktown, Parramatta and the Hills areas. I will now discuss the number of lots and lot size. The Proponent has provided an indicative lot layout plan, which is attachment A3 on the Commission's website. That shows 31 lots in total. So, an additional 30 lots once we excise the existing dwelling. The lot layout dimensions and - - -

MR WILSON: Sorry, Glen, are you able to share that? It just might be useful. Or not.

MR APPS: Yes, I can.

MR WILSON: That's the one that we - - -

MR APPS: correct.

MR WILSON: That's the one that was submitted – is that drawing three nine – drawing 1B, is it? Division B.

MR APPS: Yes.

MR WILSON: That's okay. If it's too difficult don't worry. Just continue on. I've got it in front of me.

MR APPS: I'm trying on the screens, Chair, but it doesn't seem to be doing a lot.

MR WILSON: Okay. I mean, I have it, so that's fine. Sorry to interrupt.

MR APPS: So, we are looking at an additional 30 lots. Again, the design and dimensions and layout aren't fixed as yet. That would, obviously, be subject to change once we – you know, we should have – once we have an approval and get on the ground and start designing something based on the constraints, engineering works or construction works, etcetera. What won't change, though, is the general scheme where we look to revegetate certain areas of the site and also minimise crossings of vegetation corridors. The minimum lot size sought by the planning proposal is 2,000 square metres, which is in keeping with what's happening next-door at 396 Bells Line of Road.

We retain a two-hectare lot through the centre of the site which will retain the riparian corridor. So, the indicative layout proposed is residential lot sizes – again, this is indicative – but 22 lots between 2,000 and 2,500 square metres, four lots between 2,500 and 3,000 square metres and three lots which are over 3,000 square metres. The final two lots comprise the retention – riparian retention lot of two hectares and the existing dwelling lot, which is to be excised which is in the order of 4800 square metres. Commissioner, that’s my address to item 2 on the agenda. I’m in your hands as to what you wanted to do for point three, discussing the strategic merit, etcetera.

10 MR WILSON: Okay. Well, look, I think probably the best thing to do is just to go through what Council thinks of the outstanding concerns in relation to the – or Council – the Department’s submission is largely, I think – correct me if I’m wrong, but the Department’s submissions and the Council’s submissions are largely in  
15 harmony in relation to their views on the proposal.

MR APPS: I think that’s a fair comment, yes.

20 MR WILSON: I don’t want to, you know, cast any aspersions on either organisation, but, I guess, in terms of your response to those issues that would be fair and reasonable. If you’re responding to one, you’re generally responding to the other.

25 MR APPS: I would be responding on those points realistically, so that’s correct. Yes.

MR WILSON: Yes. The Department has used those points in their assessment report, so - - -

30 MR APPS: Yes.

MR WILSON: - - - I just want to go to those issues. And can we just discuss those and that’s – I can’t expect any more than that. So just bear with me. So – okay, so let’s just talk, firstly, in terms of your proposal is consistent with the Council’s  
35 interim policy. This is the policy document in 2015, which is the environmental – the site-specific environmental impact issues.

MR APPS: I can hand over to Mr McCann to discuss the - - -

40 MR WILSON: It’s not just vegetation, it’s broader than that. There’s a whole range of issues.

MR APPS: Yes.

45 MR WILSON: And Council has now continued – but Council has, obviously, made a resolution more recently – I think it was in February – Jane, that’s correct – that they will continue to consider these applications, these planning proposals based on those criteria and the broader context set up by the – by that. So I just want to step through

them just a little bit more logically in terms of timing. And the draft structural plan figures in that as well.

5 MR APPS: Yes. Yes. The Kurmond Kurrajong Structure Plan was not exhibited until September 2019. It was in June 2020 where Council resolved not to adopt the Structure Plan until such time as it had its Rural Land Strategy completed. Look, we say that the Structure Plan itself also made recommendations for lot sizes within the area. Given that the Council resolved not to progress – or not to adopt the structure plan, we say that the recommendations for lot sizes don't carry strategic weight.  
10 However, we recognise that there's a number of objectives that underpin the Structure Plan that are relevant. We say the planning proposal satisfies those objectives.

15 MR WILSON: Do you want to just list those objectives.

MR APPS: I can. One was that vegetation – significant vegetation be preserved.

MR WILSON: Yes.

20 MR APPS: And, you know, we say we do that. We have a two hectare lot which not only retains the vegetation but will also involve removal of weeds and – basic weeds and, you know, look at the revegetation strategy for that, as well as ongoing management of that land to ensure its biodiversity values are enhanced and maintained. And certainly not taking a backward step as it would under a rural  
25 zoning where agriculture was permitted without consent, which is the current state. We are also able to look at building envelopes on any resolving lot under positive covenants to restrict where building can take place.

30 We're able to, you know, again enhance existing vegetation corridors over the land to enhance that connectivity. So we're looking to – you know, to pick up on those habitat values of the site. One of the other concerns that the Structure Plan has was the – I guess, the topography and landscape values of the area.

35 MR WILSON: Yes, landscape character study.

MR APPS: The – yes.

MR WILSON: Is that the landscape character study undertaken by Council or - - -

40 MR APPS: That was by Cloustons on behalf of Council. There was a consultant team engaged to prepare that landscape study.

MR WILSON: Does that complement the structural plan?

45 MR APPS: It does.

MR WILSON: Is that – yes, okay.

MR APPS: Yes. Yes. A lot of the structure – one of the key areas of the structure plan, obviously, was to maintain those rural vistas.

MR WILSON: Yes.

5

MR APPS: And you would have seen on your visit the other day, Commissioner, when you drive up Bells Line of Road you do get views north and south of the rolling hills, etcetera. Look, we don't shy away from the fact that that's an important aspect of those values of Kurrajong Kurmond, but what we're – you have to look at those on a site-specific basis, we say, and our topography and what we want to do with the site will protect what are really limited views into the site given the – I guess, the existing development along Bells Line of Road particularly.

10

So you have limited views into the site. We will be maintaining the character of it by maintaining vegetation. We're not a ridge top site. We're not removing ridge top vegetation. The vegetation on the site will be preserved where possible. Yes. And, again, so it's not rolling hills of pastureland. And, in any event, that has been to some degree, I guess, eroded by Council's actions already in approving the development next-door. And without being – without being cute, I consider that to be a fairly – I guess, a prestige estate given the amount of work that has gone into the quality of the rain garden, the other things such as street tree planting and the culvert crossing and the fencing.

15

20

There has been a lot of thought put into how that estate will present and, you know, it's obviously intended that that will carry through into the adjoining property, again, with street tree planting, with endemic species. So, like, really, I think the key things that – a number of other things come out of the structure plan, such as supporting the economy of the area and, look, that's something that this will contribute to. But it's the - - -

25

30

MR WILSON: Yes, okay. Just in terms of the Structure Plan recommending 4,000 square metres towards the road, which – maybe that was having regard to those limited views into the site.

35

MR APPS: Yes.

MR WILSON: Maybe that was – the Structure Plan was acknowledging the fact that there was limited views into the site and that you could see over the top of any development on that site plan – on that ..... behind number two. Is that what it was – do you think it was recognising?

40

MR APPS: I think that's probably more aimed at what's happening on the northern side of the riparian corridor. The views into what's on the – I guess, the southern side behind the existing dwellings – I think that land is cleared. It's managed pasture. It's not visible. It's hidden behind existing developments, so I don't see that a 4,000 square metre lot size would have a lot of benefit there.

45

MR WILSON: Right. Okay. Your view is that it could be more dense, but I'm just suggesting – because they recommended – I'm trying to ascertain why 4,000 there and one hectare further down the site.

5 MR APPS: I don't know. The only thing I can think of is that Council was looking at a graduating development away – as you get further from the town centre - - -

MR WILSON: Yes.

10 MR APPS: - - - you have larger lots. Sorry, from the village centre you have larger lots. Again, I think that's a case by case assessment based on the individual characteristics of the site.

MR WILSON: Okay. Let's talk about the minimum lot size and the vegetation on site. I mean, you have – there's – the Department – both the Department and Council have – and EES actually have concerns in relation to the vegetation on site and the proposed subdivision and they are concerns that the proposed subdivision pattern will result in – is it up to 75 per cent loss of vegetation on site?

20 MR APPS: That's correct. That's what they – that's their position.

MR WILSON: Do you want to just have a chat about that.

MR APPS: Certainly. Look, Mr McCann has carried out – and his team have carried out quite extensive surveys and studies of the site. To the best of our knowledge no representative from EES has actually been to the site to ground truth what's there. That's just a statement. That's not a criticism by any stretch. The site is mapped for the Shale Sandstone Transition Forest, but again it pretty much comprises canopy species as opposed to understorey and herbs. We say that the scattered trees that are on the site – we're able to again – the subdivision layouts in – we're able to put together a subdivision that avoids – where the roads avoid wholesale tree removal. We can minimise that.

35 Once the lots are created we can impose restrictions over those lots. For example, building envelopes. Also things like size of ..... size of sheds and outbuildings. Council has those controls already for rural residential estates like Windsor Downs, so it's nothing that's foreign to Council to implement and consider. So there are ways of doing that. And even the corridors that we're proposing along the – within the site, that can be – they can be extended if necessary so that they are not within private ownership.

MR WILSON: Yes. EES also raised the issue of the 88Bs, in that they weren't a firm method of conservation.

45 MR APPS: I understand that. And, again, look, the – for the riparian corridors they will be protected through other means. But the 88B restrictions – my understanding – and I'm not a lawyer, but I've been around enough of them, rightly or wrongly, is

that normally private covenants are not upheld in the planning process. But where a covenant is imposed by a condition of consent and for a planning purpose, they are able to be upheld. And that's – we've done similar with 396 Bells Line of Road with one 88B instrument regarding building envelopes and another for the quality of residential design.

Again, we're happy to impose similar restrictions on the current – on the subject development when it takes place, as well as again cumulative size of sheds and outbuildings, restrictions on cut and fill. So when you do that you start to – you start to protect what's on the site. Any - - -

MR WILSON: Just in general - - -

MR APPS: Sorry, Commissioner.

MR WILSON: No, you're right. Sorry to interrupt there.

MR APPS: So any subdivision, obviously, will – as part of actually preparing a subdivision layout we will be mindful of building envelopes and where building envelopes can be achieved without impacting on vegetation. And, you know, that will dictate what the ultimate layout is.

MR WILSON: Okay. So moving on in relation to some of the issues raised, just back to the rezoning review, which you've already mentioned. A number of – Council's claim is that you haven't met the conditions of that rezoning review. I think you said that you have. But just in terms of – there's a couple of issues they raised. I think you were required to look at the – increasing lot sizes in terms of distance from Kurmond.

MR APPS: We have looked at that and my understanding is Council's position on that was that they thought that lot sizes along the perimeter could be increased, not actually graduating from, like, a 2,000 square metre lot size next-door to a 4,000 or 5,000 on this site. But looking at larger lots along the perimeter which could retain a larger building – or retain a building envelope and be able to retain vegetation.

MR WILSON: I took it as meaning that you would have smaller lots closer to Kurmond and larger lots further than Kurmond.

MR APPS: That is the way I would have read it, however, discussions with an officer of Council – they were happy to – they thought that it meant larger lots on the perimeter.

MR WILSON: All right. We will confirm that. We will ask Council. There's a potential for larger lots along the south-western boundary as a buffer. I'm not quite sure I understand this one. South-western – which is the – I mean, looking north – I presume they are all north. South-western – is that fronting the road?

MR APPS: South-west is - - -

MR WILSON: Or behind 2 Inverary.

5 MR APPS: Yes. I – my reading of that – I thought when you look at what the objective of what that statement was that it was a typo and it was actually meant to be south-eastern. I mean, if you look at what’s happening on the south-west you would be providing some form of buffer with the adjoining residence that are existing - - -

10 MR WILSON: That’s right. To clear land.

MR APPS: Yes.

15 MR WILSON: So – okay. That’s what I thought it meant, but it doesn’t make sense – it doesn’t make a lot of sense to me. But - - -

MR APPS: No, I thought – I thought it meant south-eastern boundary, which would be the long boundary which adjoins the flower nursery.

20 MR WILSON: Flower – flower farm.

MR APPS: Flower farm, I guess. Yes, the commercial nursery.

25 MR WILSON: Yes.

MR APPS: We have larger lots along the south-west anyway over nearly 5,000 and over 6,000.

30 MR WILSON: Okay. All right. Well, that sort of explains that. Then we need to just talk about the impact of subsequent development on water courses and riparian corridors. I know you’ve touched on it already. But there’s a number of streams .....

MR APPS: That’s right. The major water course, obviously, traversing the site, we’ve discussed that at length. In terms of protecting water quality, you’ve seen the rain garden.

MR WILSON: Yes.

40 MR APPS: That’s on the adjoining site. We’ve got runs on the board with constructing those and we’re happy to do likewise on this site. Whether that requires one or two rain gardens picking up on each road, that’s able to be achieved. That’s the main water course. There’s the other one which, I guess, runs more of a – probably an east/west direction coming from the top of the site. That, again, is something that’s able to be revegetated and protected.

45

MR WILSON: Okay. So before I get on to the MRA and the strategic context - - -

MR APPS: Yes

MR WILSON: - - - I just want a greater understanding of – there’s those constraint – constraint heads of consideration, or constraint heads consideration – Council’s  
5 interim development principles. Could you discuss those? We started off, but I didn’t really – we didn’t really actually address it. They are listed somewhere.

MR APPS: They are listed somewhere, which I don’t have in front of me,  
10 Commissioner, unfortunately.

MR WILSON: I do, but it’s just buried amongst all the other paper. Just talking about slope, for instance, let’s just talk about it. There’s a 15 per cent requirement. I would have thought that a lot of our sites sort of – what’s the range of slopes on the  
15 site?

MR APPS: It’s between six and 10 per cent.

MR WILSON: Six and 10 per cent. So there’s nothing over 15 per cent.

MR APPS: According to our mapping, that’s correct, yes. There are, obviously,  
20 sections where it falls into the riparian corridor.

MR WILSON: Yes, sure. Sure.

MR APPS: Yes. But, generally - - -

MR WILSON: Generally your proposed lot layout is on land that’s less than 15 per cent. Is that correct?

MR APPS: Yes, that’s right. The slope – the slope of this land is not dissimilar to  
30 the land next-door at 396.

MR WILSON: All right. Look, the next question is, I guess, is – you know,  
35 strategic context has been changing over time ever since, I think, 2018.

MR APPS: Yes.

MR WILSON: The original gateway determination asks you – or requests that you consider MRA and the emerging – well, it wasn’t emerging, it was adopted prior –  
40 was it just prior to you lodging or just after you lodging?

MR APPS: After. Just after, yes. It was on the table at the time and, I think, it was adopted just after.

MR WILSON: So I’m not – the MRA and the policy context around the MRA, was that – was that in the district plan, the draft district plan?

MR APPS: Yes. Yes.

MR WILSON: Okay. So it was emerging, yes.

5 MR APPS: Correct, yes.

MR WILSON: Okay. So, I guess, I would just like you to, I guess, explain your proposal in the context of the MRA and the objectives in the MRA.

10 MR APPS: Yes.

MR WILSON: I nearly said the NRA, which – you know what I’m talking about there.

15 MR APPS: That’s – no, that’s another topic and we won’t go into that. There’s two priority areas relating to the MRA. The second one is not relevant, because it talks about investigation areas of Horsley Park, Orchard Hills and elsewhere.

MR WILSON: Sure.

20

MR APPS: So the key one is:

25 *To maintain or enhance the values of the metropolitan rural areas using .....  
base planning to deliver targeted environmental, social and economic  
outcomes, including residential development.*

30 Look, rural residential development is supported within the MRA, obviously, where there’s no impacts or adverse impacts on amenity of the local area and where development provides some incentives to maintain and enhance those environmental, social and economic values. The land we’ve got here is not suitable for agricultural use for a number of reasons. And one is the proximity of the site to residential development and the relatively small size of the lot. It’s also not suitable for those reasons for extractive industry.

35 So we say the value of this area is in providing lifestyle lots, so large rural residential lots, which is also picked up by the Hawkesbury Residential Land Strategy. The proposal would enhance the social and economic values of the land by providing development that contributes to local businesses and also contributes to the demand for schools and other services. And that’s a – there is an issue there with some of the  
40 school numbers being reduced and teachers being removed from the school. So any sort of demand for those services will help to contribute to the viability of, you know, schools and medical facilities in the area.

45 So there’s those social and economic benefits that we contribute to. We also provide for economic benefits through the retention and management of the riparian corridor. And, again, it’s those ecological values that are – we understand their importance and they are paramount to us. So the value of this part of the MRA is in providing rural

residential lifestyle lots and that's precisely what we aim to do and, again, to contribute to the social and economic values of that area. There's a lot of focus put on the MRA priority area and we understand why, because that's where we are.

5 When taken in conjunction with the other priority areas that are relevant to us of the Western City District Plan, we're consistent with those priority areas. And particularly providing housing choice, housing supply and affordability with access to existing services, fostering healthy socially connected communities, protecting and improving the health and enjoyment of waterways. You know, there's a number of  
10 benefits that come out of this. It's not just about the MRA. But, again, we understand the focus on the MRA and we say that we're consistent with that priority area.

MR WILSON: Well, the MRA specifically says that there shouldn't be any – I  
15 guess, it should only be organic growth. And, I guess, this comes down to – so what's your understanding of organic growth? You've, obviously, read the Department's report to the IPC or - - -

MR APPS: Yes.  
20

MR WILSON: - - - which basically says that, you know, Kurmond is – organic growth in terms of what they believe is their policy and implementation of their policy context is quite small. So, I mean, I'm just trying to reconcile where that policy context is and where this planning proposal fits with that – to that planning  
25 context, that policy context to terms of organic growth.

MR APPS: I think with organic growth, I think it's wanting to see development take place in a less planned and structured plan. And I don't know how you achieve that if you don't – if you don't sort of start to reduce lot sizes in the area. Because  
30 otherwise you're going to be locked in to what's there now without the ability to subdivide or create new lots. And I think that's probably contrary to the goal of supporting your rural village centres of Kurrajong and Kurmond. So I don't want to – I don't want to be facetious and say that I think organic growth is haphazard by any stretch, but I think there needs to be some planning response to growth in this area  
35 and that's precisely what we're doing. While it may not be organic in terms of just sort of letting things happen as they go - - -

MR WILSON: Sure.

40 MR APPS: - - - again, what we're – you know, what we're doing here is responding to those values of the MRA. Yes, I just don't know how organic growth can take place without starting to look towards reducing lot sizes and allowing some form of growth, because otherwise the current controls don't facilitate that.

45 MR WILSON: Sure. Okay. What about – and then just following on from the principles of the MRA and the district plan – the district plan and the principles of

the MRA is Council's more recent adoption of the local planning statement and their Rural Land Strategy.

5 MR APPS: Sorry, the – I wasn't aware the Rural Land Strategy had been adopted.

MR WILSON: Has it, Jane? I thought it had.

MS J. ANDERSON: Yes, it was adopted on 30 March this year.

10 MR APPS: I will have to take that on notice, Commissioner.

MR WILSON: Yes. Because they – I don't want to quote what they say. I haven't got in front of me. But my understanding is that raises issues as – that may raise for you as well which you probably want to consider.

15

MR APPS: Sure.

MR WILSON: But those principles are very similar to – my understanding of those strategic – local strategic planning policies adopt the regional and the state planning policies. So it's very consistent with the MRA and so forth and the objectives in the MRA.

20

MR APPS: I can - - -

25 MR WILSON: Okay.

MR APPS: - - - take that on notice and provide a written response to that if that's what you would get. Thank you.

30 MR WILSON: Yes, probably .....

MR APPS: Jane is nodding.

MR WILSON: Thank you.

35

MS ANDERSON: Thanks, Glen. I can discuss that with you.

MR WILSON: But I know you've been at this for a while so I don't particularly want you to do more ..... more work, but – okay. Yes. And you might want to look – you might – at the same time you might want to provide some response to those ..... organic growth in that respect.

40

MR APPS: Yes.

45 MR WILSON: So then we move on to, I guess, the – well, yes, so the Department has done an assessment against the local strategic planning framework, which includes, I'm pretty certain – yes, Rural Land Strategy adopted on 30 March.

MR APPS: Yes.

MR WILSON: Okay. So then we come down to site-specific merits. It comes really back to those environmental principles, I would say. And I understand they  
5 are confronting. It really goes relate to views, vegetation. I presume all the – you’ve addressed the sewer and the access issues and those sort of things. It’s really just – in my understanding those that are outstanding or the government thinks are outstanding relate to vegetation. Do you want to give us a response? You’ve read the EES report – submission in relation to your proposal. It might be worthwhile if  
10 you and Damien just give us a response to concerns raised by EES.

MR APPS: Yes. Look, I will hand over to Damien for that, but he might want to talk to it with the recommendations that – well, yes, I will hand over to Damien, I think. That might be the best.

15 MR D. McCANN: Okay. Thanks, Commissioner. I think – so the EES responses – I’ve had a look at those. The – I can talk through some of the – some of the – I guess, housekeeping or simple issues like – just more detail on that being – that was requested. There was a statement that we haven’t actually shown the distribution of  
20 the Shale Sandstone Transition Forest on the site, which I was a bit confused by, because our report, figure 4.1, is a map showing distribution of the vegetation community on the site. There was little things like that where I wasn’t sure why that statement had been made, but I think can be readily cleared up.

25 There’s a statement that we do acknowledge that the vegetation is varied all across the site in terms of its condition and structure. Yes, we didn’t show that variability in our mapping. We simply acknowledged that it’s there and of variable condition. We can readily do that. The – it is a rural land that has been historically grazed. The vegetation on site is predominantly regrowth. It doesn’t mean that it’s not – doesn’t  
30 have value, but it is recent forest. Probably a large portion of it would be less than 30 years old. From a habitat point of view, there’s a general lack of habitat features. I think we found, perhaps, one to two hollows on the site within the riparian corridor within trees that would be preserved.

35 The best – the best vegetation tends to be associated with the creek line itself. As you move out in the paddocks the vegetation is variable. It tends to be of mixed age. A lot of juvenile or semi-mature trees. And there’s a general lack of a mid-storey consistent with grazed paddocks, but there is – the ground layer is – there are – it’s mixed. There’s typical pasture grasses and weeds. You know, the Paspalums and  
40 Kikuyus and Fireweed, but there is also a native herb and grass layout there. Kangaroo grass and things like that. There’s – but, yes, general lack of a mid-storey.

Some of the comments about, you know, the riparian corridors, we take on board the comment about – and I think it’s more of a planning decision as to whether or not  
45 riparian corridors can be preserved on private land via an 88B instrument. I guess, that’s for others to decide. We took on board, or took at face value the proposal that there is a riparian zone preserved along streams by one way or another, either via

being in a public reserve or within – restricted by a covenant on a private lot. And if that is then to be not a satisfactory way to preserve that vegetation, then we can look at that.

5 One comment was that we estimated on the basis of that covenant that 25 per cent of the vegetation on each of those lots would be retained and that was seen as to – as understating the loss that would occur because that covenant would be ineffective. Now, sure, we can take that on board, but that’s – we – there is a commitment to preserve that riparian zone one way or another, so we think it’s reasonable to assume  
10 that not all the vegetation on the site would be lost. And it is an attempt at an “avoid and minimise” provision and we assessed it as such.

There’s – we did surveys or searches for koalas using the case – that methodology which is the standardised methodology and level of effort relative to the property  
15 size. We found no evidence of koala activity on the site. The comment was – and I’m paraphrasing:

*That doesn’t mean to say there may not be koalas around.*

20 And, absolutely, when you look at the records in the locality there are some records within a couple of kilometres of the site, but certainly no records on the site. But that could be – that linkage and corridor would still be maintained by magnets of that central riparian zone, the magnets of koala feed trees as a management priority and then if need be, if the risk was seen to be warranting further response, restrictions on  
25 domestic pets or vehicle speeds, fencing styles. There’s a number of ways that risk to koalas could be addressed if that was seen as appropriate.

It would certainly be – there’s a general lack of koala records in this immediate locality. There’s certainly none on the site, but that doesn’t mean to say we  
30 shouldn’t accommodate the future potential for koalas through good management of the site – environmental management of the site. And I think that can be accommodated. Yes, we’ve got the riparian zone. They were the main issues, I think.

35 MR WILSON: Okay.

MR McCANN: There was something about – one of the comments from EES was about the foraging habitats for endangered bats. We did record the presence of some  
40 Microbats on – moving through the site. There’s a general lack of habitat for those species on the site. There would be certainly some use of the site, but I think – and our conclusion was, well, there would be some impact on some foraging habitat. And there was – the concern raised was, well, that’s still important and foraging habitat is still important. And it is. But you’ve got species that move over very large ranges and the proportion of that foraging habitat that this site represents is minor  
45 compared to those larger foraging ranges or home ranges.

And that's the point we were making that – that there would be loss of some foraging habitat, no loss of breeding or core habitat. But in that context the impact at a landscape scale is relatively minor and certainly wouldn't lead to the extinction of any of those species or a reduction in their range and extent. So, really, the key  
5 issues were then the adequacy of 88B as an instrument to protect vegetation. We take that on board. The potential for koalas to move through the site. That could occur.

There's certainly no evidence that they are there, but we should not do anything that prevents them ever being there either. We certainly take that on board. Otherwise, I  
10 think we've got a good working understanding of the site and I think there's ways and means to avoid, minimise and offset impacts that would occur as a result of the development. Obviously, there are some impacts. We acknowledge those and we would look to minimise and offset those, avoid and mitigate and offset those using  
15 the appropriate frameworks. Whether that's under – via the BAM assessment methodology or ABIDA or other means.

MR WILSON: Okay. Under the Structure Plan – and it's identified – and the site is identified – is having high priority habitat. Is that correct, Glen?

20 MR McCANN: The – Glen, are you going to speak.

MR APPS: I was going to hand over to you. It's all right.

25 MR WILSON: Okay.

MR McCANN: Yes, I - - -

30 MR WILSON: Sorry, Damien, is that correct?

MR McCANN: It's – that's how they – that's how it has been categorised. What I didn't have a chance to do is determine on what basis it's determined a high priority habitat.

35 MR WILSON: Sure.

MR McCANN: So I made a note to follow that up to determine – you know, on what basis – or for which species a high priority habitat and to just see how – what the implications may be.

40 MR WILSON: Well, the implications from ..... perspective is that it recommended a 5,000 square metre lot size. But it would be nice to reconcile it, that's all. Yes, I'm not sure what basis they made that determination and it was made some time ago, so – and I don't think it would have been subject to as detailed an analysis that has now  
45 been carried out. Anyway, okay. Thank you very much for that. So I don't think I have any more questions. I don't know if you want to add anything, Ken, at this stage.

MR K. HARDAKER: No, I'm happy with how it has been presented by both Glen and Damien. Obviously, this has been a long-winded process for us and we've tried to abide by all Council's requirements the whole way through. We haven't backed away from anything that they have asked for. We're just a little bit confused on how we've ended up where we are after such a long time.

MR WILSON: Okay, I understand. Sorry, but I acknowledge – I acknowledge that it has been evolving for some time. Just in terms of the Department's – the implications of the Department's position in relation to the one hectare minimum subdivision size, what does that physically mean for your site? What does that physically mean in terms of how many lots would you be able to achieve? It's just over – around about 10.

MR HARDAKER: The one – the one hectare minimum lot size is unrealistic we believe for the site to start with, but probably – if it was over the whole site it brings us back to about – about eight – eight lots.

MR WILSON: And that's exclusive of the lot running across the - - -

MR HARDAKER: Well, you've got the – you've got the middle lot, which we've gone in at a few hectares. So you take two hectares out of the lot. By the time you put your roadwork or whatever in, it cuts it back. We find – like, particularly on the – where are we? Where's – the south-east side of the – of the creek line where we've got marked lots – well, 101 through to 108, we feel that that is purely pastoral land and consistent with our development next-door and more so consistent with the adjoining properties along Bells Line of Road, which are predominantly 2,000 square metre lots through there as well.

To the rear of the block you could have – it could be 10,000 square metres. You know, we're probably back to – I don't know – three or four – three or four, maybe five – maybe five sites. Impact on us is when we put this proposal forward we were asked to include that property by Council into our – into our next-door development and increase the infrastructure to cater for it next-door. Hence the sewer system being located on the block next-door. The amplification of the road network so that we have a full-on intersection on to Bells Line of Road to cater for it. We feel we've got – we feel – I go back to the interim policy and the seven main objectives in the interim policy – was minimise creek crossings. We've done that.

We don't have a second creek crossing realistically on the – or what we regard is a major creek crossing on the property. And to get to the lot sizes that we've applied for the mention in there – back in the interim policy was that it would be on the merit and on – lot size would be determined on whether we can provide a sewerage system, which we can. So, as I said, we've amplified our – all of our services to fall in line with what we were asked to do. So, realistically, the cost implication to us is that the money we've spent now is really wasted on next-door if it goes to 10,000 square metre lots.

MR WILSON: Okay. So just quickly go through the interim policy. I've got – I found them, sorry. So essential services – so essential services you're saying have all been resolved:

5           *Building envelopes and asset protection zones that are located on land are less than 15 per cent.*

Is that correct?

10   MR APPS: Yes, that's right. Yes ..... has got that. Yes.

MR WILSON:

15           *Removal of significant vegetation is avoidable.*

You've addressed that. I'm not saying – making a comment on whether you have done is adequately or not, but I'm just saying that's what you've done. We discussed that today.

20           *Fragmentation of significant vegetation is minimised.*

MR APPS: Yes.

25   MR HARDAKER: Could I just jump in there for a minute?

MR WILSON: Yes.

30   MR HARDAKER: One thing that I think is probably – needs to be understood is that 396 Bells Line of Road development as it stands – we achieved the 2,000 square metre lots by supplying the services. Now, the vegetation on 396 Bells was different to the vegetation on this block.

MR WILSON: Yes.

35   MR HARDAKER: We don't – we've never anticipated wholesale clearing of the site next-door. It's going to be – for want of a better word – it's our – you know, our bushland type development. It will have – it will look more natural with the tree lines than even what we have here. Even – and our encouragement of our purchasers here is for planting. So it's part of our – it is part of what we've set out. In our 88B  
40   next-door we encourage people not to do cut and fill build. We want them to follow the contours of the land. And it will be exactly the same next-door. So – but it's not a carbon copy of what you're seeing next-door. It's a totally different development.

45   The other thing too is that when we look at – say, for example, marked on the plan 130 and 131, those two lots there – proposed lots there – it's our intent to actually consolidate – leave that consolidated exactly as it was originally and not divide the residual land that the owner – Ms Bonfield – she has decided that she is happy not to

have the two lots there. We've made another arrangement with her. And so that block would be one lot of around 10,000 square metres.

5 MR WILSON: Is that 130 and 131, is it? Or – no.

MR HARDAKER: That's correct, 130, 131. Yes.

MR WILSON: Okay.

10 MR HARDAKER: Yes.

MR WILSON: Okay. So I don't have any further questions. Lindsey, Jane, can you add anything to that?

15 MS ANDERSON: No, thanks.

MR L. BLECHER: Nothing from me, Chris.

20 MS ANDERSON: Me either. Thanks, Chris.

MR WILSON: I appreciate your time, Glen, Damien and Ken.

MR McCANN: I can probably test this, if you like. I think just on page 7 of Council's submission there is – on rereading there is reference to:

25 *The basis of very high priority habitat was based on the present surrounding existing waterways.*

And so - - -

30 MR WILSON: Okay.

MR McCANN: - - - the fact that we intend to put in place the appropriate buffers on those waterways would go a long way towards addressing that priority habitat that Council has identified. I just thought I would add that to that – to finish off that last discussion: that that - - -

40 MR WILSON: Yes, I know. I'm not quite sure why, you know, it's ..... at 5,000 across the site. Anyway, I guess, we will reconcile that.

MR McCANN: Okay.

MR WILSON: But – okay, thank you very much. Anything else, Ken?

45 MR HARDAKER: No, I'm fine, thank you.

MR WILSON: Okay. Thank you very much, gentlemen. I really appreciate what  
- - -

5 MR APPS: Yes. Thank you for your time.

MR BLECHER: Yes.

MS ANDERSON: Thank you.

10 MR McCANN: Thanks.

MR WILSON: Thank you, Auscript.

15

**MEETING CONCLUDED**

**[12.59 pm]**